

Citizen Participation and Public Petitions Committee  
Wednesday 8 October 2025  
15th Meeting, 2025 (Session 6)

## PE2171: Stop the use of prisons for punishment and focus them on public protection

### Introduction

**Petitioner** Robert Macdonald

**Petition summary** Calling on the Scottish Parliament to urge the Scottish Government to stop the use of prisons for punishment and deterrence, and only use them for public protection purposes, in order to reduce the pressure on the prison service and allow more focus on rehabilitation, thereby ensuring that those who pose the greatest risk are jailed, whilst allowing those who pose less of a risk to be given community orders, fines and potentially lifelong driving bans.

**Webpage** <https://petitions.parliament.scot/petitions/PE2171>

1. This is a new petition that was lodged on 16 June 2025.
2. A full summary of this petition and its aims can be found at **Annexe A**.
3. A SPICe briefing has been prepared to inform the Committee's consideration of the petition and can be found at **Annexe B**.
4. Every petition collects signatures while it remains under consideration. At the time of writing, 13 signatures have been received on this petition.
5. The Committee seeks views from the Scottish Government on all new petitions before they are formally considered.
6. The Committee has received a submission from the Scottish Government, which is set out in **Annexe C** of this paper.

### Action

7. The Committee is invited to consider what action it wishes to take.

**Clerks to the Committee**  
**October 2025**

## **Annexe A: Summary of petition**

### **PE2171: Stop the use of prisons for punishment and focus them on public protection**

#### **Petitioner**

Robert Macdonald

#### **Date Lodged**

16 June 2025

#### **Petition summary**

Calling on the Scottish Parliament to urge the Scottish Government to stop the use of prisons for punishment and deterrence, and only use them for public protection purposes, in order to reduce the pressure on the prison service and allow more focus on rehabilitation, thereby ensuring that those who pose the greatest risk are jailed, whilst allowing those who pose less of a risk to be given community orders, fines and potentially lifelong driving bans.

#### **Background information**

Our prison service is running at almost full capacity. We need to rethink who we jail and why. We know that using prison as a deterrence is not effective. We have to go back to the criminal law doctrines of *actus reus* and *mens rea* in establishing when prison is most needed. In most cases of *mens rea* being absent, prison is of little value. This is especially true of deaths caused by driving, whereby there was no intent to cause injury or death, and the standard of driving would not be deemed by the average person of similar ability and experience to lead to death.

Cases such as these pose little threat to the wider public. Thus prison is not being used for public safety. All we are doing is causing people to lose their homes and jobs thus creating bigger issues of unemployment and extra pressure on already stretched housing markets.

I urge the government to consider using prison as a very last resort in all circumstances.

## **Annexe B: SPICe briefing on PE2171**

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

#### **Introduction**

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

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

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

#### **Prisons**

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

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

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

The paper goes on to say:

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

It has shown that the composition of the prison population has substantially changed, in addition to the population being elevated. For example, there are many more people in prison for the most serious violent and sexual crimes; the prison population is notably older than it was a decade or so ago; and there [are] fewer entries and exits, with more people serving longer sentences. There are also pressures which have emerged in recent years following the COVID-

19 pandemic, such as an elevated proportion of the prison population accounted for by those on remand.”

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

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

## **Sentencing**

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

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

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

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

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

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

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

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

## **Scottish Government policy development**

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

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

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

## Criminal Justice Committee scrutiny

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

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

**Frazer McCallum**  
**Senior Researcher**

11 July 2025

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

Every effort is made to ensure that the information contained in petition briefings is correct at the time of publication. Readers should be aware however that these briefings are not necessarily updated or otherwise amended to reflect subsequent changes.

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

## **Annexe C: Written submission**

### **Scottish Government written submission, 24 July 2025**

**PE2171/A: Stop the use of prisons for punishment and focus them on public protection**

**Does the Scottish Government consider the specific ask[s] of the petition to be practical or achievable? If not, please explain why.**

The Scottish Government recognises the benefits that can be provided by community justice, including through the use of community sentences and other community-based interventions. While it considers that there will always be a need for prison, in many circumstances keeping people out of custody is the best way to prevent further offending, reduce victimisation, and keep our communities safe.

As noted in the National Strategy for Community Justice and the Vision for Justice in Scotland, the Scottish Government's ambition is to use prison only for those who pose a risk of serious harm, while ensuring that protecting victims and the public remains an absolute priority. However, this is considered a long-term aim and while work is underway to encourage a shift in the balance between the use of custody and justice in the community, changing the use of prison in line with the petition raises complex and multifaceted issues and is not considered practical or achievable in the shorter term.

It should be noted that sentencing in any given case is for the independent courts, taking account of all the relevant facts and circumstances of each case before them. The courts make their sentencing decisions within the legal framework set by Parliament and using any relevant guidance from the independent Scottish Sentencing Council. Of particular relevance in the context of the issues being raised by the petitioner are the Sentencing Council's Guideline on the Principles and Purposes of Sentencing, and its Guideline on Sentencing for Statutory Offences of Causing Death by Driving. These can be found at [Approved guidelines | Scottish Sentencing Council](#).

The petition specifically refers to the use of custodial sentences for driving offences. The power to set maximum penalties for driving offences is reserved to the UK Parliament. As such, if the petitioner has comments or concerns about these they may wish to raise this with the Ministry of Justice. If the petitioner has comments or concerns about the Scottish Sentencing Council's Guideline on Sentencing for Offences of Causing Death by Driving, they may wish to contact the Sentencing Council directly.

**What, if any, action the Scottish Government is currently taking to address the issues raised by this petition and is any further action being considered that will achieve the ask[s] of this petition?**

The Scottish Government has a longstanding aim to take a person-centred and rehabilitative approach to community justice to encourage a shift in the balance between custodial and community interventions. This is set out in the National Strategy for Community Justice, which recognises that while public protection is paramount, there is clear evidence that community-based interventions and

sentences are more effective in reducing reoffending than short custodial sentences and may provide greater opportunity for rehabilitation. To support community justice services and ongoing work that further enables a shift away from the use of custody, the Scottish Government has increased community justice funding by £25m over two years, bringing the total funding for community justice to £159m in 2025-26.

In 2019 the presumption against short sentences (PASS) was extended from three months or less to twelve months or less to support a further shift away from ineffective short custodial sentences. Under the presumption, sheriffs should not impose custodial sentences of 12 months or less unless they consider that no other method of dealing with the person is appropriate. However, discretion continues to sit with the court in any given case to determine an appropriate sentence, including a custodial sentence if that is considered necessary.

In recent years progress has been made in a range of areas that support the provision of justice in the community and public protection, including electronic monitoring. Electronic monitoring is a reliable and appropriate tool to support a person living in the community rather than being held in custody, and confidence in the measure can be seen through its high usage. The number of electronic monitoring orders has more than doubled between 2021 and 2025, and the number of those on any form of electronic monitoring is currently at record high levels. Public safety and any potential risk to victims are key factors in determining suitability for electronic monitoring, including typically the nature of curfew periods and any restrictions from particular places.

In addition to providing further support to community justice services, the Scottish Government continues to work with partners to ensure prisons continue to function effectively and can provide the full range of support needed for people to leave on a better path. The Scottish Prison Service's new education and employability strategy, "Learning for a Better Future" will further enhance the existing opportunities available in custody. The strategy will support an individual's development and learning towards Health and Wellbeing, Empathy and Citizenship, Life and Work and for the Benefit of Others. It will also form a basis for planning an individual's development pathway during their time in custody.

With regard to exploring the potential for more significant changes in how prison is used, earlier this year the Sentencing and Penal Policy Commission was established, led by an independent Chair and supported by five expert Commissioners. The Commission will examine how and when custodial sentences and community interventions are used, how effective these are, and what more can be done to reduce reoffending, which will help ensure that Scotland has a sustainable prison population over the long term. It will make detailed recommendations for improvements in how offending behaviour can be dealt with in an effective and proportionate manner. The Commission's final report and recommendations are to be presented to the Scottish Government before the end of 2025.

*Community Justice Division, Directorate for Justice*