Justice Committee  
Management of Offenders (Scotland) Bill  
Written submission from Police Scotland  

Key Questions  

Electronic monitoring  

1. **Overall, do you support Part 1 of the Bill concerning the electronic monitoring of offenders?**  

In general terms, Police Scotland is supportive of the increased use of electronic monitoring of offenders. For those convicted of less serious offences and not sentenced to custody electronic monitoring offers a proportionate and pragmatic approach.  

2. **The Scottish Government wishes electronic monitoring to play a greater role within the criminal justice system. Will the reforms in Part 1 of the Bill help enable this? If not, what further changes (legislative or non-legislative) are required?**  

Depriving someone of their liberty is a serious matter, whether this is done by sending them to prison or confining them to their home. The period of detention, in whatever way it is applied, should therefore be proportionate to the seriousness of the offence. Sentencing may properly contain an element of punishment but, to be effective in reducing re-offending, it should also promote change and reform. Increased use of electronic monitoring applied can support this.  

3. **Do you have any views on any specific aspects of Part 1? – for instance, revisions to the list of circumstances in which electronic monitoring may be imposed or the creation of a power to enable future monitoring devices to contain GPS technology or technology that can measure alcohol or drug ingestion.**  

Section 3(2) details a list of relevant disposals, one being - (d) making an order under, or varying or renewing an order made under section 104, 105 or 109 of the Sexual Offences Act 2003. Given the heading for this section is "Monitoring in criminal proceedings“ it infers this relates to a Criminal Court issuing a Sexual Offences Prevention Order (SOPO) on conviction/sentencing for a relevant sexual offence. This being the case it should be noted that a Criminal Court cannot make an order or vary or discharge an order in terms of Section 105 or 109. It is only the Civil Court which can make orders under these sections. This requires to be highlighted as a possible issue.  

Clarity is also required that the legislation providing Electronic Monitoring as part of a SOPO is only for those SOPO's issued by the Criminal Courts at time of conviction/sentence and does not include those SOPO's obtained by the Chief Constable under Civil proceedings as Section 104 provides for both types of orders.
Whilst it is not the case the police service are responsible for monitoring persons subject of electronic ‘tagging’ this position is one that we would wish reinforced.

Disclosure of Convictions

4. Overall, do you support Part 2 of the Bill? The Scottish Government’s view is that it will provide a more appropriate balance between the public’s right to protection and a former offender’s right to “move on” with their life, by, overall, reducing the legal need for disclosure. Do you agree?

This is clearly a complex matter in which there will be differing, yet very valid opinions on both side. Not surprisingly, the public may find that any change in ‘favour’ of those having previously committed crime very frustrating. This would become more evident in terms of a high profile case were there to be a reduced legal need for disclosure. Conversely, by not doing so fails to recognise a persons right and ability to reform. Many people who committed crimes in their youth never reoffend, and even if someone is a career criminal, it does not mean that they are unable to change their lifestyle.

As Part 2 only reforms ‘basic disclosure’ and makes no direct changes in relation to higher level disclosure then this should be principally sound.

5. Do you agree with the Scottish Government that other reforms in Part 2 will make the law on disclosure of convictions more intelligible, clear and coherent?

Any potential reforms have to be underpinned by identifying quantifiable benefits.

A key challenge for any legislation is whether (or not) it is clear and understandable. Reforms in Part 2 appear to achieve this.

6. Do you have any further views on law and policy around disclosure of convictions?

There is a clear link between potential changes to the legislation and ECHR, Article 8 - R (R) v. National Police Chief’s Council and Secretary of State for Justice [2017] EWHC 2586 (Admin) identifies this in the case.

Parole Board for Scotland

7. Do you support Part 3 of the Bill, which makes provision for the Parole Board for Scotland, in terms of its membership and appointment system; its functions and requirements in relation to prisoners, its independence, and its administration?

The independence of the Parole Board for Scotland is fundamental to retaining public confidence in the system and the proposed change supports this. Other proposed amendments appear in keeping the ensuring that high level service provision from the Parole Board for Scotland continues.
8. **Do you have any further views on the role, purpose and functions of the Parole Board?**

The change at paragraph 41 - Re-release after revocation of licences generally is welcomed from an Offender Management perspective. The immediate release of prisoners once the result of the Parole Board is provided can impact on the ability of agencies to appropriately manage the risks posed by these individuals especially when there is little or no notice provided. The introduction of ‘without undue delay’ will allow for a better degree of planning.

Police Scotland
23 April 2018