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## 25 Years On

is Scottish criminal justice  
ready for the 21st century?

Jeane Freeman OBE

## Apex Scotland Annual Lecture

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4 SEPTEMBER 2012



**Previous Apex Scotland Annual Lectures  
have been delivered by:**

6 September 2011

Tam Baillie

Scotland's Commissioner for Children  
and Young People

7 September 2010

Baroness Vivien Stern CBE, Senior Research  
Fellow at the International Centre for Prison  
Studies King's College London

8 September 2009

Professor Fergus McNeill, Professor of Criminology  
and Social Work, University of Glasgow

9 September 2008

Kenny MacAskill, the Cabinet Secretary  
for Justice and Richard Jeffrey, The Prisons  
Commission

11 September 2007

Professor Wesley Skogan, Institute for Policy  
Research (IPR), Northwestern University, Illinois

12 September 2006

The Rt Hon Lord Cullen of Whitekirk

13 September 2005

Cathy Jamieson MSP, Justice Minister

15 September 2004

Duncan L Murray WS, President of the Law  
Society of Scotland

16 September 2003

The First Minister, The Rt Hon Jack McConnell MSP

18 May 1998

Henry McLeish MP, Minister for Home Affairs and  
Devolution, Scottish Office

## Foreword

In the 25 years since Apex Scotland began its work, there have been many changes in the operation of Scotland's police service, the functioning of its courts and in the organisation of its system of punishment and rehabilitation. Jeane Freeman OBE, founder and first Chief Executive of Apex reflected on these changes and identified in her lecture that, during this time, there had been a much needed recognition of the central role of the victim in the operation of the system; there had been improvements to the integration of intelligence-led policing and the systematic targeting of serious organised and drug crime and there had been positive changes to improve the efficient working of courts and changes to the recruitment, selection and appointment of Sheriffs, Sheriffs Principal and Judges which had increased transparency and accountability. She also noted that there had been numerous commissions and enquiries on what to do about sex offending, serious violent and sexual offenders, short term sentences, repeat offending and most recently, women offenders. She suggested that, almost without exception, each of these eminent enquiries and commissions had reached similar conclusions: the public needs to be protected from serious and violent offenders, punishment must be matched by opportunities and encouragement to change and, for the majority of repeat offenders, these opportunities have the best chance of success if they are offered in the community. Why then, she asks, 25 years on, is Scotland still locking up more people than any other European country?

We were delighted that Jeane accepted our invitation to speak at the 25th anniversary Apex Scotland Annual Lecture. Her characteristically rigorous analysis of the changes to criminal justice she had witnessed since 1987 was both timely and compelling and prompted much debate on the night.

Particular thanks are due to Mike McCarron, Apex Scotland Chair, for facilitating the discussion session at the lecture and to Apex Board Member, Brian Fearon, who delivered the plenary speech and vote of thanks. Thanks are also due to the Apex Scotland team at Head Office and to our colleagues at the Signet Library whose professional skills and attention to detail made the event such a success.

I hope you enjoy reading the lecture which can also be viewed as a podcast on our website: ([www.apexscotland.org.uk](http://www.apexscotland.org.uk))

Alan Staff  
Chief Executive

I am delighted to have been invited to give tonight's 25th Anniversary Apex Scotland Lecture. It is an honour and a privilege and I am grateful to you for your welcome.

I want to start by offering my congratulations to Apex for the important work you do – and have done consistently over 25 years. You have positioned yourself as a leading third sector organisation in Scotland with a particular specialism in the field of employment, education and training for those with a criminal record and more recently, in the areas of desistance and prevention.

This is vital work – not just for those who use your services, or for the criminal justice agencies that are represented here tonight.

It is vital work for every citizen in Scotland. Encouraging, supporting, training and helping a person with a criminal record begin to rethink their attitudes, find a job, restore their life – significantly reduces the likelihood of that person committing more crime. Your work contributes directly to the safety each one of us enjoys.

25 years – what a long time! Clearly, I was but a girl, a mere child, at the start of that journey.

There is always a choice when faced with a lecture such as this. We can cover in some detail the many and varied changes in the world of criminal justice over those 25 years – and the world in which our criminal justice agencies serve. And indeed there are many and I believe significant, changes to consider.

Or, we can touch on some of that scope and breadth, but concentrate on one or two areas.

I have chosen the latter. So let me apologise now to those whose area of particular interest I cannot give proper attention to – I hope you will forgive any omission I make and be assured it will not be because I do not recognise its importance.

I have to also tell you that you are a daunting audience. I doubt if there is a single one of you who knows less about the matters I shall touch

on than I. I am not an expert on our legal system or on our criminal justice system. Nor am I an expert on employment. So let me approach this as a liberating exercise. The views and opinions I will offer tonight are mine alone.

But first, let's recall the world of 1987. Or at least the economic, social and criminal justice world Apex Scotland emerged in to.

Unemployment was high and rising. The UK unemployment figure for the time was 11% and in Scotland, that figure was 13.8%. Youth unemployment in particular was disturbing and we continue to reap the social and economic effects of that situation. This was the world of youth training programmes and long dole queues. Recorded crime was increasing, although not by as much as the public perceived it to be and fear of crime was high. Victims felt – and were largely – invisible beyond their part in any prosecution. And the prevailing view of a UK Government was that “prison works”.

Not the most auspicious of worlds for the young Apex Scotland.

Over the 25 years since, so much has changed. Recorded crime is lower, perception of crime has fallen and fear of crime – although reduced remains too high especially in certain areas and amongst some groups, including women and young people.

Our Scottish criminal justice system has a long and proud history. Dating back to the barons' sons bringing back the principles of Roman Law from their studies at Leiden and Utrecht, to be the building blocks of our legal system. A system based on principle and reason. But I want to argue that in too many ways, the forward progress of our system is still too confounded by lack of reason and by illogicality.

In the 25 years since Apex Scotland began its work, we have seen changes in the operation of our police service, the functioning of our courts and in the organisation of our system of punishment and rehabilitation. Much of it for the good.

A much needed recognition of the central role of the victim in the operation of the system; the integration of intelligence led policing and the systematic targeting of serious organised and drug crime; changes to improve the efficient working of our courts – to reduce delay and wasted time. Changes to the recruitment, selection and appointment of our Sheriffs, Sheriffs Principal and Judges which in my view, while still not perfect – increase transparency and the accountability that lies at the heart of independence.

And significant changes in the role our prison service sees for itself and what we expect from it. Apex emerged in the days of prisoners on prison roofs, of prison officers as little more than turn keys, of a prevailing attitude that anything more than feeding a prisoner and giving him a bed was a great deal more than he deserved.

The introduction of an approach that had as a central principle, the belief that each prisoner was a responsible adult whose punishment was the removal of liberty and whose choice should now be to make changes to attitudes and behaviour marked, in my view, an important turning point in the whole debate on whether prison 'works' – or not.

In 25 years we have had commissions and enquiries on what to do about sex offending, serious violent and sexual offenders, short term sentences, repeat offending and most recently – yet another enquiry on women offenders.



Almost without exception, each of these eminent enquiries and commissions reaches similar conclusions:

- There are those who should be in prison to protect the public and to mark the seriousness of their crimes
- For these people and for other offenders, punishment must be matched by opportunities and encouragement to change – targeted rehabilitation to reduce the likelihood that they will re-offend
- For the majority of repeat offenders, these opportunities have the best chance of success if they are offered in the community
- Consequently, given the profile of crime and offenders – the majority should be dealt with in the community.

But here we are, 25 years on and while the prevailing Government approach across all parties - has not been, for very many years, to venerate imprisonment – we still lock up more people than any other European country.

How can that be?

We want to reduce crime. Increase public safety. And, I suggest, we also want to secure from as many of our citizens as possible a positive contribution to the well being of our society – by their employment, their good health and their belief that they are an equal and equally valuable part of the community they live in.

Whilst it is true that too many of our offenders have very poor literacy and numeracy skills, too many have little if any formal education qualifications and too many have little if any experience of employment – they are not stupid people. They have the capacity to be make a positive contribution to their own relationships, to their families, to their neighbourhoods.

So, despite all the improvements we have made in the past 25 years – all the increased understanding we have of crime and what causes crime, the academically gifted studies and the international research why are we still confronting this issue, why have we made so little progress in this area?

I want to suggest 4 reasons.

Firstly, the absence of any Scottish-wide, meaningful and honest conversation about crime – who commits it, why it happens and what we do about it.

We have polls and surveys. We – to some degree – regularly check out how folks feel about crime in their community and their country. But we don't talk about it. For most, our courts and our prisons are unknown places. We don't really know what happens there. Our best idea might come from old episodes of Taggart – entertaining for sure, but not enlightening.

Most of us firmly believe that we don't know any criminals either.

One of the stories I recall from the early Apex years was our attempt to set up a training workshop in Easterhouse. Our approach was that unless a community accepted us, we wouldn't open up a facility. So we held public meetings. Always lively affairs and this one was no exception. At the end of the meeting, a couple of people came up to me and said – "Good luck to you hen, no saying you shouldn't do what you're wanting to do. But no here. The criminals are all across that motorway in Queenslie, that's where you should go".

There is something fundamental in the desire we all have to think of the criminal as a person apart. Not like you or me. Not one of us. But of course they are. One young man in every four will have a criminal record of some sort by the time he is 24. Statistically impossible for us not to know at least one – a brother, or a cousin; a father or an uncle; a friend of a friend. Not a person apart.

A person like you and me - with intelligence, with dreams, with hopes, with ability. Yes, a person who has made some pretty poor choices – harmful, destructive, debilitating choices. But not a person apart.

We need to start, conduct and continue that conversation. Not by survey or poll.

When I was a political adviser, we were engaged in the early work on anti social behaviour. With our Government Ministers, we ran a summer of meetings up and down the country in the halls and libraries and schools of the communities where anti social behaviour was at its most evident and its most destructive. Public meetings. A few years later, a similar exercise was carried out talking about health.

Conversations. Out from behind our desks and our emails and our benches – talking with the folk who pay our wages and in whose name we work about what they think the problems are and what can be done about it.

I firmly believe that until we do, our criminal justice system will be led by opinion poll, newspaper headline and the politician's inevitable focus on the next election.

Which takes me to politicians. Like the rest of us, they can be a mixed bag. But from experience, I believe that the overwhelming majority become politicians because they want to make a positive difference to their community and their country. But they get caught up. In the machinery of government – national or local. In process. In calculation about who is going to vote for what and how will tomorrow's headlines play.

But on this question – what to do about crime and offenders we do have some important areas of consensus. That,

- Punishment alone is not enough.
- Drugs and alcohol and unemployment and mental health are critical factors to address to reduce offending.
- Young people are a priority.

We need to give our politicians the evidence base to be a bit braver. Or to put it another way – we need to give them fewer excuses to avoid the hard stuff.

So my proposition for those community-based, Scottish-wide, conversations is all about doing precisely that.

When the microphone is in their face, we need our politicians to argue for both punishment and rehabilitation.

And we need to them to make some brave decisions.

I can't recall a recent commission or enquiry which argued that short term sentences were useful in either reducing re-offending or in value for money. But still we have them.

I wonder about the experience of a country like Finland. When they looked at their education system and what needed to be done to make sure it offered the highest quality of opportunity to their young people, equipping them to take their place in the 21st century and contribute to the kind of society they wanted for their country, they decided that one of the things they didn't need was private, non state education. So, quite simply – they closed them down.

In criminal justice, Finland again transformed its system in part by recognising that most of those it imprisoned could be dealt with in a less costly, less damaging – and more effective way.

Now, standing here in the Signet Library, in this place of all places I am not suggesting that we close down Scotland's independent schools. Or indeed, that we close our prisons.

What I am pointing to are brave political decisions. Reached through discussion and debate and based on evidence.

On short term prison sentences – have we not had discussion, debate and evidence? Do we not already know that they don't work – either to reduce crime or reduce re-offending?

But of course, the reasoned argument says that if not the short term prison sentence – then what?

Successive Scottish Governments have grappled with this question. We now have the Community Payback sentence. Designed to both punish

the crime – and tackle the contributing factors to committing crime.

Scottish Government figures tell us that 45% of offenders are likely to have an alcohol problem – that's 3 times the figure for the Scottish male population. In the most recent prisoner survey, half of those who completed a questionnaire, reported being drunk at the time of their offence. A quarter reported that drinking affected their ability to hold down a job and over one third of prisoners admitted that their drinking affected their relationship with their family. Alcohol and drugs combined – featured in more than half of murders in the most recent figures for 2010/11.

The 2008 thematic inspection showed that there was 4 times the incidence of severe and enduring mental health problems amongst our prison population than in the general public.

Yet in the first full year of the Community Payback sentence, only 4.6% of sentences carried a requirement on the offender to tackle their alcohol abuse. And the figures for drugs and mental health are even poorer at 1.6% and 0.7% respectively.

If we have the consensus that we need to target and tackle the factors that contribute to offending, I need to ask why our courts are not then using the opportunity to do so via our community sentence? Yes, this is largely a 'work' order but surely we know by now that while work of itself is okay, work with support is so much better and the changes it can bring much more likely to be sustained.

I recall over the years a view about the credibility of community sentences with which I had a great deal of sympathy. Community sentences I was repeatedly told, lacked credibility in the eyes of the public, the courts and indeed the offender. We've all heard of – and some of us have seen – the laughing convicted offender on the steps of the court – laughing because he 'just' got a community sentence. A community sentence that would start at some point in the future and was perceived as a soft option. Is justice delayed not surely justice denied – to the victim most certainly and indeed to the offender.

If the offender sentenced to prison goes out one court door into the van that will take him to jail, why does the offender given the community sentence not go out another door – not into the street and away home with his pals – but into the community sentence office where his sentence will begin that same day? If 90% of those given a community sentence in Glasgow can start that sentence on the very same day it is imposed – why can we not do the same in every other part of our country?

A community sentence that

- punishes by curtailing liberty and choice of movement,
- combines that with a requirement to tackle the factors contributing to offending, provides opportunities to practically turn things around through employment, training, education, housing and
- one that starts the day it is imposed so there is no dubiety no room for excuses, avoidance or confusion about the consequences your offending has had on you.

The Apex Lecture in 2008 featured a contribution from Richard Jeffrey reflecting on his time with the Scottish Prisons Commission. He made a comment which I want to repeat tonight. "There are too many bodies involved in the whole system. If you were designing the system from scratch, you would not have this many involved in it". He has a strong point I think. The more parties you involve, the more opportunity you have for confusion, duplication, waste and error. And crucially delay.

And yet ironically, there are some parties not involved in our criminal justice system who need to be. Health, housing, education, family support.

So we have a criminal justice system in some way set apart from the very agencies of expertise and responsibility we need engaged. In 1987, the very structure of criminal justice underlined the separation. Money was supposed to be found at local authority level from the general budget.

What politician would vote for less money for weans in order to spend more on criminals? So the service was under funded, over stretched, little valued.

25 years on, the funding is designated. The drive from successive governments has been clear. We have the studies and the evidence to support the value of this community based work.

But, I would argue we still have an important imbalance between our national and local structures that works against what we are agreed we need to achieve.

We have power – through the ability to devise strategy, establish a legal framework to support that strategy and allocate funds to deliver – at the national level and we have political accountability at that level too. But delivery sits at the local level. Not simply the delivery of the community sentence but the delivery of health interventions, housing support, family and education engagement. Do we have accountability there too? When the media or the public worry about crime or the rising cost of prisons, or the 'softness' of community sentences - do they knock on the door of their local council and demand to know what they are doing? Or do they take themselves to the Justice Secretary's door and the MSP's office?

So we have, in my view, a structural obstacle squarely in our path. To many of you, my opinion on this is not news. Tonight I am not arguing for any one particular solution. But this is an imbalance that has fundamentally thwarted all our best efforts over many years. Thwarted our efforts to shift the way we deal with offenders from the "prison works" approach of the 1980s and '90s, to the targeted, systematic, evidence based, community driven, effective management and delivery of both punishment and rehabilitation.

And the world around us is changing. A single Police Service for Scotland; a single Fire and Rescue Service for Scotland. Significant service design, delivery and structural change to secure integrated adult health and social care – which in some parts of the country has extended already to children and young people's services.

And coming round the corner soon – a reinforcement and strengthening of community planning and community budgets. A whole system approach which puts the person at the centre and builds the services around that person. Not around professional interests, or traditional practices. Around and for the person – perhaps with a sad and difficult life, but a person first and foremost – like you or me.

There is a golden opportunity for us in this. Crime is complex. So too are the solutions we need to devise to prevent crime and prevent reoffending. But no more complex than health or social inequalities. Redesign is beginning there. From the work of the Scottish Violence Reduction Unit, we have the evidence – indeed the map – that shows us not only where crime happens, but where our repeat and young offenders are. Their families, their schools, their wee brothers and sisters learning the tricks of that particular trade. Like the three year old in his temporary foster home who sees a police car pass the living room window. He's not excited like your 3 year old son or grandson might be. No. His words are, " what are they \*\*\*\*\* daein noo?"

Do we need any more evidence to tell us that there is a pipeline working here and we have the tools to interrupt it and divert it to more productive and healthier choices? The Angiolini Report gave us very many good and useful pointers – rapid social circumstance reporting, multi disciplinary teams, intensive mentoring, supported and transitional accommodation – and more.

And here, let me turn briefly to the third sector. Our social enterprises and of course, Apex Scotland. From day one Apex has been innovative, imaginative and entrepreneurial. In the world of the third sector that's the only way to survive. But it is a way that brings a great deal in imaginative thinking and in expertise borne of practical experience in working directly with the people who commit crime – and commit it again. Our UK government has, in my view, taken the deliberate choice to privatise our welfare and employment services. A crime in itself. And one that shuts out the specific expertise of organisations like Apex, the Wise Group, Ypeople, SACRO. Had we a choice, I don't believe that any of our Scottish Governments would have made that particular

short sighted decision. But, we can engage those organisations in our work and use their experience and expertise to the benefit of our task.

Can we redesign our community and prison criminal justice services using that whole system approach? Can we put to one side the current structural map and – using the evidence – design how the system should work?

I know we can. It is not beyond our wit to do so. It is a question of will.

We can of course, do what we have – each of us – all too often done. We can say – "it's not up to me, I do my bit". We can look around this room – and wider – and say "it's not my fault, it's the courts, the police, the social workers, the politicians." We could even argue that it's all much harder than people think, crime is complex, the media makes people afraid. But none of that's is really good enough.

We don't need another commission. We have the experts and the expertise to hand – in this room, in our universities, in our courts and police stations – in our third sector. From the victims and in our own communities. We have the leadership to engage in this redesign task – with our colleagues in education, in health, in housing, in government.

It is a question of will.

There is a critical imperative in all this. The way by which we, as a society, both protect our citizens and deal with those who offend against them, is a measure of our civilisation, our maturity and our humanity. Our capacity, in Scotland, to produce fewer criminals will be a measure of our shared success in building safe and secure communities. Communities where all those who live in them feel protected and respected and crucially, responsible for the quality of their own lives and those of their neighbours.

On the 25th anniversary of Apex Scotland – a golden opportunity. To face up to the central problem we have known for all of those 25 years – and work together to do something positive, lasting and meaningful about it.

*Apex Scotland's Annual Lecture 2012 is also available to view on our website.*



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