

PE1947/I: Address Scotland's culture of youth violence

PE2064/H: Ensure that under 16s charged with rape are treated as adults in the criminal justice system

Lord Advocate written submission, 24 July 2025

I write with reference to the above petitions and the evidence session in which I participated on 25 June 2025.

During the session, Mr Ewing requested supplementary data beyond that which I had previously provided in my written correspondence to the Committee dated 2 April 2024.

Sexual Offending

The original data related to the number of suspected rape and serious sexual assault cases involving individuals under the age of 16, jointly reported between 1 January 2018 and 31 December 2023. The tables previously provided have been replicated below and updated to include figures for the period 1 January 2024 to 31 December 2024. Additionally, the tables now include a breakdown of outcomes: referrals to the Children's Reporter, diversion and prosecution in court.

Cases of Rape or attempted Rape reported for 12–15- year-olds inclusive	2018	2019	2020	2021	2022	2023	2024
Number of cases marked for the Reporter	33	26	28	42	37	29	19
Number of rape cases where diversion marked as completed or ongoing	1	1	0	0	3	2	1
Number of cases marked for prosecution in court	6	4	3	2	1	9	4

Cases of Sexual Assault reported for 12–15- year-olds inclusive	2018	2019	2020	2021	2022	2023	2024
Number of cases marked for the Reporter	51	59	49	74	90	82	58
Number of rape cases where diversion marked as	2	3	0	2	2	0	1

completed or ongoing							
Number of cases marked for prosecution in court	4	2	3	2	1	3	3

As previously advised, ‘serious sexual assault’ refers to cases typically prosecuted on indictment. The cases reported during this period relate to contraventions of sections 2, 3, 4, 19, 20, and 21 of the Sexual Offences (Scotland) Act 2009.

During the evidence session, I referenced new guidelines issued on 30 April 2025 concerning the use of diversion and referral to the Reporter in rape and other solemn level sexual offences. I indicated that ten cases had been subject to these guidelines, with two diverted and eight prosecuted. To clarify, these figures pertain to the period from 1 April 2024 to 31 March 2025. Within that timeframe, two cases involving allegations of rape or attempted rape by individuals under 18 were diverted, and ten referred to the Reporter. The total number of rape cases reported to COPFS involving accused under 18 was seventy-seven. The following table illustrates how this compares to the previous years:

Financial Year Reported	2022-23	2023-24	2024-25
Total number of rape cases reported to COPFS	744	710	792
Total number of rape cases reported to COPFS where the accused is aged 17 or under	99	97	77
Number of rape cases marked for the Reporter	39	23	10
Number of rape cases where diversion marked as completed or ongoing	13	8	2

Although the new guidelines came into effect on 30 April 2025, I issued interim instructions to Crown Counsel which aligned with the now published guidelines, which were being followed. This reflects a marked reduction in the number of cases involving child accused of rape that have been diverted or referred to the Reporter since I announced the Review in July 2023.

A more comprehensive assessment will be possible once the guidelines have had effect for a longer period.

Violent Offending

Mr Ewing also referenced findings from the Scottish Crime and Justice Survey (SCJS), published on 10 June 2025, which indicated an increase in violent crime

committed by individuals under 16 years from 8% in 2021/22 to 31% in 2023/24 (an increase of 23%).

The SCJS is a large-scale social survey capturing public experiences and perceptions of crime in Scotland. I understand that such findings have been used by policy makers across the public sector, academia and third sector to help understand the nature of crime in Scotland, target resources and monitor the impact of initiatives since the 1980s. The survey notes that the figures are based on a small size and cautions that it remains to be seen whether this is an anomaly or a sustained trend.

The following table presents the number of charges (rather than cases) of violence *reported* to COPFS over the last five years involving individuals aged 12 to 17 years (rather than those under the age of 16 years as referred to in the SCJS) along with outcomes:

Financial Year Reported	2020/21	2021/22	2022/23	2023/24	2024/25
Total number of charges of violence reported to COPFS where the accused is aged 17 or under	2,906	2,910	3,042	3,184	3,176
Number of charges marked for the Reporter	749	785	1,104	1,372	1,125
Number of charges where diversion marked as completed or ongoing	386	342	532	626	560
Number of charges marked for prosecution in court	1,629	1,657	1,228	977	869

Whilst the SCJS indicates a sharp rise in youth-perpetrated violence, it also cautions that the sample size is small, and the trend may not be sustained. In contrast, the data on reported charges involving 12–17-year-olds shows a steadier, more modest increase over the same period, without evidence of a comparable spike.

While there has been a modest increase in the overall number of charges reported, the data also shows that a substantial number of these charges continue to be prosecuted in court, with nearly 900 prosecutions in 2024/25 alone. This underscores the seriousness with which prosecutors treat violent offending by children.

I note the modest rise in reported crimes involving children with concern. Addressing this issue requires a coordinated response across the criminal justice system. Prosecutors treat reports of serious violence and sexual violence with utmost seriousness, and the data clearly demonstrates that prosecution remains a key outcome in cases where such action is deemed appropriate.

I trust that this information is of assistance.

Yours sincerely,

A handwritten signature in dark ink, reading "Dorothy R. Bain." The signature is written in a cursive, flowing style.

THE RIGHT HONOURABLE DOROTHY BAIN KC
LORD ADVOCATE