

# scottish justice matters

Volume 1 | Number 2 | December 2013

## **SPECIAL ISSUE ON DESISTANCE**

Edited by  
Fergus McNeill

### **ALSO**

Mike Nellis on  
Electronic Monitoring

Andrew Coyle on  
early prison reform in Scotland

Bernadette Monaghan on  
Children's Hearings

Interview with  
HMIP David Strang



# **DESISTANCE**

**MOVING ON: DESISTANCE AND REHABILITATION**

Scottish Justice Matters is a publication of the Scottish Consortium of Crime and Criminal Justice (SCCCJ). The Consortium is an alliance of organisations and individuals committed to better criminal justice policies. It works to stimulate well informed debate and to promote discussion and analysis of new ideas: it seeks a rational, humane, constructive and rights-based approach to questions of justice and crime in Scotland.

Editorial Board

**Niall Campbell, Hazel Croall, Nancy Loucks,  
Alan Mairs, Mary Munro, Alec Spencer,  
Alan Staff, Cyrus Tata**

Managing editor:

**Mary Munro**

Consulting editor:

**Hazel Croall**

Thematic editor for this edition:

**Professor Fergus McNeill**

Administrator:

**Helen Rolph**

If you would like to contribute to SJM or have a proposal for content, please contact [editor@scottishjusticematters.com](mailto:editor@scottishjusticematters.com)

**Website:** [www.scottishjusticematters.com](http://www.scottishjusticematters.com)

**Twitter:** @SJMJournal

**Magcloud:** [www.magcloud.com](http://www.magcloud.com)

SJM is free to read digitally but relies on grants, advertising and donations.

To make a donation please go to:

[www.scottishjusticematters.com](http://www.scottishjusticematters.com)

Email us at:

[info@scottishjusticematters.com](mailto:info@scottishjusticematters.com)

Copyright: Creative Commons Attribution-NonCommercial-NoDerivs 2.5 UK: Scotland license. Before using any of the contents, visit:

[http://wiki.creativecommons.org/UK:\\_Scotland](http://wiki.creativecommons.org/UK:_Scotland)

Disclaimer: publication of opinion in the SJM does not imply endorsement by the SCCCJ.

ISSN 2052-7950 (Print)

ISSN 2052-7969 (Online)

Scottish Consortium on Crime and Criminal Justice is a registered charity [SC029241]

## ■ Theme: Desistance

Theme editorial <i>by Fergus McNeill</i>	2
Discovering Desistance: Reconfiguring Criminal Justice? <i>Fergus McNeill, Stephen Farrall, Claire Lightowler and Shadd Maruna</i>	3
Wirral Desistance Project <i>by Rosie Goodwin</i>	7
Reframing the Role of Custody within the Desistance Paradigm <i>Colin McConnell, Jim Carnie and Hazel Mehta</i>	10
The Importance of Social Relations in Personal Change <i>Beth Weaver</i>	12
Putting the Pieces Together: Prisoners, Family and Desistance <i>Cara Jardine</i>	15
A Ray of Light? Women Offenders, Mentoring and Desistance <i>Alan Mairs and Heather Tolland</i>	17
Desistance: Theory and Reality <i>by Peter White and colleague</i>	19
Desistance and Young People <i>by Briege Nugent and Pamela Barnes</i>	21

## ■ Current issues

Take Five: <i>Five politicians respond to SJMs questions</i>	24
Victims' Rights in EU <i>by Frida Wheldon</i>	26
A New Children's Panel for Scotland <i>by Bernadette Monaghan</i>	28
What's Stopping us from Reducing Re-offending? <i>by John Downie</i>	30
The Scottish Electronic Monitoring Consultation: Asking the Right Questions <i>by Mike Nellis</i>	31
Visiting My Son in Prison <i>by a Mother</i>	33

## ■ History

Standing on the Shoulders of Giants: Learning from William Brebner <i>Andrew Coyle</i>	34
---	----

## ■ International

Pas de Problème: Problem Solving Courts in France <i>Martine Herzog-Evans</i>	36
--	----

## ■ Review

Policing Scotland: Second Edition <i>Reviewed by Dairmaid Harkin</i>	38
--	----

## ■ Interview

HM Chief Inspector of Prisons David Strang <i>Talking to Nancy Loucks</i>	39
Scottish Justice Brief	41



[www.magcloud.com](http://www.magcloud.com)

Scottish Justice Matters is available on the HP MagCloud service. Here you can download and view for free on the MagCloud iPad or desktop apps. If you would prefer a printed copy, MagCloud offers a print-on-demand service.

“There can be no keener revelation of a society’s soul than the way in which it treats its children”

Nelson Mandela

# A new Children’s Panel for Scotland

---

**Bernadette Monaghan**

---

**SCOTLAND** is justifiably proud of the Children’s Hearings System: our unique system of care and justice for children and young people over the last forty years.

Hearings are not courts and their purpose is not to determine guilt or innocence, as Maggie Mellon wrote in her article in the previous edition of this journal (Mellon 2013). The underlying principle of the System is that any child or young person who comes before the Children’s Panel, for whatever reason, be it offending behaviour or that they are in need of care and protection, is deemed to be a child “in need”.

In 2011/2012, 31,593 children were referred to the Children’s Reporter (SCRA), which represents 3.5% of all children in Scotland aged between 8 and 16 years. 28,017 (3.1%) were referred on non-offence (care and protection) grounds and 5,604 (1.3%) were referred on offence grounds. It should be noted that this latter figure also includes 2,028 children who were referred on both types of grounds (care and protection and offence).

---

**Despite its welfare ethos, there is a view amongst children and young people that hearings are “intimidating, stressful and stuffy”**

---

Throughout the existence of the hearings system, lay people, with a passion and commitment to make things better for vulnerable children and young people, have volunteered to serve as panel members in order to make sound, reasoned decisions that will improve damaged young lives.

Monday 24 June 2013 marked an important milestone. Scotland now has one national Children’s Panel, to replace the previous 32 local authority children’s panels. In addition, responsibility for recruiting, training and supporting some 2700 panel members passed from the Scottish Government to a new public body, Children’s Hearings Scotland.

The legislation which introduced these changes, the Children’s Hearings (Scotland) Act 2011, also created the role of national convener to promote a greater awareness and understanding of what panel members do and the skills they have, as members of the largest tribunal in Scotland.

The changes to the Children’s Panel were designed to ensure that each child is at the centre of their hearing, that their voice is heard, and at the same time, that the rights of others are respected and each hearing complies with human rights law.

So what do children and young people think about the hearings system and does it deliver good outcomes for them?

Despite its welfare ethos, there is a view amongst children and young people that hearings are “intimidating, stressful and stuffy”, that there are often too many people in the hearing room and in short, that hearings need to be “more child-friendly”.

These were amongst the findings of the recent inquiry by the Scottish Parliament’s Education and Culture Committee on decision making on taking children into care (Education and Culture Committee 2013).

The remit of the inquiry was to understand:

- ❖ The decision making processes involved in determining whether a child should be removed from the family home and taken into care;
- ❖ Whether these decision making processes are delivering the best outcomes for children and their families.

A strong theme throughout the report is the importance of placing the child at the centre of decision making. In particular, the Committee heard of concerns about the balancing of children's rights and parent's rights, with some respondents stating that the balance was often struck in favour of the rights of parents. There was a lack of awareness that a child could speak to the panel members on their own as well as a lack of awareness of the existence of advocacy services.

Various elements of the way in which panel member training is designed and delivered were also raised, including the importance of taking into account the views of children, young people and families.

In the words of Frederick Douglass, an American, born into slavery, who became an adviser to Presidents, "it is easier to build strong children than to repair broken men".

Recent research published by the SCRA does highlight that most young people felt their lives had got better since being involved in the hearings system (SCRA 2012). Overall, however, they said that it was their own commitment to change that had improved their lives.

We know that the educational attainment of children in care ("looked after children") is, on average, significantly lower than that of other children.

In addition, 38% of young offenders who took part in the 2011 Prisoner Survey by the Scottish Prison Service, reported being in care as a child and one quarter (26%) were in care at the age of 16 (SPS 2012). More prisoners who had been in care indicated that they had problems with writing, numbers and reading, compared with other prisoners who had not been in care.

The policy focus by Scottish Government on prevention and early intervention, paying attention to evidence that highlights the impact of early experiences in determining future life chances, is to be welcomed. So too is the development of the Whole System Approach to young people who offend which prioritises diversion from statutory measures, prosecution and custody and encourages cases to be dealt with through hearings rather than courts where appropriate.

So how will Children's Hearings Scotland address the themes raised in the Education Committee report?

First, by embedding lessons learned from research into our work: for example, a national survey of children, young people, parents and carers was carried out by the SCRA and Children's Hearings Scotland in June 2013, to get feedback on their experiences (SCRA, CHS 2013). A total of 158 young people and 131 children took part. Overall 71% of young people felt they were the most important person at their last hearing.

Second, in the training of panel members: The statutory duty on the national convener to involve children and young people in the design and delivery of training was welcomed by the Committee. A new national Children's Hearings Scotland Training Unit has been established at West Lothian College and a national training programme, accredited by the Scottish Qualifications Authority for the first time, has been developed.

Children and young people with care experience are also represented on a new Training Reference Group, to keep training resources and delivery under review on the basis of regular feedback from panel members.

Training must not only ensure that panel members understand the legal framework and procedures and apply that knowledge, but that they also understand the impact of children's experiences on their wellbeing and development.

Third, through the national convener's duty to put in place a system for reporting about the implementation of compulsory supervision orders, known as the Feedback Loop.

The purpose of the Feedback Loop is to inform panel member decision making; to understand the types of supervision that have proved effective; to ensure that panel members have a deeper understanding of the implications of their decisions and, ultimately, to achieve better outcomes for children and young people.

The national convener may require local authorities to provide information about the number of compulsory supervision orders, changes in the circumstances that led to the making of the orders and the effect of the orders on the overall wellbeing of children. A local authority, as the Implementation Authority, has a duty to give effect to a Compulsory Supervision Order as well as any requirements placed on it by the Hearing: the 2011 Act contains a procedure that the Hearing can use where satisfied the Implementation Authority are in breach of its duties.

Work to implement the Feedback Loop is progressing in two phases. Phase one will deliver quantitative information which will provide a picture of the implementation of compulsory supervision orders by local authorities, through a set of indicators. Such indicators cover local authority contact with the child or young person, the presence of a care plan and implementation of secure authorisation orders. A consultation has been undertaken on this phase.

Phase two will explore the challenging issue of the impact of compulsory supervision on the wellbeing of children and young people. This requires a multi-agency approach and the scoping work for this will begin in conjunction with partners in early 2014.

Children's Hearings Scotland wants to ensure that children are at the centre of everything we do. There is a real opportunity to make this a reality.

Children's Hearings Scotland (2012) *National Standards for the Children's Panel*.

Mellon M. (2013) *Getting a Good Hearing?* Scottish Justice Matters. 1:1

SCRA (2012) *The Children's Hearings System: understood and making a difference: Young People's Views*

SCRA (2013) *How much is education included in the plans of children on Supervision Requirements?*

Scottish Children's Reporter Administration Annual Report 2011/12

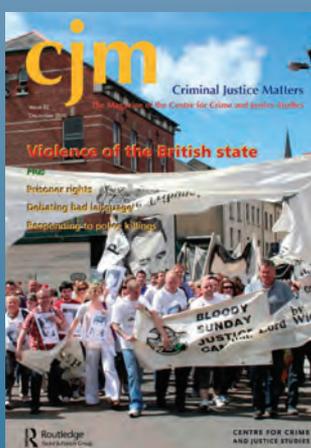
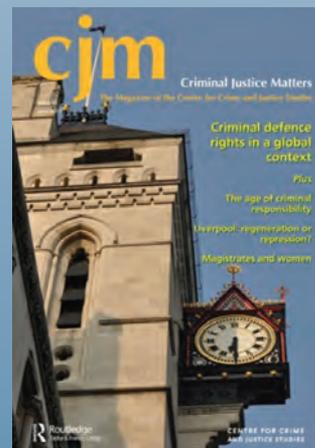
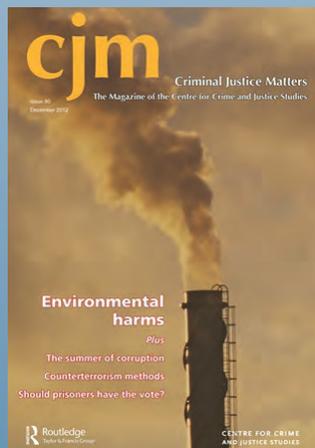
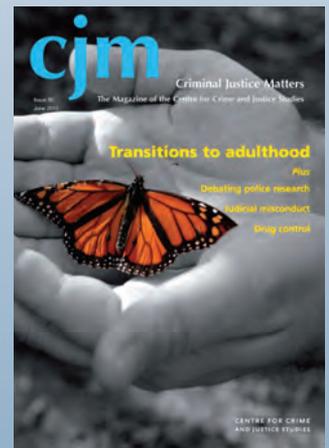
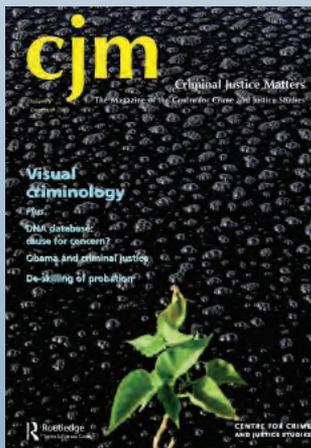
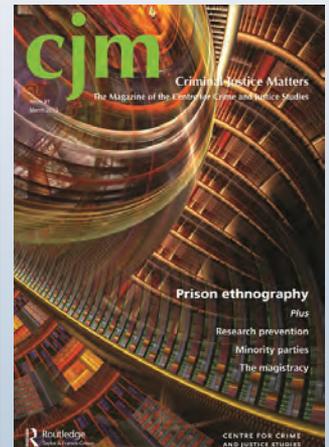
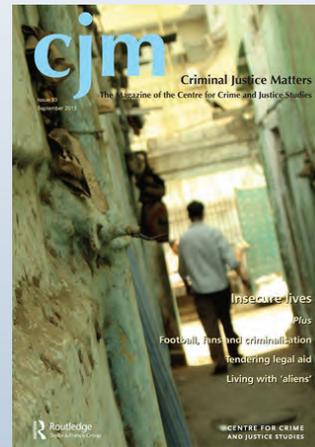
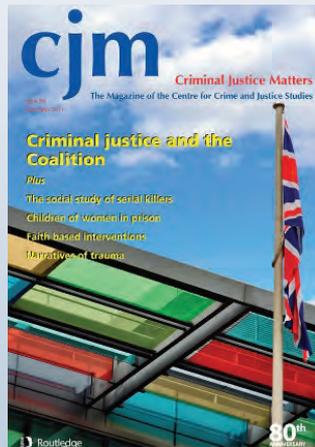
SCRA, CHS (2013) *National Survey of Children and Families in the Children's Hearings System 2012/13:*

SPS (2012) *Prisoners who have been in care as looked after children 13<sup>th</sup> Strategy Bulletin: Scottish Prison Service*

Education and Culture Committee (2013) *Report on decision making on whether to take children into care. 10<sup>th</sup> Report, 2013 (Session 4)*

**Bernadette Monaghan is national convener and chief executive of Children's Hearings Scotland.**

'If **cjm** did not exist, someone would have to invent it'  
 Professor Tim Newburn, London School of Economics.



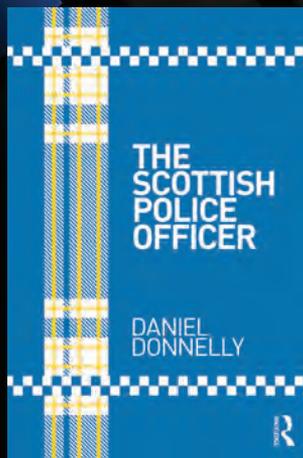
Online access to the back catalogue of 23 years of Criminal Justice Matters is available free to all Centre for Crime and Justice Studies' members.

To find out more about membership visit our website where you can download an application form or join online: [www.crimeandjustice.org.uk/membership](http://www.crimeandjustice.org.uk/membership)

SAVE 20%

NOW AVAILABLE FROM

# ROUTLEDGE CRIMINOLOGY



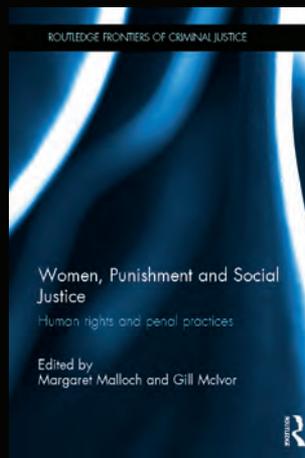
## THE SCOTTISH POLICE OFFICER

Daniel Donnelly

October 2013 ■ 188 pages

Hb: 978-0-415-67160-6: £90.00 **£72.00**

Pb: 978-0-415-67161-3: £34.99 **£27.99**



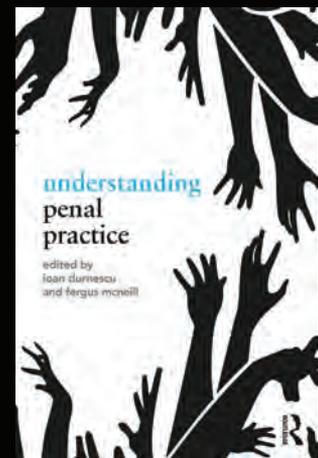
## WOMEN, PUNISHMENT AND SOCIAL JUSTICE

HUMAN RIGHTS AND  
PENAL PRACTICES

Edited by **Margaret Malloch**  
and **Gill McIvor**

November 2012 ■ 230 pages

Hb: 978-0-415-52983-9: £80.00 **£64.00**



## UNDERSTANDING PENAL PRACTICE

Edited by **Ioan Durnescu**  
and **Fergus McNeill**

October 2013 ■ 348 pages

Hb: 978-0-415-63581-3: £95.00 **£76.00**

Save 20% on all Routledge titles with discount code **SJM20** at [www.routledge.com](http://www.routledge.com)