

## Justice Committee

### Criminal Justice and Licensing (Scotland) Bill – Stage 2

#### Written submission from the Scottish Violence Reduction Unit

##### Sentencing for knife crime

Knife related violence in Scotland is a significant problem which receives significant, focused and sustained attention from the police and criminal justice agencies as well as many other groups and individuals. Violence is a wicked and persistent problem and tackling it in all its forms requires persistent and coordinated efforts across a myriad of agencies and groups. It is everyone's problem and there is no single solution to it.

Mandatory sentencing is a particularly emotive subject which elicits vigorous debate over its merits and impact. The majority of the research relating to the impact of mandatory sentencing and broader sentencing policy emanates from the United States. The US has some of the toughest sentencing policies in the world and the largest prison population (2.5 million prison capacity and approx 1 in 18 males in the US are currently serving time or being monitored).

Research looking at the significant decrease in crime (including violent crime) in the early 90s in New York suggested that the decline was due to the tougher sentencing policy. However, these decreases have also been attributed to zero tolerance policing, a collapse/stabilisation in the crack cocaine market and, more controversially, a change in the abortion policy in the 1970s. It is difficult to establish which, if any, of these factors were responsible for the decrease. The FBI suggest that across the country there has been a 20-25% decrease in crime since the introduction of tougher sentencing, heralding this policy as a significant deterrence. However, during the same time period the number of incarcerations have increased from below 2 million to over 7.5 million per annum, suggesting tougher sentencing has no impact on deterrence and that the reduction is due to the removal of criminals from society.

In Strathclyde the number of people arrested for possession of a bladed weapon is decreasing<sup>1</sup> and the estimated number of serious violent incidents involving a knife has also declined<sup>2</sup>. In addition, although violence is under recorded in Scotland, reports like the Scottish Crime Survey indicate that overall violence is decreasing on a year by year basis. However, the recent homicide report in Scotland indicates that despite the decrease in overall homicides there has been an increase in the number of knife related homicides<sup>3</sup>. This overall effect of decreasing levels of knife violence yet no real impact in the number of knife related homicides was also seen in the England and Wales, where there was a decrease of 17% in the priority areas

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<sup>1</sup> 11% decrease from 2008 to 2009

<sup>2</sup> 20% decrease on serious violence where details of a weapon were included

<sup>3</sup> Due to the relatively low levels of homicide compared to other serious violence the increase in knife related homicide is not statistically significant.

yet an increase of homicides with a knife<sup>4</sup>. Despite the debate over the overall impact of tougher sentencing policy on crime in general there is little debate on the impact of tougher sentences on homicide and it is widely accepted that there is no impact. Therefore it is projected that the provision of mandatory sentences for knife carrying would have no overall effect on the number of homicides per year in Scotland.

In 2009, 1780 individuals were arrested for possession of a bladed weapon in public (in Strathclyde). If all of these individuals were subsequently sentenced to a year for their crime then this would have an estimated financial burden approaching £60 million and require an approximate 20% increase in prison capacity to house offenders. The alternative in this scenario is to liberate others to make space for the knife carriers; who would they be?. In light of the current prison stock and the projected new build(s), mandatory sentences would bring the current system to a standstill and involve dangerous levels of overcrowding which would lead to serious problems of violence within the prison system and possible litigation against the government. Based on these statistics, which relate only to Strathclyde, we would need to build three new prisons. Has there been any thought given over to the mandatory term of imprisonment those who reoffend, once, twice?

There is debate over whether or not the application of minimum sentences is unconstitutional and degrades judicial independence. The key example from the UK relating to minimum sentences is from England and Wales, where research suggests that even the mandatory five year sentence for possession of a firearm is not applied: over 50% of those convicted of possession of a firearm get less than three years.

The Violence Reduction Unit asked for consideration of mandatory sentencing in 2005 at which point it was discounted; however the increase from two to four years for knife possession was introduced in 2006. Over the last few years evidence from sentencing for knife related offences in Strathclyde have shown an upwards trend in the length of sentencing. The VRU have since reconsidered their initial stance based on the unworkable nature of the sentence, the lack of evidence demonstrating sustainable benefits and the evidence from re-offending rates that prison does not reduce violence.

The VRU is in favour of mandatory interventions and alternatives to prison disposals for first time offenders, whereby the offenders have to confront their behaviour and deal with the potential consequences of their actions in a way that will benefit them and the communities in which they live. At times custodial sentences are necessary if the individual presents a potential danger to society however, this is complicated if not impossible to capture under the guise of mandatory sentencing. The decision should be down to the judge on the day: they are in possession of all the salient facts including context and with this knowledge can best decide the most appropriate and effective disposal.

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<sup>4</sup> <http://www.crimereduction.homeoffice.gov.uk/violentstreet/violentstreet014.htm>

The VRU is committed to the sustainable long term reduction of violence in Scotland and believe that this will only be achieved by tackling the root causes of violence. Pursuing a mandatory policy for sentencing is costly and is unlikely to have the desired effect. The budget required to fund such a policy would be better used on strategies that have an evidence base of effectiveness and where sustainable reductions can be made making Scotland a safer place where all citizens can lead active productive lives.

There is no such thing as a single group of knife carriers, each sub group/individual comes with a different set of reasons why they carry knives. Only a small subsection of this group is affected by the influence of criminal justice and policing. More dangerously, the group of knife carriers that are most intent on doing harm would do so under any circumstance and just change their means of causing harm. Early indications suggest that knife carrying is more endemic in some areas of the country than others (other than Glasgow and the west coast), but if combined with the violence stats it is less likely that such carriers will inflict harm and their reasons for carrying may well be different and more transitional<sup>5</sup>. For example, should an individual who has a history of knife carrying and or violence be treated in the same way as a young man who has no history and is caught carrying a knife for the first time because he is scared of being a victim? Mandatory sentences would not necessarily account for individual circumstance and may lead to more harm than good.

## **Summary**

There has been a significant decrease in the number of serious violent incidents involving a knife in Strathclyde. During this time we have seen a number of changes in the way that we police in Scotland, changing cultural attitudes, unrelenting campaigns, school based programmes and the treatment of individuals in court. There is no way to determine definitively which of these changes is causal in the reductions. In terms of sentencing we have not seen any real changes in the number of individuals given custodial sentences however, those who do receive custodial sentences are given longer sentences. There has also been an increase in the number of community based sentences and a decrease in the number of fines which may have also have had an impact. Scotland is moving in the right direction and we are starting to see some real changes. These statistics only relate to those where possession of a knife is the most serious charge brought against them and not any other acts of violence. The Sheriffs and Judges are the only ones with the full knowledge of circumstance in each individual case and therefore are in the best position to consider the likely outcomes from the disposal. Mandatory sentences do not work; they do not account for individual circumstance. They are a punitive measure and will have a significant and negative impact on the life chances of many of our young men who through bad judgment have made a wrong decision, maintaining a continuing cycle of offending.

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<sup>5</sup> Unpublished, draft research Scottish Government of Gangs and Knives

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