



Criminal Justice Committee
Wednesday 2 September 2026
3rd Meeting, 2026 (Session 7)

Scottish Government's Criminal Justice Priorities

Today's evidence session with the Cabinet Secretary for Justice provides an opportunity to scrutinise Scottish Government priorities for criminal justice.

The Scottish Government has written to the Committee setting out information on its priorities (letter of 24 August 2026). This briefing provides additional background information to help inform the session.

Prisons and the use of custody

The operation of prisons and the use of custody have been the subject of considerable debate and scrutiny. Key issue in recent years have included the size of the prison population, reaching record levels, and the associated problem of prison overcrowding.

In September 2025, the Chief Inspector of Prisons for Scotland [wrote to the Scottish Government](#) stating that overcrowding “is an invidious and all-pervading evil that affects every aspect of prison life”. At its [meeting on 24 June 2026](#), the Criminal Justice Committee took evidence from the Chief Inspector.

In February 2026, the [report of an independent Sentencing and Penal Policy Commission](#) was published by the Scottish Government. The report is broad in its scope, covering – the prevention of crime, alternatives to prosecution, bail and remand, community and custodial sentences, and release from custody. As part of the work leading up to this report, the Commission also produced a [paper outlining a range of background information](#) (published July 2025).

In June 2026, the Scottish Government published a [consultation on the prison population and penal reform](#) (closed 20 August). The website noted that:

“This consultation seeks views on a set of proposed reforms to the criminal justice system in Scotland, building on the recommendations of the Sentencing and Penal Policy Commission and seeking to reduce the demand for prison places where appropriate.”

The consultation itself stated that:

“The Scottish Government's view is that a balanced approach is required, recognising the merits of both custody and community-based disposals in

different circumstances, the need to protect victims and the public, and the need to ensure that effective rehabilitation is supported to reduce re-offending and further victimisation.” (para 6)

“Our long-term approach to the rising prison population seeks to combine an expansion of the prison estate with a more proportionate use of custody and more robust community alternatives.” (para 9)

The consultation highlighted steps which have already been taken to mitigate a rising prison population:

“Change in automatic early release point for most short-term prisoners to 30% of sentence served

Emergency early release processes for certain short-term prisoners

Expansion of home detention curfew (HDC)

Increased investment in community justice

Strengthening alternatives to remand

Expanding electronic monitoring

Optimising the prison estate (to ensure available space is used as effectively as possible)

Prison building (primarily replacement of the existing estate to date).” (para 22)

However, it went on to say that:

“While these actions have slowed the rate of population growth, they have been insufficient to overcome the underlying structural drivers to deliver a sustainable prison population. Without targeted action on the long-term prisoner cohort, alongside other measures being taken forward on short-term prisoners and plans to expand the prison estate, it is likely that the prison population will continue to rise, increasing the risk to the safe and effective management of prisons.” (para 23)

The consultation sought views on potential reforms in the following areas:

- strengthening and supporting the use of the presumption against short sentences – e.g. by stating that short sentences should only be used in exceptional circumstances
- extending the presumption against short sentences from 12 to 24 months (potentially accompanied by an increase in the maximum custodial sentencing power of summary sheriff courts to mirror this change)
- enhancing and strengthening community sentences – e.g. to help ensure that community payback orders are seen as a credible alternative to custodial sentences
- electronic monitoring – e.g. strengthening police powers to enforce exclusion zones

- bail and remand – e.g. by providing that a person should be released on bail unless there is a reasonable prospect that conviction will lead to a custodial sentence of at least 24 months
- automatic early release for long-term prisoners – e.g. reinstating automatic early release after serving two-thirds of the sentence in custody
- changing the definition of a short-term prisoner to include all those sentenced to less than five years (thus expanding the application of the short-term prisoner automatic early release provisions).

The consultation noted that, whilst it reflects some of the recommendations made by the Sentencing and Penal Policy Commission, other recommendations remained under consideration and could be taken forward as part of future policy development.

More information on prisons is provided in the SPICe [subject profile on prisons](#) (June 2026).

Community justice

Community justice covers a range of services, including the provision of community sentences (e.g. community payback orders), and both support for and supervision of people on release from prison.

Strengthening and expanding community justice services may play an important part in reducing the current use of custody (e.g. by increasing the use of community sentences as an alternative to custodial sentence and helping to reduce reoffending rates).

As noted above, the [report of an independent Sentencing and Penal Policy Commission](#) (published in February 2026) included discussion of community justice. For example, stating that:

High-quality community sentences remain underused despite strong evidence that they reduce reoffending more effectively than short prison terms. While community sentences and community justice may attract less public attention than prisons and policing, they form a substantial part of the justice system and are central to its effectiveness. Rigid systems, inconsistent availability of programmes and limited discretion for justice social workers hinder effective delivery. [...] If the prison population is to be reduced sustainably, justice social work and community services will require increased investment and support. (page 8)

And that:

“Fragmentation across the community justice landscape contributes to uneven supervision, support and outcomes. While local delivery enables close links with housing, health and community services, national leadership, coordination and accountability remain weak. Without clearer national direction, variation risks becoming inconsistency, weakening confidence among sentencers, practitioners and the public.” (page 12)

The Scottish Government's [consultation on the prison population and penal reform](#) (published June and closed August 2026) sought views on various issues relating to community justice.

In addition, the Scottish Government published a [consultation](#) in June 2026 (closed 20 August) as part of a review of the National Strategy for Community Justice. The consultation noted that:

“The strategy sets out the aims, ambitions and priority actions for community justice across Scotland. It also acknowledges the challenges that many delivery partners face, such as multiple pressures on available resources.

This consultation supports a wider review of the national strategy by Scottish Ministers to gauge its suitability in strengthening and improving community justice in the coming years or, alternatively, to inform the development of a new strategy.” (page 3)

Courts

Pressure on the courts

Much of the parliamentary scrutiny of the courts during Session 6 was shaped by the impact of the COVID-19 pandemic. Restrictions imposed to limit the spread of the virus reduced the capacity of the courts to deal with cases. There has been progress in tackling the resulting backlog of cases, but this varies significantly depending on the seriousness of cases. In May 2026, Audit Scotland published a [follow-up report on the criminal courts backlog](#) which noted that:

- the overall criminal courts backlog had reduced considerably to 13,268 outstanding scheduled trials at the end of 2025-26 (down from the peak of 43,606 in January 2022)
- outstanding scheduled trials in the two summary courts (justice of the peace and sheriff summary) are below pre-pandemic levels
- outstanding scheduled trials in courts dealing with the most serious cases remain high and continue to grow in the High Court.

In relation to the last point, the report stated:

“Sheriff solemn outstanding scheduled trials rose to exceptional levels following the pandemic. There has been a positive downward trend until recently, and the numbers remain high. At the end of 2025-26, the number was approximately double the pre-pandemic number (1,078 compared to 497 at the end of 2019-20).” (page 13)

“High Court outstanding scheduled trials have grown continuously since the pandemic and are at an unprecedented level. At the end of 2019-20, the number was 390. This increased to 687 by the end of 2022-23 (a rise of 76 per cent), and to 1,002 by the end of 2025-26 (a rise of 157 per cent from 2019/20).” (page 13)

The report highlighted the point that the High Court backlog is not simply a product of the disruption caused by the COVID-19 pandemic:

“The rising High Court backlog primarily results from the shift in the type and volume of cases coming into the criminal courts system. There has been a significant rise in serious, complex cases (e.g. historical sexual abuse, counter-terrorism and human trafficking), often involving multiple victims and accused individuals. This shift started before the pandemic. These serious, complex cases are less likely to be resolved early and more likely to involve late guilty pleas and lengthy trials.” (page 14)

In August 2026, the Scottish Courts and Tribunals Service (SCTS) published a paper on [Criminal Court Modelling](#), looking at projected criminal business the courts over the coming years. It commented that:

“The modelling indicates that High Court scheduled trial numbers and waiting periods will continue to increase, reflecting the sustained upward trend in new business evident before the pandemic. Additional High Court trial capacity will therefore be required over the longer term to prevent further deterioration and maintain waiting periods at a more stable, although significantly elevated, level. Under the planned capacity scenario, scheduled trial numbers and waiting periods are projected to keep growing for the coming 18 months and then plateau from around March 2028, rather than reduce towards pre-pandemic levels.

Additional capacity alone will not therefore resolve the underlying pressure. Sustained improvement will require wider reform of the criminal case journey, including the work SCTS is seeking to progress with other justice organisations through the Joining Up Justice programme and related Criminal Case Management Reform. This will consider how changes to people, processes, technology and information sharing can improve case progression, make better use of available capacity and support shorter and more reliable case journeys.

These pressures continue to be considered through the Criminal Justice Board and in discussions with the Faculty of Advocates and the Law Society of Scotland. This engagement considers the pressures on the legal profession alongside the wider operational and system changes required to improve case progression, court utilisation and capacity.” (pages 4-5)

Victims and witnesses

Another important strand of debate during last session concerned the treatment of victims and witness within the criminal justice system. In the context of the courts, relevant provisions of the [Victims, Witnesses, and Justice Reform \(Scotland\) Act 2025](#) include ones relating to:

- seeking to improve support for vulnerable victims and witnesses by embedding trauma-informed practice
- a specialist Sexual Offences Court to deal with serious sexual offences
- independent legal representation for complainers in sexual offence cases – where there is an application to use evidence relating to their sexual history or character.

Provisions of the Act in the above areas have not yet been commenced.¹ However, provisions which are in force include ones which made the following important changes for trials commencing on or after 1 January 2026:

- the not proven verdict was abolished, leaving verdicts of guilty or not guilty
- in jury trials, the majority required for a guilty verdict was increased, effectively requiring a minimum of two-thirds support amongst the jurors for guilty.

More information on the courts is provided in the SPICe [subject profile on the criminal courts](#) (July 2026).

Police

Resources

Police resources, including numbers of police officers, were an important subject of parliamentary scrutiny during Session 6. At its [meeting on 4 March 2026](#), the Criminal Justice Committee took evidence from Police Scotland on the funding provided for in the [Scottish Budget 2026-27](#) and the [Scottish Spending Review 2026](#) (both published in January 2026). In relation to police funding in the budget, the Chief Constable stated that:

“Notwithstanding the fact that the allocation was less than requested, I have made difficult decisions that prioritised front-line services for our communities to ensure that we can maintain officer numbers at 16,500 in the coming year.” (col 2)

“Policing has demonstrated value to communities and to the public purse. The spending review, however, highlights the scale of the challenge for the public finances moving forward. Pressures on policing and other areas are driven by unmet mental health need, a strained criminal justice system, growing online harms, poverty, civil unrest, geopolitics and a heightened assessment of counter-state and terrorist threats, as well as an increasing demand to service public inquiries.” (cols 2-3)

Published [information on police officer numbers](#) provides figures up to 30 June 2026. At that point, Police Scotland had 16,402 full-time equivalent police officers. This figure does not include civilian support staff. The data provided includes a graph showing how police officer numbers have changes since 2007:

- there was a significant increase in the number of police officer during 2008 and early 2009, from just over 16,200 officers March 2008 to almost 17,300 in June 2009
- numbers thereafter fluctuated up to 2021 – mostly between 17,200 and 17,400, with a peak of just under 17,500 in March 2013

¹ In response to a [parliamentary question](#), the Cabinet Secretary for Justice stated in June 2026 that the Parliament would be kept updated on anticipated timescales for the establishment of the Sexual Offences Court.

- by the end of 2021 a more sustained fall in numbers had started, falling to just over 16,200 by June 2024
- whilst numbers have continued to fluctuate since then, they have recovered to over 16,400.

In relation to police resources and officer numbers, a [best value audit of policing](#) (published by Audit Scotland and HM Inspectorate of Constabulary in Scotland in January 2026) commented that:

“Financial management is strong with services delivered within annual budgets over recent years. Progress has been made in medium-term financial planning and a new plan aligned to current priorities is being developed to drive the change to a new operating model and support prioritisation of service delivery across policing. A financially sustainable policing model for the future needs to be set out.” (pages 4-5)

“There is no evidence that the finance-based police officer establishment number of 16,500 officers is the right number to deliver effective policing for the future. Police Scotland must set out a clear plan for its future workforce in terms of the numbers and skills required to deliver its strategic outcomes, which is aligned to its medium-term financial planning scenarios.” (page 5)

Dealing with mental health needs

One of the pressures highlighted by the Chief Constable of Police Scotland, in her evidence to the Session 6 Criminal Justice Committee on 4 March 2026, was the use of police resources in responding to unmet mental health need:

“Given the context of this year’s budget and spending review, and given my patience in that space since 2023, I have reached the conclusion that we will have to do something quite significant about our level of response, because our priority cannot be to care for those who find themselves in vulnerable positions. Our response must relate to preventing and detecting crime and bringing criminals to justice.” (cols 4-5)

This was also an issue covered by the Session 6 Criminal Justice Committee’s [inquiry into policing and mental health](#) (which additionally looked at support for the mental health and wellbeing of police officers and staff). The Committee’s 2026 [legacy report](#) noted its ongoing concerns in relation to the role of the police:

“there have been concerns about the nature of the role the police are undertaking to support individuals with mental health challenges. It is still the case that too many officer hours are taken up looking after people who should be being passed over to other public sector bodies.” (page 20)

The letter from the Scottish Government to the Committee (24 August 2026) outlines some of the steps being taken to address this issue, whilst noting that mental health-related incidents “continue to account for a growing proportion of police demand, demonstrating the need for a whole-system response” (page 11).

Recorded crime

Information on crimes and offences recorded by the police is provided in the Scottish Government statistical bulletin [Recorded Crime in Scotland, 2025-26](#) (June 2026).² Part of the 'Key points' section of the bulletin is reproduced in the annex to this paper.

Violence against women and girls

The Scottish Government uses the term [violence against women and girls](#) (VAWG) to refer to a range of actions that harm, or cause suffering and indignity to, women and children. The behaviour involved includes serious criminal offences as well as conduct which may not be covered by the criminal law. Whilst individual issues may not necessarily be problems faced by women and girls only (e.g. domestic abuse and areas of sexual offending), they may be identified as having a gendered aspect – both in terms of causes and prevalence.

In February 2026, the Scottish Government published a [consultation on improving protections in the justice system for women and girls](#) (closed 31 August). The website notes that the consultation “covers various types of offences that cause disproportionate harm to women and girls”. The consultation sought views on the need for reform in the following areas:

- non-fatal strangulation – e.g. whether existing criminal offences provide sufficient protection for victims
- spiking (giving a person alcohol or drugs without their consent) – e.g. what benefits there might be in having a standalone spiking offence
- offences committed against pregnant women – having a statutory aggravation that would apply where a domestic abuse offence is committed against a pregnant woman
- non-harassment orders – whether the Crown Office and Procurator Fiscal Service should have the power to impose a non-harassment order where a person accepts an alternative to prosecution
- online and technology-facilitated harm – offences relating to the creation of ‘deepfake’ intimate images and additional steps to address the harms experienced by women and girls in this area.

In an episode of Scotcast on BBC Radio Scotland, [Professor Clare McGlynn](#) spoke about some of the issues relating to online and technology-facilitated harm – [The ‘porn professor’ on AI and extreme content](#) (31 July 2026). This included discussion of the normalisation of more extreme forms of pornography; the use of AI technology

² For statistical purposes, contraventions of the criminal law are separated into ‘crimes’ (more serious) and ‘offences’ (less serious). In other contexts, the terms are often used interchangeably.

to produce sexual images of people; regulation of online platforms at a UK level;³ and what more might be done in Scotland using devolved criminal law powers.

Other developments relevant to the ongoing debate on tackling violence against women and girls include:

- [domestic homicide and suicide reviews](#) – these were introduced in Scotland in April 2026. A review may be carried out when someone dies, and domestic abuse is known or suspected. The purpose is to identify what lessons can be learned and improve responses to domestic abuse. Relevant statutory provisions are set out in the Criminal Justice Modernisation and Abusive Domestic Behaviour Reviews (Scotland) Act 2025
- hate crime – following [regulations](#) made in March 2026, sex is to be added to the characteristics covered by the Hate Crime and Public Order (Scotland) Act 2021 with effect from April 2027
- misogyny – in response to an [independent report on misogyny](#) (published in 2022) the Scottish Government had planned to introduce a Bill during Session 6 criminalising misogynistic conduct. This did not happen. However, in response to a [parliamentary question](#) answered by the Cabinet Secretary for Justice in June 2026, the Scottish Government reiterated a commitment to bringing forward relevant legislation
- prostitution – during Session 6, a [member's Bill](#) seeking to reduce the demand for prostitution fell at Stage 1. This was followed by the Scottish Government undertaking to establish an [independent commission on criminalising the purchase of sex](#). The Scottish Government provided an update on this in response to a [parliamentary question](#) answered by the Cabinet Secretary for Justice in July 2026.

In relation to domestic abuse, it is worth noting that the Scottish Sentencing Council is developing a sentencing guideline on domestic abuse. As part of this work, it published a [consultation on sentencing domestic abuse offences](#) in May 2026 (closed 6 August).

Also regarding domestic abuse, [section 110](#) of the Victims, Witnesses, and Justice Reform (Scotland) Act 2025 (not yet in force) provides for a review of how the courts deal with domestic abuse cases where there are related criminal and civil proceedings. For background to this issue, see the discussion of relevant Stage 3 amendments lodged by Russell Findlay MSP and Maggie Chapman MSP on [16 September 2025](#) (cols 97-102 of the Official Report).

Football banning orders

In December 2025 the Scottish Government published a [consultation on football banning orders](#) (FBOs). It closed in February 2026, with an [analysis of the consultation responses](#) being published in July 2026.

³ The regulation of internet services is a reserved matter under Schedule 5 of the Scotland Act 1998.

A football banning order restricts a person's ability to attend football matches. It can be imposed by a court where a person has been involved in violence or disorder, and there are reasonable grounds to believe that making the order would help to prevent such behaviour at football matches in the future.

The consultation included questions seeking views on ways in which the use of football banning orders might be expanded or strengthened (e.g. by allowing a court to impose a football banning order where a person is convicted of an offence relating to the possession of a pyrotechnic). The consultation analysis noted that:

“The responses to the consultation do not present a clear consensus on changes to FBOs. This analysis highlights support from some individuals and most stakeholder organisations for stronger and more flexible FBOs, contrasted with strong public opposition from many of those who responded (principally in the campaign responses), citing a lack of evidence of the need for change and concerns about negative impacts on fans and fan culture.” (p 42)

Along with the publication of the consultation analysis, a Scottish Government [news release](#) (9 July 2026) said that:

“Courts will be given tougher powers to impose Football Banning Orders (FBOs) in Scotland to include specific offences in an effort to improve the matchday experience and safety at games.”

Legal aid

Legal aid provides support towards the costs of advice and representation from a lawyer for those who would not otherwise be able to afford it. It is key to the functioning of the criminal justice system, with many accused people and most defence solicitors relying on legal aid to pay for legal representation. Legal aid also makes an important contribution to access to justice for civil legal issues.

More information about the current legal aid system is available in the SPICe briefing [Legal Aid – how it works](#) (2021).

Recommendations for reform of the current legal aid system were made by the [Evans Review](#) in 2018. There have been several Scottish Government consultations since then. However, concerns about the sustainability of the current system continued to grow through Session 6 of the Scottish Parliament. Key issues include:

- fee levels for legal aid solicitors
- a fee structure which is out of kilter with modern court practices
- difficulty recruiting and retaining criminal defence solicitors due to low rates of pay and demanding work schedules.

Reforms in progress

At the end of the Session 6, the Scottish Government laid regulations which would make significant changes to the current legal aid system. For criminal legal assistance, the key reforms are:

- increasing the role of Criminal Legal Aid as the main form of legal aid for people appearing in the criminal courts – Criminal Legal Aid has more generous financial eligibility criteria than Assistance by Way of Representation (ABWOR), the type of legal aid it is replacing
- changing the fee structure so that solicitors are paid the same for representing someone who pleads guilty to a solemn procedure charge (used in more serious cases) at earlier as well as later stages in the process
- simplifying the processes for accessing ‘special urgency’ payments and automatic Criminal Legal Aid – special urgency provisions allow legal aid to be paid before an application has been granted whilst automatic Criminal Legal Aid is available without any financial or other eligibility tests in certain circumstances
- increasing fees paid to solicitors for legal aid work by 13%.

The reforms are due to come into force in December 2026, apart from the fee increase which is scheduled to take place in September 2026.

The Scottish Government has also set up an Independent Fee Review Mechanism Group. The purpose of this body is to establish a methodology, agreed by the main stakeholders, which can be used to set and regularly review legal aid fees.

Consultation

The Scottish Government published a [consultation on legal aid reform](#) in July 2026 (closes 13 October 2026). The intention is “to establish a legislative framework for a simpler, more flexible and effective legal aid system”.

There are no specific proposals relating to criminal legal assistance. However, efforts to simplify the system and introduce a wider range of funding options are likely to impact on the current system. Potential outcomes include:

- a reduction in the types of legal assistance available, with harmonised financial eligibility criteria – this could include a new requirement for recipients to make financial contributions towards Criminal Legal Aid
- government contracting or commissioning for some criminal legal assistance work – in contrast to the current system, where solicitors in private practice are paid on a case-by-case basis.

The SNP’s manifesto contained a commitment to bring forward legislation on legal aid reform within the first year of government.

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28 August 2026

Annex: Excerpt from Recorded Crime in Scotland, 2025-26

Key points

This bulletin presents Accredited Official Statistics on crimes and offences recorded by the police in Scotland in 2025-26. Statistics on recorded crimes and offences provide a measure of the volume of criminal activity with which the police are faced. This does not reveal the incidence of all crime committed as not all crimes are reported to the police.

Between 2024-25 and 2025-26:

- Crimes recorded by the police in Scotland increased by 5%, from 299,111 to 315,357. This is the highest level since 2014-15, though remains down 49% from its peak in 1991.
- Non-sexual crimes of violence increased by 6%, from 71,170 to 75,601. Common assault (up 6%) makes up the clear majority (83%) of all Non-sexual crimes of violence recorded in 2025-26.
- Sexual crimes increased by 10%, from 14,892 to 16,430. These crimes are now at the highest level seen since 1971, the first year for which comparable groups are available.
- Crimes of dishonesty increased by 6%, from 110,913 to 118,040. This is the highest level since 2014-15, though remains down 73% from the peak in 1991.
- Damage and reckless behaviour crimes decreased by 1%, from 38,738 to 38,166. The recording of these crimes is at the lowest level seen since 1976.
- Crimes against society increased by 6% from 63,398 to 67,120. Most of these crimes relate to Crimes against public justice (44%) or Drug possession (30%).
- Offences recorded by the police in Scotland collectively increased by 9%, from 175,979 to 192,276. This included increases in Antisocial offences (up 7%) and Road traffic offences (up 11%), whilst Miscellaneous offences decreased by 1%.

Police recorded cyber-crime in Scotland

This bulletin also provides an updated estimate of how many cyber-crimes were recorded in Scotland:

- In 2025-26, an estimated 14,200 cyber-crimes were recorded by the police in Scotland. This was similar to the estimated volume for 2024-25 (up 80 crimes or 1%). Levels remain significantly above the pre-pandemic year of 2019-20 (7,710 cyber-crimes).
- We estimate that cyber-crimes accounted for at least 5% of total recorded crime in 2025-26, including 27% of Sexual crimes, 6% of Crimes of dishonesty and 3% of Non-sexual crimes of violence.

Official Statistics on Clear up rates

In addition to the Accredited Official Statistics on police recorded crimes and offences, this bulletin also presents Official Statistics on crimes and offences cleared up by the police in 2025-26. A definition of clear up rates is provided in the clear up rates chapter.

In 2025-26, the clear up rate was 56.7%, up from 56.0% in 2024-25. This is the second highest clear up rate since comparable records began in 1976, and the highest for a year that wasn't impacted by the Covid pandemic.

Crimes against society (91.5%), Non-sexual crimes of violence (68.5%) and Sexual crime (61.2%) continued to have higher clear up rates in 2025-26 than Crimes of dishonesty (36.7%) and Damage and reckless behaviour (32.5%).