Justice Committee

Management of Offenders (Scotland) Bill

Written submission from Jim Watson

1. I am writing this in response for the call for views on this proposed bill. I am a person with convictions, I have worked within the criminal justice field for over 5 years, and I have taken part in the Scottish Government’s Electronic Monitoring Champions process and have just completed some short term lecturing contracts at a University teaching within the discipline of Crime and Justice at undergraduate levels. I am writing this response in my capacity as a concerned “citizen”. I have read the submissions that have been posted thus far onto the Parliament's website.

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

2. Yes, but with the caveat that EM (electronic monitoring) is a technology that can help facilitate a person’s journey to desistance but without other support mechanisms in place cannot alone achieve this process.

**Question 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?**

3. I fully endorse the comments made by Community Justice Scotland in respect of the naming of the bill. When the Community Justice Scotland Bill was progressing through Parliament I was privileged to be asked to help remove the term offender from the provisions therein. I think we made a good attempt at this worthy, positive and progressive approach to curtailing the use of pejorative language. However, the bits that could not be changed related to previous legislation that had utilised the term in their titles. If the Scottish Parliament wants to lead on this then they have to change the title of the bill.

4. I will go one step further than Community Justice Scotland and suggest that the new title becomes “Desistance Support Bill (Electronic Monitoring, Disclosure and Parole) Bill.” This encapsulates the essence of what is being proposed in the bill as well as sending out the top level message that Desistance from crime and the reduction in the behaviour that leads to that is a significant priority and that it is goal congruent with the current national justice outcomes.

5. I also agree that the apprehensions of the Victims and their representative groups needs to be addressed and that involving them in a co-productive process has much merit in it. I would also argue that those who have been subject to this punishment are also included in this process so that the actual effects of EM can be more fully explored and understood from all perspectives.

**Question 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.

6. There will be a number of concerns regarding the use of the newer technologies such as GPS and Transdermal Alcohol Bracelets. There needs to be regard to the legal position of sharing information and who the actual data controller is. At this present time G4S is restricted in sharing information with Police Scotland. There is a bureaucratic process to be followed and I have concerns that sometimes information is withheld due to data protection rules but which could have helped eliminate someone from the police investigation. This was something mentioned in the EM Champions training. Data Protection and the right to privacy is a huge issue and the Bill needs to address these information sharing requirements.

7. I would imagine that some people will be unhappy about the imposition of alcohol bracelets citing various human rights provisos. Alcohol is often behind many incidents of criminal behaviour and any tool that can be used to monitor and perhaps make someone face up to their problematic use should be welcomed. This should have parity with all other forms of EM as the alcohol issue is a trigger that affects too many people in Scotland

Question 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?

8. I support the provisions of Part 2 of the bill. I responded to the consultation for reform of the rehabilitation of Offenders Act and the proposals in part two are a good starting point for this process. I still have concerns regarding the inability of sentences over 48 months to become spent. If we are to truly ensure that everyone has the capacity to “move on” then it seems only right that these sentences must have the opportunity to become spent also. The only sentences that never become spent would be life sentences or orders for lifelong restrictions. There are already provisions within Vulnerable Groups legislation that protects groups. Having another level over and above that seems to be excessively punitive for those who have served a determinate sentence.

9. If all sentences over 48 months are to be disclosed then serious thought need to be given to establishing certificates of rehabilitation for those who have served such sentence lengths. I can personally think on a few examples of people who have served such sentences and who are now in a position that they are fully rehabilitated but still need to disclose their previous if asked. Professor John Laub regards a crime free period of 3-5 years as being a good indicator for no further crime, in so far as any measure can be predictive.

Question 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?
10. No – it is very confusing even for those who have looked at this process for a long time to quickly establish someone’s disclosure requirements. It can also be wrongly applied by employers who regard the period of rehabilitations as being one where the person with convictions cannot be trusted. The Bill needs the correct promotion so that the wider community fully understands the provisions within it and why they are fundamental to a fairer and safer Scotland.

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

11. As stated previously, I would like to see some process for the issuing of certificates of rehabilitation if we are to continue with disclosure for determinate sentences. A much easier to achieve process, and more cost effective measure, would be to make all sentences spent under the provisions of this act expect those that carry a life term. This is the only way to ensure that everyone subjected to punishment can actually move on and carry some hope that things can get better for them.

**Question 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?**

12. I have no particular expertise in parole matters and would thus endorse and support the submission from the Parole Board of Scotland. They are the people who are dealing with this and have the lived experience of the processes.

**Question 8. Do you have any further views on the role, purpose and functions of the Parole Board?**

13. See above answer

I would be happy to expand on any of the points raised above in whatever manner that the committee requires.

Jim Watson
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