OFFICIAL REPORT
AITHISG OIFIGEIL

Citizen Participation and Public Petitions Committee

Wednesday 25 June 2025

Session 6

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CITIZEN PARTICIPATION AND PUBLIC PETITIONS COMMITTEE

12th Meeting 2025, Session 6

CONVENER

*Jackson Carlaw (Eastwood) (Con)

DEPUTY CONVENER

*David Torrance (Kirkcaldy) (SNP)

COMMITTEE MEMBERS

*Foysol Choudhury (Lothian) (Lab)
*Fergus Ewing (Inverness and Nairn) (Ind)
*Maurice Golden (North East Scotland) (Con)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Rt Hon Dorothy Bain KC (Lord Advocate)
Angela Constance (Cabinet Secretary for Justice and Home Affairs)
Alistair Hogg (Scottish Children's Reporter Administration)
Stephanie Ross (Crown Office and Procurator Fiscal Service)

CLERK TO THE COMMITTEE

Jyoti Chandola

LOCATION

The Adam Smith Room (CR5)

Scottish Parliament

Citizen Participation and Public Petitions Committee

Wednesday 25 June 2025

[The Convener opened the meeting at 09:15]

Decision on Taking Business in Private

The Convener (Jackson Carlaw): Good morning, and welcome to the 12th meeting in 2025 of the Citizen Participation and Public Petitions Committee. Our colleague David Torrance, the deputy convener, will be joining us shortly.

Our first item of business is simply to agree to consider evidence in private under item 3. Are colleagues content to do so?

Members *indicated agreement.*

Continued Petitions

Youth Violence (PE1947)

Rape Charges (Under-16s) (PE2064)

09:15

The Convener: Our specific reason for having this additional committee meeting is to take evidence on youth crime, and we have two panels with whom we hope to be able to explore the issues. The session will be informed by our consideration of two separate petitions with which we have been actively engaged since 2022. The first petition is PE1947, on addressing Scotland's culture of youth violence, and as part of our evidence taking for that petition, we have undertaken external visits and met various groups outside of Parliament. The second is PE2064, on ensuring that under-16s charged with rape are treated as adults in the criminal justice system.

I am delighted to say that our first panel is with us to assist with our consideration of the issues. We are joined by the Rt Hon Dorothy Bain KC, the Lord Advocate, whom it is our great pleasure to have back at the committee; Alistair Hogg, head of practice and policy, Scottish Children's Reporter Administration; and Stephanie Ross, principal procurator fiscal depute in the policy unit, Crown Office and Procurator Fiscal Service. A warm welcome to you all and thank you very much for making the time to join us this morning.

I will start by setting out some of the context, which I have already referred to. The committee undertook a considerable amount of work on the petition on addressing youth violence, but as we went along, we were struck by similar concerns that were being raised in parallel on the petition on rape committed by under-16s. On the youth violence petition, we took evidence from Police Scotland, the Violence Reduction Unit and No Knives, Better Lives as well as a number of academics and, most notably, we visited young people and their families who had been impacted by violence in their own communities.

One girl to whom we spoke was attacked when she was just 14. I do not think that any of us who were at that meeting will forget it; indeed, it is, I suppose, not normal for politicians necessarily to be confronted by that level of direct experience. Perhaps others will say that it is a story that they have heard before, but we were left profoundly moved. The girl was left at the age of 14 with post-traumatic stress disorder; she cannot leave the house without her mum; and she has attempted to end her life on two occasions.

In our evidence taking, we might well go into some of what we were told at the time, but I should make it clear that the young girl in question and her family felt let down that the justice system did not protect her and that things were just as bad after the attack. She did not feel that there were appropriate consequences for the perpetrator, who was still very much in the community and was able, along with their family, to cause her further harm.

The petitioner for PE2064, on rape committed by under-16s, has shared her view that there should be more consequences for the crime of rape committed by under-16s. She feels that the perpetrator will be free to continue attacking more people because, as she sees it, there is just no deterrence in place.

The committee understands that the system avoids criminalising children where possible. However, we remain concerned about how the most serious cases of violence and sexual offending are addressed and, crucially, how victims can meaningfully pursue justice and feel safe in their communities again. As a final comment, I would say that we were particularly struck by the organisation of some of the violence that we saw, with individuals being summoned for false reasons to destinations, only to find multiple people standing present and ready to film what was about to take place. Those victims were then abandoned without any regard whatever for their wellbeing or safety and left in an extremely difficult and dangerous condition. That was very difficult to hear.

I have been told that there has been no request by the witnesses to make any additional statements, so we will move straight to questions. I will come to the evidence that we heard from children later, but I will invite Maurice Golden to begin the questioning.

Maurice Golden (North East Scotland) (Con): I, too, welcome the panel to the meeting. Can you outline the approach that is taken when serious violent or sexual offences committed by children under the age of 18 are reported to the police?

Alistair Hogg (Scottish Children's Reporter Administration): I am happy to start, if that is okay.

Good morning, committee. I guess I should start by referring to the Lord Advocate's guidelines. Obviously, the Lord Advocate is here and can speak to those guidelines herself, but it all begins with the police's own investigation. When they feel that they have sufficient evidence, they will consider the appropriate route for directing their concern.

The Lord Advocate's guidelines give direction on what the police should do in such circumstances. The first thing that I should mention is that the guidelines recognise those circumstances in which a child is involved and make it clear that children should not ordinarily be prosecuted through the adult criminal justice system. Instead, their cases should be considered through the children's hearings system, which provides a more appropriate welfare-based approach for children.

However, the guidelines also recognise circumstances in which, as has been stated, particularly serious harm has been caused by a child, and they set out situations in which the police should jointly report the young person. That joint report will come to the Crown Office and Procurator Fiscal Service and the SCRA. There is a joint agreement between our two organisations—which is publicly available, certainly on the COPFS website—and that very comprehensive document outlines the process, the care that is taken in considering cases and the criteria to apply when considering the appropriate route for dealing with such matters.

Broadly, the current definition of a child is anyone under 16, but there are some 16 and 17-year-olds who meet the definition of a child—for example, those on a compulsory supervision order through the children's hearings system. Those issues are all covered in the Lord Advocate's guidelines. Indeed, they cover other circumstances such as road traffic offences involving those aged 15 or over that might attract disqualification.

As for the process that is followed, the children's reporter is required to provide information to the COPFS. There is a template that directs what type of information to provide, and all the details are contained in the joint agreement and are there for everyone to see. It covers, for example, the child's current status in the hearings system, their known circumstances, any supports or interventions that are currently in place, and what might be available through the children's hearings system if the child were to be referred to the children's reporter.

The decision about which route to take lies with the procurator fiscal. The presumption is that, if a child has been jointly reported, they will be directed to the children's hearings system; however, that can be rebutted, or overcome, if the procurator fiscal considers that to be in the public interest. Again, there are criteria that direct such consideration according to the circumstances in question, and obviously the seriousness—the gravity—of the offence and the impact on the victim will be high in those considerations.

Some children are prosecuted, and some are referred to the children's reporter. I can go through the children's reporter's process, if you want me to.

Maurice Golden: Yes, perhaps. However, I wonder whether we can hear from the Lord Advocate. I am aware, too, of the recent statement of prosecution policy, Lord Advocate, so perhaps you could wrap that into your response as well.

The Lord Advocate (Rt Hon Dorothy Bain KC): With regard to the cases that are reported by the police to the Crown Office, the police operate under guidelines that I have issued to determine whether the case is reported either to the children's reporter, or jointly to the Crown Office and the children's reporter.

Children who are reported to the Crown Office and Procurator Fiscal Service are often the most vulnerable children in Scottish society; many of them will have suffered trauma and might be experienced in the care system. Therefore, decisions relating to children who come into contact with the law must take into account the rights, needs and best interests of the child in line with the United Nations Convention on the Rights of the Child, while at the same time balancing such considerations with the rights of the victim, who will often also be a child, and the wider public interest. There is a need to strike a balance between supporting children who come into contact with the law and ensuring that victims are supported and communities are safe.

All reports involving violent or sexual offending are treated seriously, and where such offending merits prosecution, action will be taken, even when the offender is a child. The prosecutorial response to children and adults needs to be different; fundamentally, a child is treated as such, because of the impact of their age and maturity. Such aspects also have a bearing on the assessment of their culpability and their potential to change and to be reintegrated into society, ultimately reducing the risk of reoffending.

The presumption, as Mr Hogg has said, is for all children not to be prosecuted. However, that is not to say that a child cannot, and should never, be prosecuted, nor does the UN Convention on the Rights of the Child dictate that children accused of crime cannot be prosecuted. The presumption against prosecution is rebuttable, and it should be rebuffed when it is in the public interest to prosecute. The more serious the offending, the more likely it is that the offence will be prosecuted in court.

In particular, given the seriousness of the offence of rape and other sexual offending and the impact of such offending on victims, referral to the reporter or diversion from prosecution for such offences will be appropriate only in certain circumstances. Those circumstances are also outlined in publicly available guidance that sets down the parameters within which counsel determine whether a case should be diverted from prosecution.

Fundamentally, I would say that, in relation to children, the justice system must be responsive to vulnerability, trauma and need. However, it must also be clear that serious offending has serious consequences.

Maurice Golden: Lord Advocate, it strikes me that the presumption against prosecution in these cases is perhaps out of kilter with public opinion. After all, the scope of what we are discussing is serious violent or sexual offences. My understanding of the whole-system approach is that it focuses on early interventions being made at the first sign of difficulty, and I think that there is a logic to that, but when it comes to the most serious cases of violence and sexual offending, the crisis point has probably been reached already and therefore any consideration that is given should happen in that context. What are your thoughts on that?

09:30

The Lord Advocate: It is a rebuttable presumption. As I have said, the more serious the offence, the greater the likelihood of a prosecution, and the category of cases that you have identified—that is, serious sexual offending—are treated with the utmost seriousness by the Crown Office and Procurator Fiscal Service.

Children are, and have been, prosecuted for such offences in accordance with the principles that have been set down on the approach that prosecutors should take to the issue of diversion or the question whether to refer the matter to the children's reporter. Cases involving allegations of violence and sexual offending by children are considered by dedicated teams of prosecutors with specialist experience and knowledge, and the particular facts of each case are analysed with great care. The decision whether to prosecute is taken in accordance with the prosecution code, which is publicly available, and a decision is made as to what action is appropriate, taking the public interest into consideration. Such serious cases are indeed prosecuted in the adult courts.

Maurice Golden: But the presumption is that that would happen only in the most extreme examples, and the scope in that respect is seriously tight. Is that the case?

The Lord Advocate: No, I do not think that we could set such a test with regard to the most serious examples. When we considered the issue that was raised of decisions to divert children from rape prosecutions, we looked back at all the cases that had been diverted. As a result, we issued new guidelines for such decisions, which, after my review, are now taken by Crown counsel.

We are not talking about the absolute extreme of cases here; we are talking about cases in which the child has committed a serious sexual offence. There are many serious sexual offences in the court system and, depending on the circumstances of the case, we will prosecute. In cases of rape, it is an entirely rebuttable presumption that we would proceed to prosecution, and in cases of serious sexual violence, we would look to proceed to prosecution where appropriate to do so in the public interest.

Maurice Golden: With regard to diversion from prosecution, what support is available under compulsory supervision orders? Are there sufficient resources across the whole of Scotland to provide that support?

The Lord Advocate: On the question of what happens with a child under a compulsory supervision order who is referred to the children's reporter for an allegation of rape, perhaps Mr Hogg can respond to you, as that probably falls within his remit. We prosecute cases in court. The decision to take the child out of the adult system and to deal with their case in the children's reporter system, the question of resources and support and the method of dealing with such children are all aspects of the specialism that Mr Hogg's team has.

Maurice Golden: I might come back to you on that because, in setting the policy, you will still be required to know what happens on the other side, even though that is not what you are delivering.

The Lord Advocate: Of course.

Maurice Golden: Mr Hogg?

Alistair Hogg: The collaboration between our two organisations is absolutely comprehensive. In every situation in which there is a joint report, information is exchanged and very often a discussion takes place, and that approach will be proportionate to the significance of the incident that has been reported.

I would just make a distinction between diversion and referral to the children's reporter. Referral to the reporter is specifically for children, and currently there are parameters on that: referral can be only for a child under 16—or up to the age of 18, if they are already on a compulsory supervision order. That will change when the provisions in the Children (Care and Justice) (Scotland) Act 2024 are implemented; however, they have not yet been implemented, so that is the current position.

With regard to referral to the children's reporter, your specific question was about the supports that are in place for children on a compulsory supervision order. That would happen after an investigation by the children's reporter that considered all of the child's circumstances, and I can go into lots of detail about how we do that. We have a very clear and comprehensive decision-making framework in that respect. First of all, a conclusion will be reached on whether there is sufficient evidence of a ground of referral—any ground of referral—for a children's hearing, and most of those grounds are based not on the child's behaviour, but on concerns about their welfare. If there are such concerns, if there is sufficient evidence and if there is need for compulsion, the children's reporter will refer the matter to a children's hearing, at which the children's panel members will make the decision.

If a compulsory supervision order is put in place, a statutory duty is placed on what is called the implementation authority—usually the local authority where the child resides—to provide supports and interventions as directed by the care plan, which the children's hearing will have had sight of. A compulsory supervision order can contain certain conditions, but they must relate to the child and can be anything that is considered to be in the child's best interests. Sometimes they can take the form of pretty significant interventions in a child's life—for example, they must live somewhere away from home—and there can be conditions that restrict the child's movements, if that is considered to be in their best interests. Ultimately, there are measures such as authorising that the child reside in secure accommodation, but only for so long as it is considered necessary and with the agreement of the chief social work officer and the manager of the secure accommodation establishment.

Conditions can be attached to the order, and the local authority has the duty to ensure that those services are provided. Whether they are always provided is a much wider question that relates to current capacity within children's services around Scotland, but that is perhaps a different issue to explore.

Maurice Golden: Thank you.

The Convener: I want to turn the conversation around to the victims. I should say that one thing has changed over the lifetime of this Parliament—well, actually, two things have changed. First of all, the fact is that, since we began to consider the petition on youth violence in 2022, the committee itself has evolved, and not everybody who is on it now was on it then.

However, I was a member at the time, and I was able to go out to various places and hear from people who were victims. The other thing that has changed in the lifetime of my being a member of this Parliament is the use of smartphones and digital technology. What everybody thought at one time would be a great asset to life is, in all the cases that I heard about, now being used by

young people to glorify the violence that is perpetrated. They feel free of prosecution, because of their age, but victims find that the humiliation, grief and suffering that they experienced are permanently accessible, and they feel that no weight gets attached to their on-going suffering.

I am interested in getting a general sense of the support, protection and information that are currently available through both the criminal justice and children's hearings systems for victims of offences committed by children, and in hearing what you think will change as a result of the 2024 act. Secondly, do you think that the protection of victims in the longer term is keeping up with the way in which the digital environment and, indeed, the world in which they operate and live are moving forward at pace?

The Lord Advocate: There are a number of aspects to your question, Mr Carlaw, and I hope that I can cover them in my response.

I understand your sense of profound change in this subject matter over the period that you have described with regard to the nature of the offending and the impact of the digital age on the victims of such crimes. We see that day and daily in our work, and we constantly strive to respond to societal changes that impact on the work of prosecutors in Scotland.

Dealing with societal change is fundamental to dealing with issues of sexual violence and violence, but tackling such a substantial challenge will require a wide response across the whole of society. It is vital that, in families at home and among peer groups in education, health and the third sector, people across Scotland challenge any harmful attitudes that are developing in young people. Although we maintain a focus on tackling offending through robust prosecution decisions, we also support broader societal efforts to promote healthy attitudes towards relationships and consent among young people and healthy and informed attitudes to the use of digital devices. The response of the prosecution service can be only—though must be—part of a wide strategy that includes appropriate education for children and their parents.

With regard to the support, protection and information given to victims during the process, I am acutely aware of the trauma experienced by victims and their loved ones as a result of the dreadful crimes that we are dealing with and talking about here, and the Crown Office and Procurator Fiscal Service is committed to improving the experience of victims within the criminal justice system.

We ensure, as far as we can—and I am working hard to make it better—that witnesses and victims are provided with information and updates about the cases with which they are involved. Where someone is a victim of sexual crime and is under the age of 18 or involved in a jury trial, they are automatically referred to the Crown Office's victim information and advice service, known as VIA, which provides victims and witnesses with updates on the progress of the case, including bail decisions, hearing dates and court outcomes, and information to support applications for, say, non-harassment orders. The service also provides extra support for victims who are required to give evidence in court by applying for special measures and ensures that witnesses have access to their witness statements in advance of the trial and have met the trial prosecutor in advance of giving evidence.

We have a protocol with the Scottish Courts and Tribunals Service and Victim Support Scotland to ensure that all victims and witnesses have access to court familiarisation visits and in-court support and, in addition, provide case-specific information and victim information advice as well as signpost victims to other agencies that can provide them with specialist support and advocacy services, where required. We see the enormous benefit of these support agencies in assisting victims and witnesses in these cases. Their input is vital to the wraparound service that victims and witnesses require in order to go through the criminal justice system, which is a traumatic and difficult experience and requires an immense amount of support.

Historically, we have not done all that we could have done in that respect, and there is room for improvement, but I am seeking to improve things by trying very hard every day to make improvements in communication, support and correspondence and to provide better support for victims in court through victim support services and through meetings with prosecutors before and after court.

There is a lot to be done, and more can be done, but I absolutely accept that victims have to be front and centre of the criminal justice service's response during this process. Only by giving that level of support will the public interest truly be served and will victims and witnesses give of their best in the system.

The Convener: I am grateful for your expression of empathy with the victims and the efforts that you have been making to progress changes.

On victims, you referred to the new statement of prosecution, which states that under the UNCRC the best interests of the reported child and of other children should be given primary consideration. We understand that there is no hierarchy of rights, but we have heard throughout our work in this

area that young victims feel that their rights are brushed aside in favour of the rights of the reported child, for example on youth violence.

09:45

I come back to the two examples that we heard. The first was at the LoveMilton community centre, where we heard from a young girl who was there with her parents, who was possibly not the most socially adept girl within her year group. She had been befriended by one of the people in her class and invited to meet at an external destination. When she got there, she found five to 10 people with phones who recorded the most horrendous explosion of violence on her, which left her very, very seriously injured—for a while there was some concern as to whether her life was at risk. The children were all 12 at the time; they were all young.

She no longer feels safe to leave the house for school—or, at the time, she did not—or to socialise for fear that what happened would happen again, and because it had all been recorded publicly. Her mother felt very much that although the police were incredibly supportive, they did not think that, ultimately, this would go anywhere.

There seemed to be a tremendous amount of support in place to try to have the individual who had committed the offence understand the nature of what they had done and understand how filming it had been deeply harmful, but that individual was still in the community and that individual's parents were tormenting the girl's family and saying, "There you go; there is nothing you can do about it". That young girl felt that she was locked up at home with no education, no counselling and no social life.

How is the long-term impact on victims taken into account when determining what the appropriate justice route might be for reported children? In the consideration of an example such as that, who ultimately is representing the interests of that victim? Even insofar as those interests are represented, what weight is finally given to them in progressing these matters?

The Lord Advocate: Given what you have described to me, it sounds as if the events that happened to that child were reported to the police. The police have published guidelines from me that set down the circumstances in which they must report offences committed by children to the Crown Office and Procurator Fiscal Service. From what you have described, I am not clear whether, in that case, the police reported the matter to the Crown Office and Procurator Fiscal Service. However, on the information that you have given about the serious nature of the offending that you described, it very much seems to me that that would be the type of offending that should be jointly reported to the Crown Office and Procurator Fiscal Service and the children's reporter by the police. If that were so and it came to the Crown Office, there would be, as Mr Hogg has described, communication between the children's reporter and the Crown Office as to what should be done in the circumstances of that case.

All the circumstances of what happened are taken into account. The rights of the victim and the rights of the accused and the whole circumstances of the case, including the level of seriousness and the impact on the victim, are all factors that are weighed in the balance with great care and great seriousness before, ultimately, a decision is taken. The Crown can prosecute cases, and it does that. During the course of the prosecution, it provides the level of support to victims that it can provide through the victim information and advice service; prosecutors can give support to victims of these types of crime through the criminal justice process.

Separate and distinct from that, victim support agencies are available to provide support. We can only prosecute, and we cannot prosecute our way out of what is a very difficult situation for all of society relating to offending by children. We can do our part, but there has to be a whole-system response, as I said before. If, in fact, the system itself is not providing separately and distinctly the appropriate level of support for the victims of these types of crime, that should be looked at. I would support anything that would do that to the utmost of my ability and within the parameters within which I am able to operate. Perhaps Mr Hogg could also respond to your important points.

Alistair Hogg: Of course. I know that you raised other issues, Mr Carlaw, but on support, protection and information for victims, a lot of these issues were discussed during the passage of the Children (Care and Justice) (Scotland) Bill, which became an act in 2024; there was recognition of a lot of the issues that you have described.

I am certainly aware of that particular victim's views, which you expressed, about the incredibly traumatic incident that they suffered. It is a familiar narrative that there is a perception that the child who has been harmed—it is often a child who has been harmed by another child—feels that they have not been provided with the same level of support as the child who caused the harm. That is a perception: it might not in fact be the case—but it might be. What is important, however, is that that is the perception, and it needs to change. That has been recognised through a number of different routes. The 2024 act has in place provisions that should at least begin to go some way to addressing those concerns.

At the moment, there is a limit to how much information can be shared when a child is referred to the children's reporter and to the children's hearings system. That is, of course, because of the rights of a child to privacy and confidentiality, which have to be balanced against the rights of the victim and their family to know what is happening. At the moment, the amount of information that can be shared is prescribed in statute, and it is very restricted. We can say only what our decision is and what the decision of the hearing is, without any further detail. The 2024 act broadens how much information can be shared and it has a specific focus on safety and risk planning around the victim. I believe that it also places a duty on the Scottish Government to ensure that supports are in place for victims. It will be setting up what is referred to as a single point of contact service for victims, where they can be provided with a broad suite of information to help them to understand what is happening in relation to the child who has caused the harm, and it will either provide or, at least, signpost to the provision of therapeutic services that might be required to deal with the trauma that they have suffered.

That is all in place and there are currently lots of discussions, workshops and design discovery phases going on to scope and design what that service might look like. There is also work beginning on quite complex new provisions around information sharing—when information can be provided and the circumstances in which it is appropriate to do so.

I would add that we have almost completed some research of our own, which we commenced following parliamentary debate during the passage of Children (Care and Justice) (Scotland) Bill. It is likely to report in August of this year. It is looking at what will help and support the victims of children who cause harm and, no doubt, will contain some recommendations on that. All of that will inform what happens next.

I add a word of support for the Lord Advocate because, as she says, she has really championed the cause of victims and taken it to a different level. That has been principally through the vehicle of the victims task force, which she jointly chairs with the cabinet secretary and which the Scottish Children's Reporter Administration is part of.

You referred to the fact that these petitions are from 2022, so a lot of action has been taken since that time.

The Convener: The earliest petition was submitted in 2022, but the evidence that we took subsequently was to illustrate the issues raised by the petitions rather than about the petitions themselves.

The Lord Advocate: I think that Ms Ross knows about the case that you were talking about, Mr Carlaw, and she would be able to fill in the gap with information that I was unaware of, if that is appropriate.

The Convener: That would be helpful, as long as we keep it all very anonymised, because we are trying to talk in general terms without identifying anybody.

The Lord Advocate: It might just help to hear what happened, without naming individuals.

Stephanie Ross (Crown Office and Procurator Fiscal Service): Good morning. Thank you, Lord Advocate. I will try to just fill in the gaps, if that would be helpful. I am familiar with the circumstances of the particular case, but I will keep my remarks general in following on from what the Lord Advocate said. That particular case was reported to the Crown Office and Procurator Fiscal Service. The presumption was rebutted and the case was indicted into court at sheriff and jury level. The outcome thereafter, upon conviction or any plea of guilty, is a matter for the court. If there were to be a referral to the children's reporter at that stage, which the court is entitled to do, and did so in this particular case, that is a matter entirely for the judiciary, but it was a case that was reported and indicted into court by the Crown and thereafter remitted to the children's hearings system by the presiding sheriff.

The Lord Advocate: There was a conviction.

Stephanie Ross: There was a conviction.

The Convener: Thank you very much. When we began, I was struck that, in response to Mr Golden, you made the reasonable point that prosecution is just one part of the way in which all this has to be dealt with. I do not suppose that there is a right answer to my question, but I am interested in your opinion.

Shortly before he died, I did a programme with the late former First Minister. One of the questions that was asked before we went on air—it was a preamble—was about the use of digital technology and devices to intimidate children, leading to bullying, exploitation or whatever. It was interesting that the panel of adults all said what they had to say and the audience all did their usual, "Yes, that sounds very reasonable" and applauded, but after it was over some young people who had been in the audience came up to me and said, "You adults haven't got a clue as to what is actually going on any longer in the digital era. You're all too old. You don't really understand the pace at which the technology and the apps and the ways in which they can be used are developing." They felt that we were approaching the issue in a very noble way, but in complete ignorance of what is going on on the ground and

of the way in which apps are being deployed and how things move from one day to the next. Standing there as a 66-year-old adult, I realised that that was probably true. I do not have the faintest idea how all those things are deployed.

In the challenge that you set of wider society understanding the harms and the ways in which violence is being perpetrated and digital technology being deployed, is the justice system, is the COPFS—are we—able to keep up with any of this? Is it moving at a pace that presents a challenge, the scale of which it is very difficult to grapple with or know how to properly respond to?

10:00

The Lord Advocate: That is a very good point. There are multiple ways that that could be answered. I believe that the police service of Scotland is fundamentally committed to the proper investigation and detection of crime and seeking to ensure that our communities are safe. I believe that it responds where it can to the challenges of the digital age. In so far as prosecutors are concerned, we prosecute many very difficult cases that involve the presentation of a vast variety of types of evidence that emanate from digital devices.

One example is a case that I prosecuted many years ago, regarding what was at that time the largest paedophile ring in the United Kingdom. A group of eight men were prosecuted for committing crimes against children. For the very first time in the history of Scotland, we prosecuted those men for conspiring to sexually abuse children because we were able to detect them as a result of tracing their actions through their use of the internet and the sharing of indecent images over their internet sites. Through good policing, we were able to secure evidence from America that related to the contents of their inboxes, to secure evidence from their digital devices and to present all of that in court to secure convictions of all eight accused. Two of the most serious offenders were convicted of committing a sexual act on a baby. The baby was identified through a digital image that we secured from the Hotmail inbox of another accused. We were able to trace that digital image through expert evidence that got the thumbnail of the digital image. We connected it to the metadata embedded in the accused's own computer and also used very basic policing, through hand identification, to link an image of the accused's hand to the digital image that we recovered that showed him sexually abusing an infant.

We have for a long time challenged ourselves in the Crown Office and Procurator Fiscal Service to constantly try to revisit how offending is taking place, with what methods and in what areas and also to understand how all that impacts on the children in our society.

We can always think about how we adapt to changes in technology, but we must always fundamentally remember what the basic problem is. The basic problem of violence against women and girls is the deeply misogynistic attitudes that are held within society and societal norms that allow the wide-scale abuse of women and children to happen in plain sight without the appropriate response from society to deal with it. I go back to what I said at the beginning, that societal response is essential to the enormous problems that we are talking about.

Fergus Ewing (Inverness and Nairn) (Ind): Good morning. We are here in this committee to give a voice to petitioners, and the petitioner in this case is Julie Mitchell, who I understand has been in contact with the Lord Advocate. The petition is ultimately about a point of principle. The petitioner stated in her submissions that rape is an adult crime and should be treated as such. In her submission she added:

> "I have found that if perpetrators are under 16 years old in Scotland and charged for their crimes, they are automatically referred to the Scottish Children's Reporter Administration, giving them the opportunity to carry on with these types of behaviours because the victim and the perpetrator are both treated as children.
>
> The consequence of committing rape, which is a criminal offence, isn't a charge with a record of sexual offence. Instead, they are referred to SCRA and can be given behaviour therapy and not a custodial sentence for a crime they have committed. I ask why.
>
> The victims are left with a lifetime of difficulty and trauma. It doesn't just affect the victim, it ripples out into the close family."

The principle that we were asked to pursue and have pursued—and widened it out perhaps, Lord Advocate—is pretty clear. Information has been provided by you and your office about the numbers of cases of rape or attempted rape and serious sexual assault reported for 12 to 15-year-olds or under 16-year-olds for each year from 2018 to 2023. It is helpful that that was provided. Serious sexual assault cases have risen from 62 in 2018 to 92 in 2023, a rise of around 50 per cent, which is worrying. Also, the charges of rape or attempted rape have been on an upward trajectory.

First, we do not appear to have a breakdown of the figures. How many of those cases in each year went through the adult system and how many were referred to the SCRA? I appreciate that it has been indicated by Ms Ross that the courts can refer the case to the SCRA, so that is an additional complication. To be fair to the petitioner and to those in society with an interest in this—which is probably most of us, given the abhorrent nature, as you have said, Lord Advocate, of these

disgusting, repulsive crimes—we need to get to the bottom of whether the petitioner is right. Are most of these cases, if not all, dealt with by the children's reporter or not? I still do not know the answer to that question.

The petitioner plainly believes that such cases do not go to the courts, but to the children's reporter. I do not imagine that you have the breakdown of those figures with you, but after this meeting can you provide us with a breakdown showing, for each year, how many cases went to the children's reporter, how many went to the sheriff court—or the high court, I imagine, depending upon the nature of the crime and the circumstances involved—and how many of those were then referred to the children's reporter?

I think that the feeling is that this is still something where the people charged with the most serious offence of rape end up being treated not in the criminal justice system, but in a more lenient way. From the victims' point of view, one can readily understand how much anguish that must cause, especially in the most serious cases.

The Lord Advocate: The first point is, can or should children accused of rape be treated as adults in the criminal justice system? We know that the prosecutorial response to children and adults requires to be different. Fundamentally, a child is treated as such because of the impact of their age and maturity and how you go on to assess their culpability and the potential for them to change and be reintegrated into society and for the risk of offending to be reduced. The Crown also has a legal obligation to act in a child's rights-based manner, compatible with the UN Convention on the Rights of the Child. That is the starting point.

The question then is, what happens in the case of a child who is accused of rape? In accordance with the guidelines that I have issued to the police, the case—if it is a child—is reported to the Crown Office and Procurator Fiscal Service and to the children's reporter and there is then a discussion between the Crown and the children's reporter as to what the appropriate steps should be. The Crown can either, if it decides to take the case, prosecute or divert from prosecution. In relation to diversion from prosecution, you are aware from the evidence that I have given to the committee, that I instructed a significant revisitation of the guidelines. There are now new guidelines on diversion from prosecution that put the rights of victims at their heart and ensure that there is better communication with victims of these types of cases where diversion is being considered. It is important to understand that diversion is a long-term tool for public protection. The alternative to prosecution, namely diversion, is not a soft option. It is often the most effective response for preventing future harm.

In relation to the cases that are prosecuted, we can explain that we looked at all the cases that were subject to diversion over a period of time. We looked at the last five years of cases and, after today, we will be able to give you the number of cases that were diverted and the number of cases that were referred to the children's reporter. We will also be able to give you the new figures that relate to diversion post my new instructions. [*Interruption*.] Ms Ross is telling me that, of the 10 cases that have been subject to the new guidelines, only two have been diverted, so we have prosecuted eight out of 10. We can put that in writing and make sure that the figures are absolutely accurate. We can give you all the figures, however—

Fergus Ewing: That would be helpful, thank you.

The Lord Advocate: —because I realise that it is really reassurance and information for the petitioner, whose child, as I understand, was so badly affected by this type of crime. We really understand and have vast experience of the impacts that she describes on her child. I understand what she wants to get out of this. We can give you all the information that you have asked for, Mr Ewing.

Fergus Ewing: I am grateful for that, Lord Advocate. I understand what you say and I understand the arguments, but I will simply say that for the family of a victim of rape, subsequent diversion is a bit late. Of course, the best diversion, as we all know, is before a serious criminal habit develops, but that is another topic.

I will pursue some of the points that you have raised. You alluded to the review of diversion from prosecution, which was announced in July 2023 and then expanded. As a result, a new "Statement of prosecution policy: diversion and referral to the Principal Reporter in rape and other solemn level sexual offences where the accused is a child" was published by the Crown Office on 28 April 2025. Are you able to summarise what is different about the new approach? I think that that is really what people want to know: has anything changed or is it the same?

The figures that you have just cited—eight of the 10 cases going to the criminal justice system and two going to the children's reporter—might just be anecdotal, but the implication is that the new system is tougher, in the sense that there is greater likelihood that cases of serious sexual assault, rape or attempted rape will go to the criminal justice system rather than the children's reporter system. Is that correct? If not, are you

able to outline in simple terms what has changed about the new policy?

The Lord Advocate: In simple terms, what has changed about the new policy is essentially a better focus on the aspects of a child's offending that leads to the decision that there is a merit for prosecution. There is a better focus on the factors that the individual lawyer should take into account in deciding whether or not the case merits consideration of a diversion or a prosecution.

I have also instructed that, before cases of the type that we are discussing are determined appropriate for diversion, they have to be considered by senior Crown counsel in the Crown Office. The senior advocate deputes who hold my personal commission are those who take the decision. The decision-making is at the high end of the Crown Office in the sense that it is taken into the jurisdiction of Crown counsel and the senior level of prosecutors.

10:15

In cases of rape, diversion for adults is seen only in exceptional circumstances. In cases of rape involving a child accused, the rebuttable presumption and the reasons for that presumption to be rebutted, are very well focused on in the published guidelines that are available to the public on the website. They include aspects of the case where, for example, there has been a use of force, manipulation of the victim, repeat offending, and other aspects that cause the prosecutor concern over the depth of the offending. I believe that it is a sound reset of prosecutorial policy that is informed appropriately by the concerns of individuals that we took into account. We were very much aware of the public criticisms about the use of diversion in such cases and we responded to that by reviewing all our cases over the last five years. I believe that the refocus and reset in the guidelines gives a far clearer steer to prosecutors as to the decisions that they should make, emphasises the importance of the victim's involvement in the process and highlights beyond peradventure the seriousness of the offence of rape.

Fergus Ewing: Thank you. I was aware that the new policy sets out factors that may indicate that a child should be prosecuted, and you have alluded to some of them. They include

"severe harm to the victim, including physical and psychological harm/trauma"

and

"evidence of the use of force along with the use of violence, threats of violence and/or coercion or coercive control".

In the text that I have here, the implication is that, where serious impacts and serious criminal behaviour have been alleged, there will be a prosecution. However, the actual wording is that there "may" be a prosecution; plainly, therefore, there is discretion. I understand that, but because the word "may" is used, rather than "shall", it still leaves a sense that, in some cases—even in those serious cases—where the victim feels there should be a criminal prosecution, that will not happen.

In short, Lord Advocate, are you saying that the new system means that more serious cases are going to prosecution? Are you happy to say that? That is the implication that I get from your whole demeanour, which I absolutely respect. The work that you and your staff do is incredibly difficult—I understand that—and having senior people dealing with cases now is undoubtedly a major step forward. I accept all that. However, can you actually say that more of the serious cases will now go to the criminal justice system than was the case before the new rules?

The Lord Advocate: It is early days, in the sense that the new guidance was published only recently. However, from the figures that I have given you, we can see what the position is. The best way to answer the question is for us to come back after a longer period to give data that demonstrates whether or not that is so. It would be a mistake to say, "This is clearly the position now." The sensible thing would be to look at the data over the longer term.

I think that you understand, Mr Ewing, that we aim to protect communities while recognising that children who offend are still children. We have to be proportionate and fair and look at long-term outcomes as well as short-term punishment. These are the challenges that prosecutors wrestle with day and daily when they are making what are very difficult decisions in these cases. We take an evidence-based approach, and that does not mean that we turn a blind eye to offending. Also, alternatives to prosecution are not a soft option. They are often the most effective response for preventing future harm.

In relation to the way that victims feel about the process, I see that there may be a gap in what the system provides for them, and filling that may very well be a very important outcome of the work that the committee is doing. What better support can we give victims of these crimes when those who are deciding cases—often on fine margins—decide to divert or to refer to the reporter? What support is there? We have tried to make sure that we engage with victims, explain to them what is happening, tell them about the processes that have been followed and explain the diversion process and what happens through it. Obviously, when a case goes to the children's reporter, we no longer have an opportunity to engage with the

victims, so there might be merit in doing a bit of work in and around the very issue that you put your finger on.

Fergus Ewing: I appreciate that the new prosecution policy came in just a couple of months ago—nearly two months ago. As you say, Lord Advocate, time will prove whether or not the policy handles these matters in a new way. However, we have information that was published on 10 June. I refer to the main findings from the Scottish crime and justice survey, which I understand report a quite alarming increase in the proportion of violent crime committed by offenders who are under 16. In 2021-22, the figure was 8 per cent; more recently, in 2023-24, it was 31 per cent, which means that nearly a third of violent crime is committed by children and is a rise of nearly 400 per cent in two years. I have just plucked out one year—if we go back to 2008, the figure was 14 per cent, I think.

It is a complicated picture, but the sense that I get is that violent crime by under 16-year-olds—by children—is on the rise. That in turn suggests—I am perhaps reflecting what many people, including my constituents, tell me—that punishment is now seen as a soft option and is not a deterrent. That is why some youngsters think that they can commit crime—even serious crime. I am not talking about less serious crimes, such as shoplifting, nuisance and breach of the peace and all that sort of stuff; violent crime is going up among youngsters. Obviously, I am talking about a tiny minority of youngsters, but is there not a worry that the current system is simply failing victims, given the alarming increase in, as you say, Lord Advocate, children committing violent crime? Do we not already have a sufficient corpus of evidence on which to conclude that there is a need to show that violent crime will be treated extremely seriously by the justice system?

The Lord Advocate: I think that violent crime is treated extremely seriously by the justice system. The issue that we are dealing with today is just one part of that. I was deeply concerned by the increase in reported sexual crimes and crimes involving children. It is a complex issue that requires a response not just by the prosecution service but by the criminal justice service at large.

I would need to look at the figures that you have quoted—I am not familiar with the statistics that you have given me today. We can look at those statistics and do a piece of work in the longer term to respond to the inferences that you have drawn from the figures. However, I fundamentally believe that prosecutors take reports of serious violence and serious sexual violence extremely seriously, and we prosecute young people in the adult courts for such crimes. We prosecute a good number of children—we can provide you with statistics on the number of children who faced adult prosecution in the past five years. It is a significant number.

Fergus Ewing: Thank you. I have one final question.

The Convener: Very quickly—the cabinet secretary is waiting.

Fergus Ewing: A key aspect of the new policy is that the views of the victim should be obtained before the decision whether or not to refer to the reporter is made. Does the victim have a say in whether there should be a prosecution? In what way, under the new rules, does the victim have a greater say than before? All too often, victims feel like they are bystanders in the justice system—they are not kept advised about what is happening and they often feel deeply disappointed by what happens. I know that a huge amount of good work is done by the police and others, but what is new? What is different? How will the views of the victim be treated more seriously under the new policy than they were treated under the old policy?

The Lord Advocate: A specific part of the new policy details, on pages 2 to 4 of the publicly available guidance, the level of communication that is required with the victim. I am conscious of the short time that we have available, but we have provided guidance and have set down what exchanges with the victim are required over the lifetime of the case—that is, before any decision is taken to divert and thereafter. That is set out in fine detail in the guidance.

More importantly, I believe that there is a change in culture, which I have sought to engender across the whole of the Crown Office and Procurator Fiscal Service, in relation to the importance of victim engagement—not just formulaic engagement, but meaningful engagement that leaves victims feeling that they have been listened to, that their rights have been acknowledged and that the criminal justice system has responded appropriately. The guidance that we have provided is excellent because it takes account of a lot of work that was done by those who were involved in the consultation process. It was a huge consultation process that involved key stakeholders—victims, lawyers, victim support groups and people across the justice system.

I believe that the combination of that consultation, the new guidance that we give to prosecutors about communication with victims and the shift in culture that I hope that I have been partly responsible for will result in victims feeling that they have been listened to and not left behind. However, beyond what I can do in leading the prosecution service, there is room for us to visit what should be done for the victim if there is no prosecution, or if there is a prosecution and an acquittal, or even if there is a prosecution and a

conviction, but the victim is left picking up the pieces where the process of prosecution cannot give them any support.

What do we do for victims of crime that prosecution cannot deliver? That is a real question. I see, across the board, that victims of serious sexual violence are fundamentally and substantially impacted such crimes and that the import of that type of offending is not properly understood across society, and it should be. I see that as probably part of the committee's emotional response to what members have uncovered in the work that they have done.

The Convener: Lord Advocate, Mr Hogg and Ms Ross, thank you very much. I very much appreciate the time that you have given and the evidence that you have been able to share with us this morning. I suspend the meeting briefly.

10:28

Meeting suspended.

10:30

On resuming—

The Convener: Welcome back. I apologise for the slightly extended duration of the session with the previous panel.

We are delighted to be joined on our second panel by the Cabinet Secretary for Justice and Home Affairs, Angela Constance; Clare Collin, violence reduction team leader; and Tom McNamara, head of youth justice and children's hearings. Good morning. Thank you very much for finding the time to be with us. I realise, cabinet secretary, that your time with us is limited so we will try to be concise.

Again, I will start by setting out some of the context for the evidence session. The committee has been undertaking considerable work on PE1947, on addressing youth violence, and has been struck by similar concerns that are raised in PE2064, on dealing with rape that is committed by under-16s. Both those petitions were lodged in 2022.

The committee—Mr Ewing will be rejoining us shortly and Mr Golden has had to leave us—has changed its membership during the consideration of the petitions. Indeed, I think that I am the only one left who visited the LoveMilton community centre as part of our evidence gathering for PE1947 and heard from some of the victims.

On PE1947, we took evidence from Police Scotland, the Scottish Violence Reduction Unit, the No Knives, Better Lives programme and a number of academics. We also undertook visits in the community to meet young people in an environment where they felt less intimidated, perhaps, than they might have done if they had come here to the Parliament to give evidence about their experience.

In particular, we met a young girl who, at the age of 14, was lured—the method used was a mobile—to a remote location, where she was seriously assaulted by another girl who had falsely sought to befriend her. The whole thing was recorded on mobiles and posted online. Nobody present was concerned for her welfare, but she was discovered in due course and taken to hospital with extreme injuries. The incident left her scared to leave the house. She feels very much that the perpetrator is out and about in the community, with the latter's family even intimidating her family, leaving her as a victim completely unprotected and unsupported. Her mum says that she has got PTSD, and she has attempted to take her own life on two occasions. On the lasting impact on the young girl and her family, she said:

> "I always thought that the police were there to protect and the justice system served justice."

However, she just feels let down. It is very difficult to understand how you would feel in those circumstances as a parent or if you were the victim.

As I outlined to the first panel, the committee understands that the Scottish Government's policy position is to avoid criminalising children where possible. However, we remain concerned about how the most serious of cases of violence and sexual offending are addressed and, crucially, how victims can meaningfully pursue justice and feel safe in their community.

I understand, cabinet secretary, that you might want to say a few words before we move to questions.

The Cabinet Secretary for Justice and Home Affairs (Angela Constance): Thank you, convener, and good morning. I very much appreciate the opportunity to join you in your deliberations. I will make a few brief remarks.

It is important to say that the vast majority of our children and young people are law abiding and do not engage in offending behaviour. Overall, referrals to the children's reporter on offence grounds have decreased by more than 15 per cent in 2024-2025, compared with 2023-2024. Police Scotland's figures show that the total number of serious assaults by 11 to 18-year-olds has fallen by 27 per cent over the past five years. Nonetheless, there are growing concerns about the issue, and other information requires to be acknowledged and addressed.

We have seen tragic incidents, with the loss of three young lives, over the past year, which demonstrates the absolute devastation and heartbreak that youth offending can have.

I appreciate that the committee will be aware of some of the work that we do through the violence prevention framework, in which we have invested more than £6 million since 2023. That is very much focused on prevention activities, including for young people.

We know that more needs to be done, and that is why we held the summit on youth violence on 12 June, involving the First Minister and MSPs across the chamber, as well as those who are involved in youth work and violence prevention. The summit highlighted the importance of education, community engagement, youth work, the creation of safe places and whole-family support, and the roles that those things have in tackling youth violence. We are considering what more needs to be done to strengthen that work for young people, for families and, of course, for communities.

I will respond to your remarks, convener. It is correct that we want to keep children out of the criminal justice system where that is possible and appropriate. That is to ensure that children receive support to address their behaviour, their needs and the risks that they pose, while ensuring—this is crucial—that our communities are safe and that victims are fully supported. Any decision on whether to prosecute a child through the criminal courts or to refer a child jointly to the principal reporter is, of course, a matter for the independent prosecutor.

I am happy to take questions.

The Convener: Thank you very much for that, cabinet secretary. Mr Foysol Choudhury will lead the questions, and I think that he will start with an issue that relates to the figures for 2023-2024 figures—although you have just given us updated figures for 2024-2025.

Foysol Choudhury (Lothian) (Lab): You have provided us with updated information. What factors are driving the increase?

Angela Constance: It is important to say that we continue to live in a safe country and that the long-term trends for offending overall, including youth offending, are on a downwards trajectory. In more recent times, from the Scottish crime and justice survey and other information, we have seen that changes in behaviour tend to be in and around schools, and we need to respond to that. One of the reasons why the summit was useful is that, in many ways, it reaffirmed and added to our understanding of the changing behaviour of some young people and the causes of that.

Essentially, you can boil that down to the long shadow of Covid and lockdown on some of our young people, which included their being out of school and having more unstructured time, with more time that was devoid of the normal socialisation that young people would have with young people and adults and when out with their family.

Online harm continues to be a growing concern—that certainly concerns me deeply. We are seeing bullying and behaviours that are being orchestrated online spilling over into our schools and communities. There is also concern about online influencers and how they are damaging the view that young men have of their own sense of masculinity, which feeds into violence against women and girls.

Foysol Choudhury: Yesterday, we saw the release of statistics that showed that sexual crime is on the increase. Do you know what percentage of that involves under-16s?

Angela Constance: I can provide the committee with the most recent published data from the Scottish Children's Reporter Administration, which demonstrates that there was a 9 per cent reduction in sexual crimes from 2021-22 to 2024-25. I can, of course, go away and dig deeper into the recorded crime statistics to see whether there is a breakdown of the age of offenders in any particular category. We know from the growing up in Scotland longitudinal study that there has been a significant decrease in youth offending among our young people over the past 20 years. However, that will be of no comfort if you are a victim or the family of a victim, particularly of violence.

Foysol Choudhury: There has been an increase in the proportion of violent crime that is committed by children under the age of 16. Are you concerned about that?

Angela Constance: I am concerned about any such change. It is, however, important to put that into context, because we need to understand things better. Information from Police Scotland shows that the number of serious assaults by 11 to 18-year-olds has reduced by more than a quarter—27 per cent—over the five years from 2019-20 to 2024-25. However, Police Scotland also advises—it presented this information to the Scottish Police Authority recently—that serious violence by young people in schools over that five-year period rose from six incidents to 40 incidents. Although those numbers, which are Scotland-wide figures, might appear low in total, we are concerned about the rate of the increase.

Foysol Choudhury: The Scottish Government's general position is that children should be kept out of the criminal justice system.

What is the evidence base to support that position? Can you set out when a criminal justice response might be appropriate for children involved in serious violent and sexual offending?

Angela Constance: It is important to say that the Scottish ministers are not the decision makers in individual cases that go either to the children's hearings system or to our courts. However, your question about evidence is very important, and there are decades of evidence. I am afraid to say that I am old enough to remember what it used to be like, as a former prison and hospital social worker before I entered Parliament. I remember when Polmont had several hundred boys in it. I remember the young offenders institute at Glenochil. I remember children coming in on a Friday night on unruly certificates when I worked at HMP Perth. I remember the countless adults I worked with and wrote parole reports on who had come through the old borstal system.

We also know that, if children become involved in the criminal justice system, they are less likely to desist from criminal behaviour, and the risk that they will become adult offenders or long-term offenders increases—you will often have heard prison referred to as the university of crime.

There are studies—the Edinburgh Study of Youth Transitions and Crime, which is a longitudinal study, along with the Growing Up in Scotland study—that recognise the causes of youth offending and that, in reducing offending, it is more effective to address the issues of extreme trauma, adverse childhood experiences, neglect, childhood sexual abuse, criminal child exploitation and bereavement facing young people who come into conflict with the law. That is why we have adopted the whole-systems approach, which, first and foremost, is based on prevention. That does not mean that children and young people cannot be deprived of their liberty. There remains a criminal justice response for over-18s and via the children's hearings system.

10:45

Foysol Choudhury: We have seen multiple stabbings committed by children this year. How do the authorities respond to the perpetrators? How would you expect a 15-year-old who was involved in a stabbing to be treated by the criminal justice system? What outcome would be the most positive in the Scottish Government's eyes?

Angela Constance: As I have said, it is not for a Scottish Government minister to decide what the penalties or punishment should be for any offender. That is very important, particularly if we believe in the separation of powers and the rule of law. Like all MSPs, I am under an obligation to support the independence of the judiciary. We passed legislation in Parliament in 2008, if I recall correctly, in that regard. What is important is that the process responds to offending and that there is a range of factors that the independent decision makers, whether in the judiciary or in the children's hearings system, have to take into consideration. The impact on a victim is a factor, along with the severity of the offence, the pattern of offending and public protection.

Some of the more recent legislation that the Parliament has passed—the Children (Care and Justice) (Scotland) Act 2024, for example—has been about enabling more children to go through the children's hearings system. However, it has also been about enhancing the rights of victims to receive information and widening the scope of offences that can be subject to movement restriction conditions, for example. Much of the work that I am currently involved in—through, for example, the Victims, Witnesses, and Justice Reform (Scotland) Bill—is around enhancing victims' rights and, in particular, the victim notification scheme.

Foysol Choudhury: My final question is on preventing children from committing serious violent and sexual offences in the first place. What is the Scottish Government doing about prevention and early intervention? What evidence is there to demonstrate that the Government's actions are working?

Angela Constance: There is evidence about the longer-term and medium-term trends in the reduction of youth offending. There are two aspects to prevention and early intervention.

This is where I acknowledge, as justice secretary, that universal services, such as education, health, early learning and child care, support for families and support for parents, are all crucial, as are the building blocks that are associated with the equally safe strategy and the funds that are routed through delivering equally safe.

Another layer of early intervention is about responding to the risks and needs that give cause for concern, because it is important that we prevent an issue or a problem from becoming a crisis. I saw a lot of that in my previous working life. I saw how problems grew and became crises, sometimes with very tragic consequences.

David Torrance (Kirkcaldy) (SNP): Good morning, cabinet secretary. Does Police Scotland have sufficient powers and resources to play its part in addressing serious violent and sexual offending by children under 18?

Angela Constance: I believe that Police Scotland has the resources and the appropriate powers. I am always open to dialogue, of course.

My engagement with the police and with families is very important in that regard.

Police officers need reasonable cause for stop and search. However, there are powers under section 60 of, I think, the Public Order Act 1986, under which, if there are concerns about serious violence, an officer of the rank of inspector or above can utilise stop and search without reasonable cause. Stop and search is an important tool, but it is only one tool. Police officers are also involved in campus cops' work, and they engage with young people and children. Police Scotland also has a youth volunteer programme.

It is also important to look at the evidence. In 2024, there were 6,000 uses of stop and search involving young people, which was an increase of 35 per cent. There were 4,500 in 2023, so that was a big increase. However, the number of bladed objects found and retrieved remained about the same: the figures were 151 for 2024 and 154 for 2023. Therefore, it is quite difficult to isolate evidence that shows that stop and search reduces knife crime. It is a tool, and is part of a much bigger approach.

David Torrance: Thank you.

It is not only police who have a role to play in addressing serious assaults and sexual offending. What other agencies have a role, and do you think that they have sufficient powers and resources?

Angela Constance: A broad range of agencies have a role. I will start with justice social work, and social work more broadly, because it is an area that I know well. There is a huge role for justice social workers in the management of people who offend, but they are not telling me that they need any more powers to supervise release licences or community payback orders. I am interested in the work that is being done by our independent sentencing and penal policy commission in respect of our prison population. The question is whether we have the right breadth and depth of disposals and alternatives to custody. However, I do not want to go too far off-piste from my purpose here today.

Children and families social workers are hugely important. I am very pleased that my colleague, Ms Gilruth, has invested in some additional financial support for student social workers, because there is a recruitment and retention issue, particularly for children and families social workers, who have big child protection responsibilities. Obviously, doctors, nurses and schoolteachers all have a responsibility for safeguarding and for engaging with other services when there is a wellbeing concern. A whole host of services right across the public sector have very particular responsibilities.

The Convener: Cabinet secretary, I will begin with the same anecdote that I put to the Lord Advocate. It returns to the online theme that you addressed in the remarks that you have made to this point. I referred to a television panel that I appeared on with the late First Minister just before he died. The introductory question, which was not broadcast, was about the use of online activity and the filming and posting online of attacks on young people. The panel of adults, including the late First Minister, all gave what we thought were very worthy answers and heard the usual kind of polite applause from the audience. However, after the filming session was over, young people came up and said, "You adults haven't got the faintest idea what you are talking about in all this. You are talking about online and the use of digital technology, which is way beyond your experience of it. It is not how we as young people see it at all."

We talk about the rapid development of digital technology and the way in which young people experience it. I referred at the start of the proceedings to an individual who was lured, with the incident being filmed by a number of people. It was then broadcast on social media and sits there in perpetuity as a legacy of the harm that was caused. Are we, as politicians and legislators, keeping up with how online activity is being deployed against young people in a series of different ways, including, sometimes, by young people against other young people?

Angela Constance: That is the $6 million question, convener, and it is what we have to challenge ourselves with, as politicians and as parents. We are not sighted on all aspects of our young people's lives, that is for sure.

I know about some of the work that other colleagues across Government have done to invest in and ensure that we have the right content on the Parent Club website. It is a question of how we reach more parents and more adults who are involved in ensuring that our children are safeguarded and well. We have a clear programme for Government commitment, and I am very pleased that Siobhian Brown, the Minister for Victims and Community Safety, and Natalie Don-Innes, the Minister for Children, Young People and The Promise, are leading the online harms task force. That is an important bit of work. Notwithstanding the fact that regulation on online activity and online harms is reserved, we as a Government want to do everything that is in our capacity.

We need to engage young people; in many ways, they will guide us. As justice secretary, I am acutely conscious that the figures that started to emerge a few years ago show that the proportion of young people who are either the victim or perpetrator of image sharing or online harm is

significant. That is why our services need to engage with our young people on the realities of their lives. They are much more tech savvy, I suspect, than anybody sitting around this table.

You might recall the Online Safety Act 2023, on which we engaged closely with the UK Government. Under the act are new offences that apply to Scotland on the criminalisation of sharing materials that are intended to encourage or assist in harming others. Part of our work is to raise awareness and make young people aware of the risks associated with those harms, as well as the risks associated with breaking the law.

11:00

The Convener: Cabinet secretary, do you know whether those new powers have been deployed? Have they been used?

Angela Constance: I do not have any figures at hand for that, but I can certainly—

The Convener: That appears to potentially contribute to the Scottish Government having the ability to intervene when online material is being used in a damaging way.

Angela Constance: Yes. Of course, it would be for justice agencies to intervene in that regard. I will see what information we have, but I do not have anything at my fingertips right now—my apologies.

The information that I saw last night was not the most up to date; it was a few years old. It spoke to the proportion of young people as victims and perpetrators of online offending. The quit fighting for likes campaign was rerun in March and will be rerun later this year. It is ably assisted by the Scottish violence reduction unit, and it is supported by an increase in funding to that organisation. Ms Brown has led work on sextortion. We are also getting into cyber-related fraud work. Such crime exploits our young people, lures them into sending images and sends them threatening remarks and materials about disclosing those images. The crime has had tragic consequences for some young people.

The Convener: Yes, I have heard of that first hand.

Fergus Ewing: Good morning, cabinet secretary and officials. The petitioner, Mr O'Kane, lodged his petition in August 2022. On the disturbing culture of youth violence in Glasgow city centre, he said:

"Children as young as 13 years old have been kicked unconscious and left in pools of blood whilst the incidents are videoed and circulated on social media."

Since then, the main findings of the Scottish Government's Scottish crime and justice survey 2023-24 indicated that

"The proportion of violent crime offenders aged under 16 was 31%".

I raise that because it is a huge increase from before. In 2021-22, that proportion was 8 per cent. It has risen fourfold since the petition was lodged, despite the petitioner raising, as I said, a graphic example of repulsive violence. What has gone wrong? Why is there such a big increase? Is it because justice is seen as a soft option these days and because young people feel, rightly or wrongly, that they can get away with such behaviour with impunity?

Angela Constance: There is nothing soft about our justice system. The Scottish crime and justice survey is an important flagship survey. It gives us good information and the longer-term trajectories speak to falling rates of youth crime and Scotland being safer. However, you are quite right to point to the fact that the proportion of violent crime where the perpetrator is a child has increased to 31 per cent of incidents. That is what I meant earlier when I said that there is newer information in the shorter term that gives cause for concern. We need to acknowledge that it is not acceptable and that it must be addressed.

You ask what has gone wrong. I think that it is the change in the behaviour of some young people due to the challenges that I spoke about earlier. I know that people do not always appreciate this, but it was ably articulated at the round-table discussion chaired by the First Minister and me that lockdown during Covid has had an impact on young people's behaviour. Youth work leaders, people at the forefront of violence prevention and, of course, teachers in our schools will all narrate that as a reason. We have spoken at length about the online harms that are exposing our children to outside influences, and that is an issue. Related to that is the influence of what is called toxic masculinity on some of our young men. Those are three important drivers of the recent changes.

As for what will work, there is value in and a place for youth work. I am a huge advocate for youth work, which is supported via the cashback for communities programme, for example. We often think of punishment, and there is a place for that, but, to change behaviour, young people need reliable and trusted relationships. We absolutely must continue with prevention work and must not be swayed into thinking that we need to put all our eggs into the punishment basket. We must continue to commit to the long-term preventative work, because we are seeing long-term improvements as a result. However, there is no doubt that we need to be acutely aware of and

address the recent changes in the behaviour of some young people.

Fergus Ewing: Recently, I spoke with a senior manager of a chain of convenience stores—I will not name the company—who told me that there might be only one staff member in the small shops. He feels that shoplifting is no longer prosecuted and that youngsters who engage in shoplifting know that that is the case. In addition, attacks on shop workers are routine; they happen frequently—they might even happen more than once a week in that chain of stores.

The feeling is that shoplifting is not really considered as a crime any more and is not prosecuted. Is that right or wrong? Is shoplifting being prosecuted or have we just given up on doing that now?

Angela Constance: No, we have not. I know for a fact that cases of shoplifting are prosecuted. I can see that as being pertinent in the adult system, so it is prosecuted.

I think that it is accurate to say that shoplifting has significantly increased while crimes of dishonesty have significantly decreased overall. Shoplifting is still a challenge. It is particularly damaging to businesses and it will make shop workers and owners fearful. That is why, at the end of last year and the start of this year, £3 million was specifically allocated in the budget to Police Scotland to tackle shoplifting. Assistant Chief Constable Tim Mairs has been leading on that work. Some of that work is about providing a police presence, and some of it is about supporting shopkeepers and to do with communication. Shopkeepers are asked to be alert to who is doing what and to share that information with the police. Shoplifting is a particular issue in parts of Edinburgh, as it is in other areas of Scotland, too.

Fergus Ewing: Cabinet secretary, you mentioned the cashback for communities scheme. I was involved in that some years ago—so long ago that it is probably only of archaeological interest now. When Kenny MacAskill and I set up the cashback scheme, the idea was to take money that was confiscated from drug dealers and other criminals and to put the fruits of their crime into helping to turn around youngsters, particularly those who were not criminals but were on the cusp—or were feared to be on the cusp—of moving into criminal behaviour. They were perhaps involved in antisocial behaviour or minor crime, although every crime has a victim. A lot of work was done on that.

You said in your written submission that £20 million is being provided to the cashback scheme. I saw in a recent announcement that that is being supplemented by £6 million. Does that constitute all the money that has been confiscated from criminals, or is some of that siphoned off for other purposes?

Angela Constance: In phase 7 of the scheme, which is a three-year period, £26 million has been allocated, which is an increase on the initial £20 million. That is very much in response to some of the short-term changes that we are seeing in the behaviour of some young people.

I will give some examples in response to your question, Mr Ewing. In 2023-24, the total cashback scheme expenditure was just under £6 million. In 2024-25, it was £6.7 million, and the forecast for 2025-26 is £6.8 million. Around 90 per cent of that goes on cashback projects, but smaller amounts are allocated to staff costs and partners' delivery costs.

Fergus Ewing: That is helpful. It looks as though the lion's share, if not all the money, is going towards trying to divert youngsters from criminal behaviour. I get the impression that many of the schemes were effective, although it is very hard to measure the outcome of those things.

The Convener: This will be your final contribution.

Fergus Ewing: Sorry, convener. Finally, are private companies still involved in partnership programmes with the Government? I remember Jim Fox from Coca-Cola, who was very active in working with the Scottish Government, helped to fund a five-a-side football competition in, I think, central Scotland, which proved to be very popular. There was a cost involved to that.

I wonder whether the cabinet secretary is aware of any other examples. If not, is that something that the Scottish Government could do a bit more of, to seek to work in partnership with private companies, which might well have a direct interest in trying to turn around the behaviour of youngsters but which are public-spirited and would like, in many instances, to be of help?

Angela Constance: I remember from my days in social policy that colleagues there, and, to a lesser extent, in education, certainly engaged in such discussions. In particular, they supported our third-sector organisations and linked them up with philanthropic organisations and foundations. Probably a good example of that, although I am a wee bit rusty on that side of the house these days, is the work of the organisation Inspiring Scotland.

There is a range of partnerships. As MSPs, we have probably all been involved in bringing together local businesses with good causes in our constituencies.

Mr Ewing makes an interesting point and I am happy to write to the committee about the issue if you wish.

11:15

Fergus Ewing: Convener, I have a—

The Convener: I am conscious of the cabinet secretary's time.

Fergus Ewing: I have a very short question, cabinet secretary, which you might not be able to answer today. I wonder whether the Army is still involved. I found that sergeant majors and suchlike were the most effective at gaining the respect of certain young people—guys, mostly—and turning around their behaviour.

Angela Constance: Involved?

Fergus Ewing: In prevention and diversion work, including in Outward Bound Trust work, schools and residential courses, where lots of young guys get together, bond as a team and are taught how to do certain things. They learn discipline and it perhaps gets them away from housing schemes where they have had a difficult time in some cases—I suspect that that will apply in many cases. That was an effective means of helping to prevent youngsters from going down a criminal path.

Angela Constance: There are examples of the uniformed organisations engaging with young people. I know that Police Scotland has a youth volunteers scheme. The military has its cadets, and they are very visible, certainly in the community that I represent, at local gala days and events.

At the end of the day, this is everybody's responsibility. These are our children, and we need to exercise our responsibility to rear them well and keep them safe and happy.

The Convener: I am conscious of your time, cabinet secretary. Finally, you have referred to various summits that have taken place. Are we clear yet about specific outturns from those or is that still work in progress? Do you expect that the evidence that was heard in those summits might lead to a debate in the chamber later in the year, which this committee might be able to participate in, given that we have been taking evidence on the same issue during this session of Parliament?

Angela Constance: I will certainly share that thought with colleagues, convener. I am not the sole arbiter of Government-led debates or business, and I do not want to get six of the belt from the Minister for Parliamentary Business. I know that we have a heavy legislative programme between now and dissolution.

However, one thing that was really important about the summits was that we not only talk about but respond to what we have heard. It is crucial that we engage with young people—there was a youth summit earlier this year—and there is value in engaging on a cross-party basis with people who are on the front line of youth work and violence reduction and violence prevention work.

There have certainly been some actions, including supporting the work of the Scottish violence prevention unit on online harms. The unit will be engaging with young people who have higher risks, if I can put it that way.

It was about the time of the summit on youth violence that we opened phase 7 of cashback scheme, and that was a good way of highlighting that funding to organisations.

We need to do more on the three specific issues that are perhaps underlying the more recent change in some young people's behaviour. There is genuine commonality around the importance of prevention and early intervention. Yes, we can adapt, implement measures and do different things within that, but we cannot walk away from prevention because we will do that at our peril. We must stick with that.

The Convener: Thank you very much. That is all of our questions. Is there anything that you would like to add or have we covered the ground that you were hoping that we would cover this morning?

Angela Constance: I simply want to thank you, convener, for the invitation. If I can be of any more assistance to your deliberations, I will be only too happy to oblige in writing or in person or whatever.

The Convener: I thank you and your colleagues for your attendance.

11:20

Meeting continued in private until 11:26.

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