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Preface

This review of crime and justice in Scotland is the third to be produced by the Scottish Consortium on Crime and Criminal Justice. The Consortium is an alliance of organisations and individuals committed to better criminal justice policies. It works to stimulate a well-informed debate and to promote discussion and analysis of new ideas. It seeks a rational and socially inclusive approach to crime and justice in Scotland which respects individual rights and uses resources wisely.

The review covers information for the year 2006-7 and has been somewhat delayed by the need to wait for the publication of the Statistical Bulletin, Criminal Proceedings in Scottish Courts, 2006/07, which was not available until June 2008.

Our aim is to chart the trends in the crime and justice area and make an assessment of Scotland's situation, in relation to preceding years and also in comparison with other countries. Although we have based the report mainly on the official statistics and reviews which cover the financial year 2006-7 we could not fail to take note of the publication

of the report of the Scottish Prisons Commission in July. Our first two reports have noted Scotland's stable crime figures and questioned the seemingly inexorable upward trend in the use of imprisonment, giving Scotland a rate of imprisonment well above that of comparable countries, with prison population projections pointing ever upwards. We have suggested that such a high use of imprisonment does not benefit Scotland's communities nor make them safer places to live. We therefore welcome most warmly the conclusions of the Prisons Commission, based as they are on research, and analysis of the evidence. The report of the Prisons Commission sets out clearly why the way prison is being used currently consumes considerable resources but is not helping to reduce crime. It makes practical proposals for change. We hope that all Scotland's politicians can work together for implementation of proposals which would undoubtedly lead to a less violent and more socially inclusive country.

Baroness Vivien Stern

Convenor
Scottish Consortium on Crime
and Criminal Justice

The review

The aim of this third review is to give an overview of crime and justice policies in 2006/7 and by making comparisons with data from our first two reviews to indicate how Scotland is performing.

There is no precedent for evaluating policies on crime and justice as a whole and no agreed set of indicators as to what should be measured and judged when policy is being assessed. We therefore welcome the attempt by the Scottish Government to set out some indicators in the Scotland Performs exercise and note the aim to reduce reconviction rates, reduce levels of crime, speed up dealing with criminal cases, reduce the number of problem drug users, and 'increase positive public perception of the general crime rate in local areas'.

We will only build a safer and stronger Scotland by tackling the root causes - deep-seated issues such as Scotland's relationship with drink, drugs, violence and deprivation. From Scotland Performs, Crime. ^(REF A)

These are specific criminal justice outcomes. However, crime levels and the amount of criminal punishment in any society are the result of broader social factors. We therefore also welcome the Scotland Performs objectives 'to increase overall income and the proportion of income earned by the three lowest income deciles as a group by 2017' and that under 'social cohesion' i.e. 'to narrow the gap in participation between Scotland's best and worst performing regions by 2017'. ^(REF B) Although these objectives might not be seen as measures of crime and justice policies, in fact considerable evidence exists ^(REF C) to show links between levels of crime, especially violent crime, and levels of social inequality. Although Scotland has the lowest proportion of children living in poverty (24 per cent) of the four countries of the UK, with 29 per cent in England and Northern Ireland and 28 per cent in Wales, this is still a high proportion and is likely to lead to adverse social consequences and contribute to violent crime levels. ^(REF D)

In our first review we said:

'We can assume that politicians and policymakers in the crime and justice field draw up their policies and allocate resources with the aim of reducing crime, promoting a sense of safety and security and enabling courts to impose sanctions that are proportionate, effective and command

public confidence. These objectives must be delivered within a framework of fairness, respect for human rights obligations, humanity and accountability. The need to use resources to best effect is an overarching objective'.

We continue to make that assumption. In this review we attempt to pull together activities and outcomes over a range of fields and assess them as a whole. Our perspective is not primarily legal and we do not look at the detailed operation of the law. We are concerned about crime levels, the way the criminal law deals with convicted people so as to ensure the outcome that is best for society as a whole, and work done to deal with the social problems that lead to crime.

Our framework

For our first review we set out a set of indicators that seemed to us, taken together, to give a basis for making an assessment of the progress of the system as a whole. They are:

- Levels of crime – is crime reducing and within the overall figures what is the picture for violent crime?
- Detection of crime – are the police clearing up more crimes?
- Policies to support victims – does the system take an adequate and individualised approach to caring for the victims of crime?
- The sanctions system – are the penalties proportionate and well-administered; do they contribute to the reduction of crime and are they as rehabilitative as it is possible for sanctions to be?
- Reforms to the system – do they increase public involvement, aim to raise public confidence and represent a sensible use of scarce resources?
- Dealing with children in trouble – how far are the principles of the UN Convention on the Rights of the Child embedded and observed in the system?
- Human rights and accountability – is the treatment of individuals and groups in accordance with Scotland's domestic and international obligations on human rights?

- Alcohol and drug abuse – what progress is being made in tackling the problems which lie at the root of much crime and violence?
- Public attitudes – is the public confident that their interests are properly reflected in policy and how safe do they feel?
- Use of resources – is public money allocated on the basis of knowledge about the best return for money spent?
- Less serious crimes such as damage to property and assaults that cause little or no injury seem to be more prevalent than in previous years.
- Murder rates are higher in Scotland than in comparable countries.

The rate at which crimes are solved has been increasing steadily and six out of ten crimes of violence were solved in 2006/7 compared with five out of ten a decade earlier. Services to victims are increasing and Scotland's level of support to victims ranks high in international terms.

The number of people convicted of a crime was lower than the figure of ten years ago. The number of people convicted of a violent crime was also lower than ten years ago. The proportions receiving a prison sentence in each category of crime have been remarkably stable over the past ten years (apart from an increase in those convicted of drug offences). The average length of a determinate sentence remained between seven and eight months.

Against this background it might be expected that the use of imprisonment would also have stabilised. In fact it continues to rise year on year and the average daily population is expected to rise to 8,700 by 2016. The number of women in prison continues to rise and over the past ten years has risen by 90 per cent compared to a 16 per cent rise for men. This has led to Scotland having an imprisonment rate per 100,000 of the population that is the fourth highest in Western Europe, more than double the rates of Denmark and Finland and nearly twice the rates of Italy, Switzerland, Norway, and Ireland.

Imprisonment gets most of the headlines. Yet, 87 out of every 100 convictions are responded to with a non-prison sentence. The rate of use of these sentences per 10,000 of the Scottish population has also remained stable. A government review of community penalties noted problems with how they are perceived and delivered. Audit Scotland commented too on problems of their delivery.

Our review for 2006/7 suggests much that is positive about the operation of crime and justice policy in Scotland:

Our experience of using this framework for the last two reviews suggests that it covers many of the elements that fit together into an overall response to crime and justice in any society and enable us to make a broad assessment of the road Scotland is taking and the changes that are taking place.

The sources

The information comes from a range of official sources. We have drawn on the latest available published figures ^[Endnote 1]. We have not carried out any new research. Therefore our assessment of progress on the indicators we have chosen is based on information that is available from official statistics, academic research or other well-founded reports. The interpretation and commentary on the information comes from the expertise of Consortium members.

Summary and conclusions

The information we have collected from many different sources shows that:

Crime rates have decreased since the early 1990s and have remained relatively stable. Recorded crime rates in 2006/7 were less than half of one per cent higher than in the preceding year and were lower than in 2004/5. Considered together, the recorded crime figures and the results of the Crime and Victimization Survey suggest that for the past decade:

- Levels of crime have stayed steady in Scotland.
- The downward trend in burglaries has continued.
- Serious violence is not increasing and the figure for reported violent crimes in 2006/7 was the third lowest for the past ten years.

- Stable crime rates overall.
- Stable rates of violent crime.
- A rising clear-up rate for crime.

- Considerable attention being paid to the needs of victims of crime.
- The establishment of the Scottish Human Rights Commission.
- A reduction in the number of suicides in prison.
- The roll-out of successful pilot schemes after evaluations.
- Better implementation of the UN Convention on the Rights of the Child than the other UK jurisdictions.
- A high priority to responding to alcohol problems.

These are all encouraging. Current policies have led to stability across crime rates and in criminal justice practice. However, murder rates are still the fourth highest in the European Union and 56 per cent above the European average. Violent crime has stabilised over ten years but not reduced. So there is more to be done. These rates of violence are linked to deep-seated social problems and will not be cured by more punishment but by more prevention.

All the evidence supports the conclusion of the report of the Scottish Prisons Commission in saying that Scotland would be safer if the prison population were reduced to 5,000, if the prison service could use its resources to deal in depth with the serious offenders, and if the money and effort currently spent on processing and on imprisoning less serious offenders was used for more constructive community sentencing, for solving the underlying problems that led to the crime and for reducing the levels of violence that scar Scotland. An ever increasing use of imprisonment is not inevitable. It is the result of policy decisions that can be changed. Many countries in Western Europe have changed their policies and now have fewer prisoners. Scotland could do the same.

1. Crime and offence levels

The level of crime is an important indicator of the success of a government's overall policies, criminal, social and economic. Whilst it is not possible to measure the actual level of crime because many crimes are not reported to the police, it is usual to regard the number of crimes

recorded by the police as a reasonable indicator of the level of crime. ^[Endnote 2]

Recorded crime in Scotland continued at much the same level as in the preceding two years and is still at a much lower level than was recorded in the early 1990s. Changes between 2005/6 and 2006/7 were slight. The increase in the number of crimes (the term 'crimes' is generally used for the more serious incidents) recorded was less than half of one per cent.

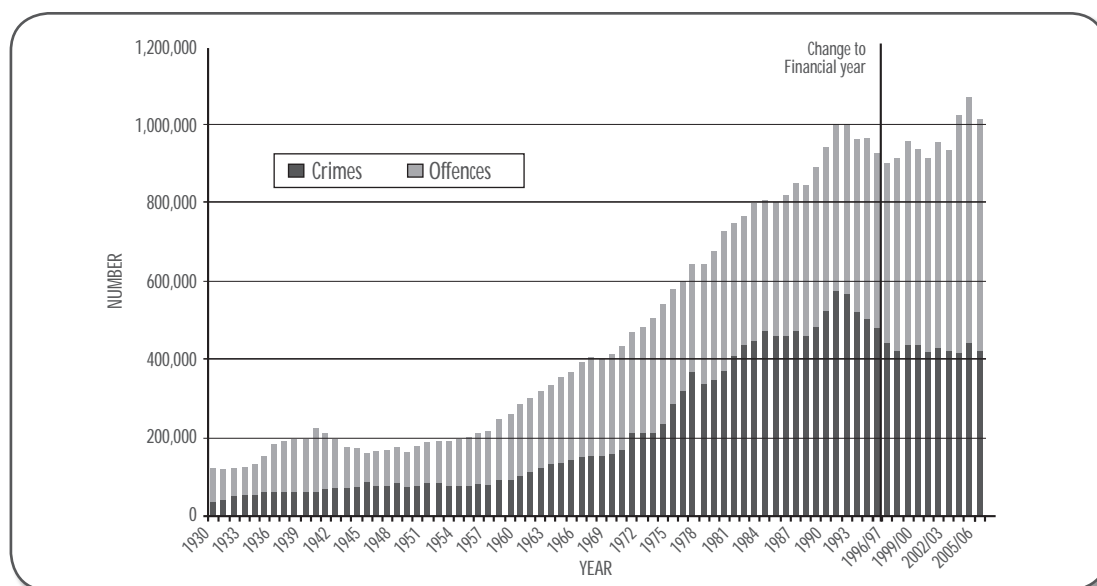
It is crimes involving violence that cause the most concern and the most harm. In 2006/7 an increase in crimes of violence was recorded. The number of serious assaults increased by five per cent to 7,504. Robberies rose by one per cent to 3,578. However, other non-sexual crimes of violence decreased a little. Recorded cases of rape and attempted rape decreased by three per cent. Other sexual offences increased, indecent assault by ten per cent and 'lewd and indecent behaviour' by four per cent.

Whilst any rise gives cause for concern and should attract the attention of policy-makers it is important to note that the rise in 2006/7 is not part of any upward trend. The figures for the last ten years for violent crime show considerable stability. The overall violent (excluding sexual crimes) crime figure for 2006/7 was 14,099. In only two of the past ten years has it been lower. For serious assault the figure has been higher in four of the past ten years and for robbery the figure has been higher in all but one of the last ten years. The figures show that violent crime recorded by the police is not increasing and there was less recorded violent crime in 2006/7 than in seven of the last ten years. ^[Endnote 3]

Similarly with sexual offences the figures for 2006/7 show that in four of the past ten years the incidence was higher and the rate is remarkably stable. In 2006/7 crimes of dishonesty went down by two per cent, the eighth consecutive year that recorded crimes of dishonesty have gone down. Handling an offensive weapon increased by five per cent and drug crimes went down by four per cent.

The number of offences (this term is used mainly for actions connected with motoring, low-level assaults and breach of the peace) increased by one per cent. ^(REF E)

Figure 1: Crimes and offences recorded by the police 1930-1994 then 1995/96-2006/07



Source: Scottish Government. 'Recorded Crime in Scotland 2006/7'. Statistical Bulletin CrJ/2007/8. Edinburgh, September 2007.

When broken down by police force area, the figures indicate that five of the eight forces showed a decrease in crimes recorded, whilst one showed a slight increase and two showed a marked increase. The number of crimes of

domestic housebreaking per 10,000 of the population was highest in Aberdeen city with 82 and lowest in the Orkney Islands with two. The average for Scotland was 40.

Figure 2: Recorded crimes per 10,000 population recorded by police force area and changes between 2005/6 and 2006/7

Region	2005/06 Recorded crimes per 10,000	2006/07	% change
Central	682	741	+ 8.7%
Dumfries & Galloway	656	645	-1.7%
Fife	850	844	-0.7%
Grampian	791	750	-5.2%
Lothian and Borders	893	858	-3.9%
Northern	547	610	+ 11.5%
Strathclyde	867	877	+ 1.2%
Tayside	756	747	-1.2%

Source: Table 4b in Scottish Government. 'Recorded Crime in Scotland, 2006/07'. Statistics Bulletin CrJ/2007/8. Edinburgh, September 2007; and Table 5 in Scottish Government. 'Recorded Crime in Scotland, 2005/06'. Statistics Bulletin CrJ/2006/6. Edinburgh, September 2006.

The area with the highest number of recorded crimes per 10,000 inhabitants was Strathclyde with 877, followed by Lothian and Borders with 858. This is a reversal of the position of 2005/6 when Lothian and Borders was highest followed by Strathclyde.

The police statistics measure how many incidents come to their attention. However, many incidents are not reported and another way of estimating the amount of criminal activity is by asking the public what they have experienced. The Scottish Crime and Victimization survey ^(REF F) is carried

out at regular intervals and the latest, based on all incidents of crime reported as having taken place between the 1st April 2005 and 31st March 2006, was published in September 2007. The survey was based on interviews with 4,988 adults (aged 16 or over) throughout Scotland and the results suggest that:

- Of crimes against the person 36 per cent were reported to the police.
- Of crimes against property 38 per cent were reported to the police.

The survey found:

- The total number of crimes experienced by those interviewed in 2005/6 was higher than in 2003/4.
- There was an increase in minor assaults but the number of crimes against property was similar to, though lower than, that for 2002.
- Over the longer term the survey shows that housebreaking and theft from motor vehicles has fallen while crimes against the person have increased.
- Violence accounted for three out of ten of all crimes reported in the survey and more than eight out of ten of these were minor assaults (which involved no, or negligible, injuries).
- The continuous rise in the reporting of crimes against the person since 1995 is mainly accounted for by a rise in the number of minor assaults.
- One in four (26 per cent) of all crimes committed in 2005/6 was a crime of vandalism and the risk of vandalism is higher than the risk of experiencing any other type of crime against property.
- Housebreaking (including attempted housebreaking) represented six per cent of all crimes measured by the survey in 2005/6.
- According to the survey the risk of being a victim of house burglary in any one year is two in a hundred and both the figures recorded by the police and the results of the surveys in which individuals

are interviewed about their experience of crime show that that the incidence of housebreaking has been falling since the early 1990s.

- Young people are the most likely to be victims of crime.
- Those aged 16 to 24 (both men and women) were most likely to become victims of personal crime and most likely to suffer from crimes against the person.
- Sixteen per cent of men aged 16 to 24 and eight per cent of women in this age group had been the victim of an assault.
- Those aged 60 or over were the least likely to become a victim of any crime.

2. Murder rates

Murder rates are often regarded as a useful indicator of levels of violence in any society, since the figures for murders are held to be especially accurate and unlike the statistics for other types of crime they can more reliably be compared across countries.

There were 118 homicides (homicide includes murder and culpable homicide) in Scotland in 2006/7^(REF G), almost a quarter more than in 2005/6 when the figure was 94 but fewer than 2004/5 when there were 134 recorded homicides.

Figure 3: Status of cases currently recorded as homicide, as at 19th November 2007

Year	1997/98	1998/99	1999/00
Cases	96	92	122

Year	2000/1	2001/2	2002/3
Cases	104	112	123

Year	2003/4	2004/5	2005/6	2006/7
Cases	107	134	94	118

Source: Table 3 in Scottish Government. 'Homicide in Scotland, 2006-7'. Statistical Bulletin CrJ/2007/13. Edinburgh, December 2007.

Of the 118 homicides recorded:

- 76 took place in Strathclyde (up from 62 in the preceding year).
- 16 took place in Lothian and Borders (up from ten the previous year).
- Nine took place in Grampian (up from three the preceding year).
- The number of cases halved in Tayside (from eight to four).
- No cases were recorded in Dumfries and Galloway.

The number of homicides per one million people was 23 compared with 18 the previous year and 27 for the year before that. The rate for men was 40 victims per one million (33 the previous year) compared with seven (five last year) per million for women. The age group with the highest rate of victims per million was men aged 21 to 29 (compared with 31 to 50 last year). Over a long time span an increase in murder levels can be seen. For the five years 1980/85 the annual average of homicides was 85.4. For the five years 2000/01 the average was 116.

Twenty two of the victims (as compared with seventeen in 2005/6) were reported to have been killed in drug-related homicide cases in 2006/7. 'Drug-related' covers a murder motivated by a need to obtain drugs or money for drugs, a killing of a consumer or supplier of drugs or a murder as a consequence of rivalry within the drugs trade. Twenty of these victims were male and two were female.

For seventy three per cent of homicide victims in 2006-07, the main accused was known to them either as an acquaintance (51 per cent), a relative (13 per cent) or a partner (nine per cent).

Nearly half (47 per cent) of the total of 167 persons accused in homicide cases in 2006/7 were reported to have been drunk or under the influence of drugs at the time. Of these, 30 per cent were drunk, eight per cent were on drugs and nine per cent were both drunk and on drugs. In 41 per cent of homicide cases it was not known if the accused was drunk or under the influence of drugs.

3. International comparisons

Comparing official crime rates across countries is very difficult because of the wide variations in what is classed as a crime, and differences in reporting practices. ^[Endnote 4]

However, the homicide figures are deemed to be broadly comparable. The European figures published in 2008 give comparative homicide rates averaged for 2004 – 2006. Scotland's figure is 2.34 per 100,000 which places it as the second highest in Western Europe, just behind Finland and above five of the Eastern European states.

Figure 4: Comparative homicide rates across european countries

country	Comparative homicide rate per 100,000 population 2004/6
Lithuania	10.33
Estonia	7.30
Bulgaria	2.66
Finland	2.35
Scotland	2.34
Romania	2.17
Slovakia	1.96
N Ireland	1.82
Belgium	1.81
Hungary	1.81
France	1.56
EU average	1.50
England and Wales	1.49
Poland	1.47
Ireland	1.45
Portugal	1.35
Italy	1.19
Netherlands	1.18
Spain	1.14
Denmark	1.08
Greece	1.04
Sweden	1.03
Slovenia	1.02
Germany	0.95
Austria	0.70

Source: Eurostat. 'Statistics in Focus: Crime and Criminal Justice'. 19/2008. Luxembourg, 2008.

The largest international survey of crime and related matters is the International Crime and Victimization Survey. The latest report of this survey covers data from 2004/5 and was published in 2007. ^(REF H) As with the Scottish Crime and Victimization survey the information is based on interviews carried out with a sample of individuals in each of the countries surveyed. The information about Scotland from the survey shows that:

- Scotland is among the countries with the highest rates of reporting crime to the police.
- Scotland is among the countries with the highest level of satisfaction with the way police dealt with their case.
- Scotland is among the countries with the highest proportion of victims receiving support.
- Scotland has the third lowest rate of members of the public considering a burglary in their house is very likely (at 21 per cent) a lower figure than in the previous surveys and a lower figure than that for England and Wales (35 per cent).
- The proportion of people in Edinburgh feeling unsafe on the street after dark is lower than in Athens, Madrid, Rome, London, Warsaw, Belfast, Brussels, Berlin, Dublin, Sydney and Helsinki.
- Scotland is in the top third of countries for percentage of the public believing that the police are doing a good job controlling crime in their local area.
- Scotland has the seventh highest percentage (49 per cent) of people out of 31 countries who are in favour of a prison sentence rather than a non-custodial penalty for a burglar with previous convictions (a lower proportion in favour of imprisonment than the figure for 2000 which was 52 per cent).

4. More crimes solved

Police performance is often judged by how many crimes are solved of all those reported. In that respect the picture continues to be positive. Clear-up rates have risen from 37 per cent in

1996/7 to 47 per cent in 2006/7. ^(REF E) Clear-up rates for 2006/7 were slightly up on 2005/6, rising from 46 to 47 per cent.

For specific crimes:

- The clear-up rate for non-sexual crimes of violence rose from 51 per cent in 1996/7 to 60 per cent in 2006/7.
- For crimes of dishonesty it rose from 29 per cent to 38 per cent.
- The clear-up rate for crimes of indecency has fallen slightly from 76 per cent in 1996/7 to 74 per cent in 2006/7.

The clear-up rate in Scotland is much higher than in England and Wales. Statistics relating to England and Wales show a figure called the detection rate for 2006/7 of 26 per cent for all crimes and offences. ^(REF I)

5. Supporting victims of crime

Reducing and responding to the harm caused by crime is an important component of an effective and just crime policy. Supporting crime-plagued communities and individual victims of crime can be seen as an important part of the role of any society that cares for its members. This does not mean asking individual victims to become involved in the decisions about the amount of punishment given to perpetrators of crime. But it does mean responding appropriately to the harm suffered by victims and showing an understanding of the trauma that can result from being a victim. Compared with most other countries Scotland provides a good level of support to victims of crime and in the year under review more work to recognise the needs of victims was carried out.

The Criminal Justice (Scotland) Act 2003 set up the Victim Notification Scheme which gives all victims or (in cases where the victim has died) an eligible family member the right to receive information about the release from prison of the offender who committed the crime against them, and to receive information from, and to make representations to, the Parole Board for Scotland. Originally the scheme only applied to crimes where the offender was sentenced to four years or more in prison. Following research to assess the operation of the scheme it was

extended in February 2008 to cover those crimes where the offender was sentenced to between 18 months and four years. In June 2008 a leaflet about the Victim Notification Scheme for short sentences was published in English and eight other languages ^(REF J) setting out the notification arrangement.

6. The sanctions system

The main features of the activities of the courts in 2006/7 were: ^(REF K)

- The number of people proceeded against in court rose by five per cent and was the highest figure since 1998/9.
- The number of people convicted of a crime or an offence was higher than in the previous year but lower than in 1997/8.
- The number of people convicted of a non-sexual crime of violence was higher than in 2005/6 but lower than in 1997/8.
- The number convicted of a sexual crime was lower than the previous year and considerably lower than in 1997/8 (841 compared with 1,329).
- The number convicted of drug crimes was the highest for the past ten years.
- The number convicted per 1,000 of the population has been remarkably stable for the past ten years with a figure between 28 and 33.
- The number of men convicted per 1,000 of the male population was 58.
- The number of women convicted per 1,000 of the female population was ten.
- In 2006/7, as in the preceding year, the peak age for convictions was 18.
- Seven per cent of 18 year old men in the Scottish population were convicted for a crime or relevant offence (such as common assault or breach of the peace) on at least one occasion during 2006/7.
- The corresponding proportion for women was one per cent.

In 2006/7 there were just under 18,200 prison sentences, nine per cent more than 2005/6 when the figure was 15,967. The number of community sentences was 17,440, a figure very similar to the year before.

Of all those sentenced by the courts:

- 13 per cent received a sentence of custody, the same percentage as the previous year.
- 13 per cent were given a community sentence, the same percentage as the previous year.
- 61 per cent were fined or required to pay compensation, showing a continued trend downwards in the use of the fine from 70 per cent in 1997/8.
- 13 per cent were given other sentences, such as cautions, or discharges, the highest percentage over the past ten years.

Excluding cases where a company was fined, the average fine imposed by courts in 2006/7 was £211.

Between 2005/6 and 2006/7 there have been changes in the balance of offences coming before the courts.

Compared with the year before more people were convicted of:

- Robbery (up from 506 to 514).
- Theft of a motor vehicle (up from 985 to 1,025).
- Shoplifting (up from 8,162 to 8,527).
- Fire-raising and vandalism (up nine per cent).
- Offences relating to drugs (up 16 per cent).

Fewer people were convicted of:

- Non-sexual crimes of violence (down by three per cent).
- Crimes of indecency (down by one per cent).

7. Prison sentencing

In 2007 Scotland continued to make a greater use of imprisonment than ever before and in 2006/7 the average daily prison population in Scotland reached a new high of 7,183, compared with 6,857 in the preceding year, the highest annual figure ever recorded. The increase over 2005/6 was five per cent, a greater increase than last year's of one per cent over 2004/5. ^(REF L)

Over the past ten years the average daily prison population has increased by 19 per cent overall. However, there are sharp differences between men and women. The number of women in prison has increased by 90 per cent compared to the rise in male prisoners of 16 per cent. The average daily population of women in prison in 2006/7 was 353, an increase from 334 in 2005/6.

'It is very sad that the advantages gained by the new building programme are being frittered away by the relentless rise in prison numbers. In last year's Annual Report I wrote of 'the nine evils of overcrowding'. None of them has gone away and our prisons are more overcrowded than they were last year'. Andrew R C McLellan HM Chief Inspector of Prisons for Scotland, Annual Report 2006-07. ^(REF M)

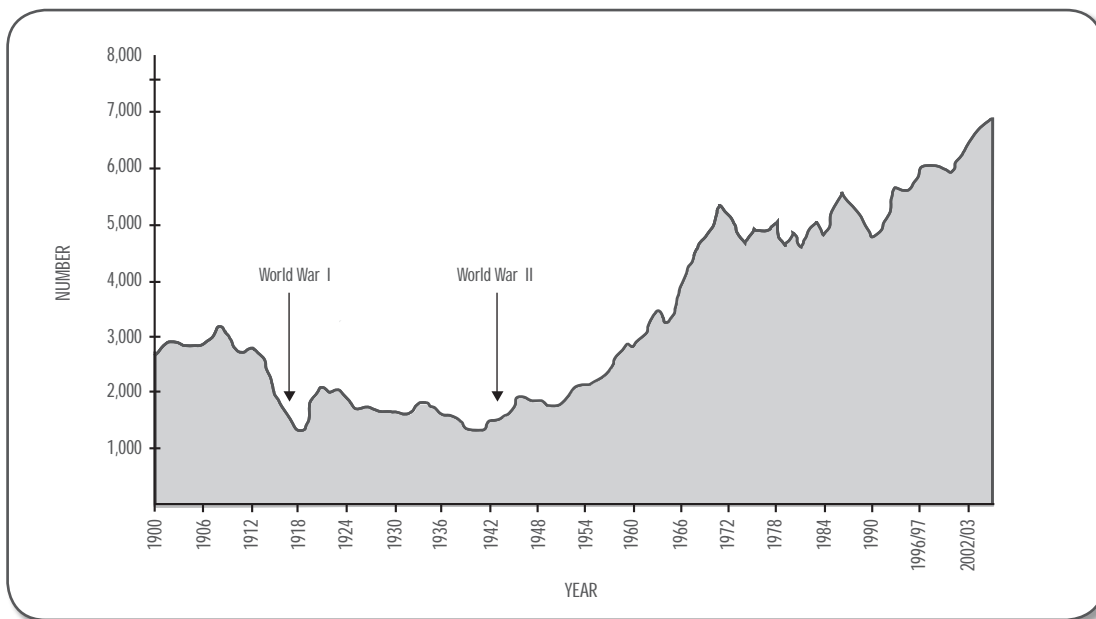
The average daily number of prisoners on remand increased by 26 per cent to 1,567, the highest level ever recorded. The average daily number of young offenders (aged under 21) remanded in custody also rose, by 27 per cent, to 361 from 284 in 2005/6.

The number of people in prison who were there because they were called back to prison whilst on supervision or licence increased by 30 per cent to 519, up from a figure of 400 in the preceding year.

The number of short term prisoners, that is those sentenced to less than four years, increased by one per cent. The number of long-term prisoners, those sentenced to four years or more, decreased by one per cent.

The number in prison on any one day for not paying a fine continued to go down, from 53 in 2005/6 to 46 in 2006/7. The number of people who went through the prison system because they had not paid their fines went down from 6,213 in 2005/6 to 5963 in 2006/7. In 1997/8 it was 9,345.

Figure 5: Average daily prison population, 20th - 21st century, financial year data from 1996/7



Source: Chart 1. Scottish Government. "Prison Statistics Scotland, 2006/07". Statistical Bulletin CrJ/2007/7. Edinburgh, August 2007.

The census of the 7,183 people in prison on 30 June 2006 showed that:

- Four in ten were detained for serious crimes of violence.
- 15 per cent were detained for drugs offences.
- 37 per cent were detained for other offences.

Regarding the length of prison sentences:

- The average length of determinate (fixed term) prison sentences over most of the last ten years has remained between seven and eight months and in 2006/7 the average was just under seven months .
- Over half (55 per cent) of all prison sentences in 2006/7 were for three months or less.

- 81 per cent were for six months or less.

In 2006/7, 25,257 people were released from prison. One fifth of these went back to an address in the Glasgow City Community Justice Authority area, an area that holds only 11 per cent of the population. People from the Glasgow City area made up nearly one quarter of remand prisoners, nearly a quarter of those sentenced to six months or less, one fifth of those sentenced to four years or over and 28 per cent of those sentenced to life. One-quarter of those recalled to prison came from Glasgow City. For women too the highest number, 17 per cent, came from Glasgow City.

Imprisonment rates are usually measured per 100,000 of the general population. Scotland finds itself near the top of West European imprisonment rates with a rate of 148, compared with 141 in 2007 and 137 in 2005.

Figure 6: Western Europe - prison population rates per 100,000 of the national population

Country	Year	Rate per 100,000 national popn	Year	Rate per 100,000 national popn
Luxembourg	2006	167	2007	160
Spain	2007	144	2008	156
England and Wales	2007	148	2008	153
Scotland	2007	141	2008	147
Netherlands	2006	128	2007	117
Austria	2006	105	2007	108
Portugal	2007	120	2008	105
Greece	2005	90	2007	99
Belgium	2006	91	2007	95
France	2006	85	2007	91
Germany	2006	94	2007	88
Northern Ireland	2007	82	2008	86
Sweden	2006	82	2006	79
Switzerland	2005	83	2007	76
Republic of Ireland	2006	72	2007	76
Italy	2006	104	2007	75
Norway	2006	66	2007	75
Finland	2006	75	2007	68
Denmark	2005	77	2007	66

Source: International Centre for Prison Studies. 'World Prison Brief'. London, 31 July 2008.

The table shows that rising prison populations are not an inevitable European trend. Whilst out of the nineteen jurisdictions listed ten have a higher rate of imprisonment than the last time we reported (March 2007), nine have reduced their use of imprisonment.

8. The other penalties – trends

Whilst 13 out of every 100 convictions led to a prison sentence, 87 did not. Most of those found guilty and given a sanction by the court are either fined, given a community penalty, cautioned or discharged. The use of all these sanctions in 2006/7 was broadly similar to the use in the preceding year. Most of those convicted by the courts were fined though the use of the fine dropped by one percentage point and is now used in 61 per cent of cases, down from 70 per cent ten years ago.

A range of community penalties is available to the courts: probation orders, community service orders, supervised attendance orders, drug treatment and testing orders and restriction of liberty orders. ^(REF N)

Figure 7: Changes in use of community sanctions between 2005/6 and 2006/7

Order	2005/6	2006/7	% change
Community service orders	5,927	5,937	0.2
Probation orders	8,402	8,404	0.0
Supervised attendance orders	3,849	3,047	-20.8
Drug treatment and testing orders	599	696	+16.2%
Restricted liberty order	948	1,018	+3.5%

Source: *Criminal Justice Social Work Statistics in Scotland*. Reports for the year 04/05, 05/06 & 06/07. Edinburgh

It is sometimes argued that these penalties are not a serious punishment and they are not taken seriously by those sentenced to them. Yet the figures show that two-thirds of community service

orders and three-quarters of probation orders are completed successfully. In many of the cases where there is a failure of some sort and the convicted person is taken back to court, the court agrees that the order should nevertheless continue or it changes the conditions.

Figure 8: Changes in the use of community sanctions 2001/2, 2005/6 and 2006/7

Order	Rate per 10,000 population in Scotland		
	2001/2	2005/6	2006/7
Community service orders	12.8	16.4	16.3
Probation orders	19.8	23.2	23.0
Supervised attendance orders	7.6	10.6	8.4

Source: Scottish Government. *'Criminal Justice Social Work Statistics in Scotland'*. Reports for the years 01/02, 05/06 & 06/07. Edinburgh.

9. Diversion from prosecution

Diversion from prosecution is used when the accused person admits the offence and the Procurator Fiscal decides it is in the public interest not to prosecute but to take some other action that is more likely to solve the underlying problem that led to the person committing the offence and thus reduce harm in the future. Its use has remained at a stable level for the past five years and in 2006/7 fewer cases were diverted than in the previous year.

Figure 9: Cases of diversion per year

2002/3	1,015 cases
2003/4	1,340 cases
2004/5	1,064 cases
2005/6	1,198 cases
2006/7	1,133 cases

Source: Source: SCCCJ. *'Crime and Justice in Scotland 2005/06 A Second Review of Progress'*. Glasgow, 2007. and REF N.

10. Reforms to the system

Since the publication of the Consortium's 2007 Annual Review the new administration has set out plans to introduce reforms to the system and in particular to develop a criminal justice policy that is not so dependent on the use of imprisonment. In 2007 the Justice Secretary, Kenny MacAskill, said:

'We need a coherent penal policy. Prisons should be for serious and dangerous offenders and not for fine defaulters or the flotsam and jetsam of our communities, so we need to shift the balance, with the less serious offenders who currently clutter our prisons being sentenced to community punishments'. ^(REF O)

In November 2007 the Government published a review of community penalties. The review noted that whilst community penalties have a number of advantages, there are also problems.

'Problems often identified include:

- A perception that any penalty which does not involve prison is 'soft' in comparison to the use of prison and will not deter further offending.
- The view that when an offender is given a community penalty they have 'got away with it' because they are not immediately taken away to serve that penalty.
- Examples of penalties which have been poorly administered or failed to achieve their goals, strengthening the feeling that 'only prison works'.
- Low levels of understanding of what community penalties are and what they involve'. ^(REF P)

In its report on managing increasing prisoner numbers Audit Scotland also looked at community sentences. The report concluded:

'Community sentences may be used as alternatives to prison and the use of such sentences has increased by more than a half since 2000/01. However, their use may still be restricted by availability, delays in starting community sentences and limited evidence of their effectiveness'. ^(REF Q)

The same theme was taken up by the Scottish Prisons Commission which said in its report, 'Scotland's Choice':

'We heard a lot of evidence about a lack of public understanding of existing community sentences. The public know little about why these sentences are used, about what they mean for offenders, and about what they achieve. Indeed, they are only likely to hear about these types of sentence when they attract media interest – either because they seem unduly lenient or because an offender reoffends. This lack of information and lack of clarity does serious damage to the credibility not just of community sentences but of the justice system itself'. ^(REF R)

The report of the Prisons Commission constitutes a very important contribution to thinking about penal policy, not just in the context of Scotland but more widely. It benefits from being based on evidence and a consideration of options. It states clearly that rising prison population projections for the future are not the product of immutable forces. They are the result of policy choices and can be changed.

The report sets out the choice facing Scotland. On present policies Scotland will in the future have many more prisons, just as overcrowded as they are today. The people who work in the system will be overwhelmed, suffer from low morale and spend most of their skilled time on crisis management. The public's distrust of the criminal justice system will grow and the most fragile communities will be 'ignored and further weakened, ensuring the next generation will find its way into the criminal justice system and keep this cycle running'.

Alternatively, Scotland could take a different path. Policies could be brought in so that Scotland's prisons held fewer prisoners than they do currently. Only the most serious offenders and those who present the greatest threat would be in prison. Prison staff would be able to undertake high level work with this population. A well-respected system of community sentences would be in place that was widely used. More investment would be put into local communities to deal with the problems of crime and the deep-seated social problems in the communities from which the bulk of the prisoners come.

To move in that direction many steps need to be taken particularly at the point where people enter the criminal justice system. There are

already some examples which use resources more productively. Structured deferred sentence pilots started at the end of 2005 in five sheriff courts, Arbroath, Forfar, Inverness, Ayr and Kilmarnock. ^(REF 5) They were primarily aimed at offenders with underlying problems such as drug or alcohol dependency, mental health or learning difficulties or unemployment. After conviction, the sentence was deferred whilst the social work agencies made efforts to sort out the problems which had led to the criminal activity. A report on progress was made to the court after three months. After the period of deferment the case returned to court for sentencing and the progress made during the period of deferment was taken into account. Following an evaluation it was announced in May 2008 that the scheme would be extended to Glasgow and Tayside Community Justice Authority areas.

Another development which aims at a more effective use of resources is the set of reforms to the system of summary justice and the greater use of non-court options including police fixed penalty notices, to deal with minor transgressions. The Criminal Proceedings (Scotland) Act 2007 extended the range of direct measures that could be offered to an offender by the procurator fiscal, and can be used in circumstances where a court appearance may not be the most effective way of dealing with the case. The procurator fiscal now has the power to offer fiscal fines of up to £300, and will be given a power to offer compensation orders up to £5,000. The alleged offender will only be required to appear in court if he or she rejects the offer of the fiscal fine or compensation order. Furthermore community work orders are being piloted, so that the prosecutor can, for the first time, offer a community based alternative to prosecution.

11. Dealing with children in trouble

In this section we look at how far Scotland's arrangements for dealing with children in trouble are within the framework set by the UN Convention on the Rights of the Child. In last year's review we noted that 'for over thirty years Scotland has had a progressive and child-centred system for dealing with troubled and troublesome children that is very different from the system in England and Wales'. Indeed in the year under review these differences have been particularly marked, with debate in England and Wales heightened by the holding of inquests on two boys, one aged

14 and one aged 15, who died in custody, one whilst being physically restrained by staff and another who hanged himself shortly after having been restrained by staff. These events led to the establishment of a Government inquiry and a report by the parliamentary Joint Committee on Human Rights into the use of restraint in Secure Training Centres ^(REF 7) (privately run custodial establishments for 12-17 year olds). Scotland has avoided much of the criticism and difficulty that has beset the system south of the Border.

However some concerns remain about children in the justice system in Scotland. First there are concerns about children held in prison. According to the Chief Inspector of Prisons the figures have been rising, from 18 in 2004/5, to 24 in 2005/6 to 26 in 2006/7. ^(REF N) In response to the Chief Inspector's concerns the Justice Secretary announced on 21 February 2008 that the system of 'unruly certificates' under which children are held in prison would be abolished once consultations had taken place on suitable alternatives.

A second concern is the system of dealing with 16 and 17 year olds, to whom the UN Convention on the Rights of the Child also applies. The report to the United Nations Committee on the Rights of the Child from the UK's four Children's Commissioners notes:

'Scotland locks up too many young people aged 16 and 17... Scotland is the only country in the UK that routinely processes children and young people between the ages of 16 and 17 before adult criminal courts'. ^(REF D)

In other respects Scotland is performing better. Whereas children in England, Wales and Northern Ireland who have been investigated by the police routinely have their DNA records retained indefinitely on the National DNA Database (even where they are found not guilty of any crime) in Scotland DNA can only be retained for three years and only in cases of violent or sexual offences. An application must be made to the court to hold it for longer. The Children's Commissioners suggest that the Scottish approach should be adopted across the UK. ^(REF D) In England, Wales and Northern Ireland children issued with an Anti Social Behaviour Order and those who breach their ASBO may have their right to privacy infringed as their details can be publicised in the media and in the local community. This is not the case in Scotland.

12. Human rights and accountability

In November 2007 the Scottish Parliament appointed Professor Alan Miller as the Chair of the Scottish Human Rights Commission. Following the appointment of members of the Commission it assumed full legal powers on 1st April 2008. The Commission will promote human rights in general and, in particular, encourage best practice in relation to human rights among public authorities.

The new UK-wide Equality and Human Rights Commission which began work on 1st October 2007 opened a Scotland office to deal with non-devolved equality and human rights matters.

The right to life is a fundamental human right and when people are put in prison and are in the care of the state, then the state has a duty to protect that person's life. It is therefore reassuring to see that the number of suicides in Scotland's prisons has gone down from 17 in 1996 to nine in 2006. ^(REF U) In spite of the overcrowding problems prisons remain relatively safe and humane places. The Chief Inspector of Prisons reports that 'The statistics show that violence from a prisoner towards a prisoner has steadily reduced. Violence from a prison officer toward a prisoner is almost unheard of'. ^(REF N) The Annual Prisoner Survey carried out by the Scottish Prison Service gives a figure for prisoners reporting feeling safe of 83 per cent. ^(REF V)

The right to family life also applies to prisoners and during the year under review the Chief Inspector reported on improvements to family visiting arrangements in a number of prisons. He said 'In Edinburgh, for example, the families of prisoners participate in the induction to prison of new prisoners. At the end of a two week induction programme family members will be invited into the prison setting to help them understand the circumstances of imprisonment and to meet the staff most involved with the prisoner in question'. ^(REF N)

However, the effects of overcrowding have led to prisoners living in conditions which do not conform with the international human rights standards. Audit Scotland reports that some prisoners in Aberdeen are locked in their dormitories for 22 hours a day and remand prisoners at Polmont Young Offenders Institution may spend 23 out of 24 hours locked in their cells. ^(REF R)

Unfortunately the practice of handcuffing pregnant women prisoners in hospital and even in the labour room continued during 2006/7. The Chief Inspector reports that after the publication of his 2005/6 report and the ensuing concern the contractor that is responsible for escorting prisoners to and from hospital announced that the practice would stop. However the Chief Inspector found when he inspected in the following year that it was continuing. An incident in 2008 when a seven-month pregnant woman prisoner protested about being handcuffed for both inpatient and outpatient hospital appointments led to an apology from the Scottish Prison Service. A spokesperson said 'This was a mistake, an apology was made and it was rectified'. It is to be hoped that this practice has been discontinued. All international human rights bodies have declared that the handcuffing of women in labour is unacceptable.

Spreading information about human rights is necessary to their realisation. A survey in Scotland in 2007 found that 44 per cent of children had heard of the United Nations Convention on the Rights of the Child (UNCRC). A 2006 poll in England found that 13 per cent of children had heard of the UNCRC, whilst a recent survey in Wales found that eight per cent of Welsh children had heard of the Convention. It is welcome that the Scottish Government has begun drafting a dissemination strategy for the UNCRC which includes aspects such as awareness raising and training, and targets children and young people, parents and professionals. ^(REF D)

13. Substance abuse and crime

Use of illegal drugs continues to fuel the levels of crime, fill the prisons and cause widespread health problems. According to the 2006 Scottish Crime and Victimization Survey (SCVS) the most common reason given by victims, and the one given by half of all respondents, for why they had been assaulted was that the perpetrator was drunk or under the influence of drugs. The authors relate this to the finding that a significant proportion of assaults took place in or around pubs, bars or nightclubs. ^(REF W)

Illicit drug use is widespread. The 2006 SCVS found that:

- 37 per cent of 16 to 59 year olds had taken one or more illicit drugs in their lifetime.
- 13 per cent had taken one or more drugs in the last year.
- Eight per cent had taken one or more drugs in the last month. ^(REF W)

The use amongst those in prison is much greater. According to the 2007 prisoner survey: ^(REF V)

- A quarter (26 per cent) indicated that they committed their offence to get money for drugs.
- Nearly half of prisoners (45 per cent) reported that their drug use was a problem for them on the outside and that they were under the influence of drugs at the time of their offence. One in five reported that they had been receiving treatment for drug use prior to their imprisonment.
- Seven out of ten of prisoners (69 per cent) reported using illegal drugs in the 12 months before coming into prison, a slight reduction from the figure of 72 per cent in 2006.
- The most commonly reported drugs used by this group were cannabis (79 per cent compared with 70 per cent in 2006), benzodiazepams (60 per cent), cocaine (60 per cent), and heroin (53 per cent).

The survey also gives information on drug use in prison. Half of prisoners (51 per cent) reported that they had used drugs in prison at some point in the past.

Eight in ten prisoners (82 per cent) reported that their drug use had changed during their current period in prison:

- Three-quarters reported a decrease in drug use in prison.
- 18 per cent reported an increase in drug use.
- One in ten indicated a similar level of drug use but with different drugs.

A small minority of prisoners, three out of one hundred, reported injecting drugs in prison in the

last month and of these most (80 per cent) said that they had shared their injecting equipment.

Alcohol abuse is a long-standing cause of violence and crime. In the Scottish population, 13 per cent of men and seven per cent of women are likely to have an alcohol problem. ^(REF U) Alcohol-related crime is estimated to cost Scotland £379m per year'. ^(REF X)

Alcohol problems are also more common amongst prisoners. The prisoners' survey shows that:

- Just under half of prisoners (45 per cent) reported that they were drunk at the time of their offence.
- Almost a quarter (23 per cent) indicated that they were worried that alcohol would be a problem upon release from prison.
- A third of prisoners reported that they had been assessed for alcohol use on admission to prison.

One third of prisoners had been offered the chance to receive help for their alcohol problem and one fifth had received treatment during their sentence.

Figure 10: Children referred to the Children's Reporter on grounds of misuse of alcohol or drugs

2002/3	2004/5	2005/6	2006/7
1,854	1,369	1,426	1,609

Source: Scottish Children's Reporter Administration. 'Annual Report 2006/07'. Edinburgh.

14. Public attitudes to crime and confidence in the system

In 2007 the results were made available of the most recent Scottish Crime and Victimization Survey study of public attitudes towards crime and the criminal justice system. Overall the study concludes that 'although crime is still seen as a problem in Scotland, trends indicate that household crime at least is perceived as becoming less common'. ^(REF F)

The survey found that crime in general rated very high as a problem in Scotland, just below alcohol and drug abuse.

The survey found:

- More women considered crime to be a problem in Scotland (96 per cent) than men (91 per cent) and the proportion of women rating crime as 'a big problem' was 61 per cent compared with half of all men.
- Fewer people than in 2000 and 2003 felt that crime in their area had increased and more thought it had stayed the same.
- Those who rented their home from the council or a housing association were more likely than private renters or owner occupiers to feel that their local crime rate had increased (39 per cent compared with 29 per cent for private renters and 30 per cent for owner-occupiers).
- The proportion of those feeling unsafe when walking alone after dark was 32 per cent, the same proportion as in the 2003 survey.

Since 1993, people have gradually become less worried about the possibility of being burgled, mugged or robbed, having their home damaged by vandals or being sexually assaulted. They are now more worried than before about their vehicle being vandalised.

15. Using resources to best effect

The criminal justice system consumes considerable resources and the costs continue to rise.

The cost per prisoner place of new accommodation in an existing prison is estimated to be £60,000. The cost of a 700 place prison is £100m. The administrative cost of admitting and releasing prisoners alone amounted to £8.8 million in 2006/7. In 2005/6 the Scottish Prison Service paid Reliance Secure Task Management Ltd, the company which provides court custody and prisoner escort services throughout Scotland, £18.7 million. In 2006/7 the figure had risen to £22.2 million .^(REF Q)

Figure 11: Cost per penalty 2004/5

Penalty	Cost
6 months in prison	£15,964
Probation order (Average length of order 16 months)	£1,283
Community service order (Average length of order 145 hours)	£2,205
Drug treatment and testing order (Average length of order 19 months)	£11,727
Supervised attendance order (Average length of order 41 hours)	£442
Restriction of liberty order	£9,000

Source: Audit Scotland. 'Managing Increasing Prisoner Numbers in Scotland'. ISBN: 998-1-905634-95-8. Edinburgh, May 2008.

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Endnote 3

Long-term trends in crime figures are complicated to measure. However, an averaging of the recorded figures for 'non-sexual crimes of violence' shows that the average over the five-year period 1997/8 to 2001/2 was 14,876 and the average for 2002/3 to 2006/7 was 14,762.

(REF E)

Endnote 4

The EU points out in its statistical crime bulletin that 'comparisons of crime levels based on the absolute figures would be misleading ...direct comparisons of crime levels in different countries should be avoided.' (Source: Eurostat. 'Statistics in focus: Crime and Criminal Justice'. 15/2007, p.11. Luxembourg, European Communities, 2007.) Even comparing trends in crime rates across countries is problematic. The latest EU statistics say, 'National sources of information about crime show such considerable differences in approach and coverage that the measurement of crime trends at European Union level is still at an early stage'. (Source: Eurostat. 'Statistics in focus: Crime and Criminal Justice'. 19/2009, p.1. Luxembourg, European Communities, 2008).

Endnotes

Endnote 1

Not all agencies publish their statistics at the same time but most of the data we are using covers the period April 2006 to March 2007.

Endnote 2

Recorded crime covers only those incidents reported to the police or coming to police attention in some way. Many incidents occur every day that could be defined as crimes (such as teenagers fighting each other). Whether they are so defined, and then reported, and then recorded by the police as crimes, depends on a wide range of factors. However, the more serious an incident is, the more likely it is that it will be reported and recorded.