

Briefing for the Citizen Participation and Public Petitions Committee on petition [PE2171](#): Stop the use of prisons for punishment and focus them on public protection, lodged by Robert Macdonald

Introduction

The [petition](#) argues that prisons should only be used for public protection, and not just for punishment or deterrence. It states that this would:

- ensure that those who pose the greatest risk are held in custody
- reduce the pressure on prisons, which it says are running at almost full capacity, and allow more work on rehabilitating those held in custody.

It also argues that prison is not an effective deterrent, and highlights deaths caused by driving as an example of where the use of custodial sentences is of little value.

Prisons

Prisons (including young offender institutions for those aged 16 to 21) hold remand and sentenced prisoners:

- remand prisoners – held in custody awaiting trial or following conviction awaiting sentence
- sentenced prisoners – serving a custodial sentence.

In June 2025 the Scottish Government published a [paper looking at the long-term drivers of and changes in the prison population](#). It describes a situation where there is a high prison population, with associated challenges for the operation of and conditions in prisons. It comments that there is “no single reason for the increase in the prison population, and therefore no simple solution to manage and tackle the issue” (p 2).

The paper goes on to say:

“The prison population has grown to challenging levels – often exceeding 8,300 in 2024 and early 2025. This paper has highlighted where the accumulation of incremental changes over the longer-term has influenced the current position by looking largely at changes in the period 2009-10 to 2023-24.

It has shown that the composition of the prison population has substantially changed, in addition to the population being elevated. For example, there are many more people in prison for the most serious violent and sexual crimes; the prison population is notably older than it was a decade or so ago; and there [are] fewer entries and exits, with

more people serving longer sentences. There are also pressures which have emerged in recent years following the COVID-19 pandemic, such as an elevated proportion of the prison population accounted for by those on remand.”

In August 2024, in her final [annual report](#) as Chief Inspector of Prisons for Scotland, Wendy Sinclair-Gieben stated that:

“In 2020 I warned the Scottish Parliament that: ‘The choice is stark – either we put fewer people in prison, or we recognise that we have to pay for the prison population that we do have’. In 2024, Scotland reached a crisis point with a prison population far in excess of the ability for the Scottish Prison Service to provide a humane, rehabilitative experience.” (p 3)

Sentencing

The [Scottish Sentencing Council](#) has produced a guideline on the [principles and purposes of sentencing](#). It notes that the purposes of sentencing include:

“Protection of the public – Sentencing may seek to protect the public from offending behaviour through preventative measures and by deterring offending behaviour.

Punishment – Sentencing may seek to punish the offender as a consequence of their criminal behaviour, normally resulting in some sort of loss depending on the sentence chosen.

Rehabilitation of offenders – Sentencing may seek to reduce the risk of reoffending through the effective rehabilitation of offenders, providing people with the opportunity to change and move away from past offending behaviour.

Giving the offender the opportunity to make amends – Sentencing acknowledges the harm caused to victims and communities. Sentencing may also aim to recognise and meet the needs of victims and communities by requiring the offender to repair at least some of the harm caused.

Expressing disapproval of offending behaviour – Sentencing may act as an expression of society’s concern about and disapproval of the offending behaviour under consideration.” (p 4)

In relation to the terms of the petition, it may be noted that the guideline refers to deterrence as one way in which the public may be protected. The means by which a custodial sentence might help protect the public include: (a) removing a person from contact with the public; and (b) deterring either that person or others from future offending.

Given that the petition specifically refers to deaths caused by driving, it is worth noting that the Scottish Sentencing Council has published a guideline on [statutory offences of causing death by driving](#).

Scottish Government policy development

In February 2025, the Scottish Government announced the setting up of an [independent commission to review sentencing and penal policy](#).

The announcement of the commission was accompanied by a [parliamentary debate on the topic](#) on 20 February 2025. During the debate, the Cabinet Secretary for Justice and Home Affairs (Angela Constance MSP) commented that:

“The review will consider how imprisonment and community-based interventions are currently used and how changes to that use might contribute to our having a sustainable prison population. I have asked the commission to focus initially on community sentencing, bail, and remand and release from custody. I have also asked it to provide detailed and actionable recommendations for improvements by the end of the year, with an interim report in autumn. In carrying out its work, the commission will engage with stakeholders, victims and those with experience of the justice system on how best to respect and protect the interests of victims, while maintaining the rights of those who are accused of crime.” (col 74)

Criminal Justice Committee scrutiny

The Scottish Parliament’s Criminal Justice Committee has undertaken a range of work during this parliamentary session relevant to the use of remand and custodial sentences. For example:

- scrutinising the [Bail and Release from Custody \(Scotland\) Bill](#)
- considering the [prison population](#)
- pre-budget scrutiny (e.g. see the Committee’s [pre-budget scrutiny report for the 2025-26 budget](#) at paras 53 to 73).

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11 July 2025

The purpose of this briefing is to provide a brief overview of issues raised by the petition. SPICe research specialists are not able to discuss the content of petition briefings with petitioners or other members of the public. However, if you have any comments on any petition briefing you can email us at spice@parliament.scot.

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Published by the Scottish Parliament Information Centre (SPICe), an office of the Scottish Parliamentary Corporate Body, The Scottish Parliament, Edinburgh, EH99 1SP.