

Justice Committee

Criminal Justice (Scotland) Bill

Written submission from WAVE Trust

1. WAVE Trust welcomes the opportunity to comment on the proposed *Criminal Justice (Scotland) Bill* now under Stage 1 consideration by the Justice Committee. This brief submission will focus only on those areas in which WAVE Trust has significant knowledge and expertise. WAVE staff members are willing and able to provide additional information and offer testimony to the Justice Committee, if requested to do so.
2. This submission will be supplemented by making available to the Committee copies of WAVE Trust's report: [Violence and what to do about it](#). That report and the conclusions summarised here are based upon more than a decade's work to identify, analyse and summarise the crucial lessons from hundreds of relevant research studies (and other credible sources of evidence) from Scotland, the UK and internationally.
3. There are three fundamental points that WAVE offers for this Committee's deliberations:
 - a) **WAVE Trust strongly supports the proposed Bill's intent to give priority to the 'best interests' of children.** Scotland's leaders have repeatedly expressed a commitment to making children's *rights* 'real' in accordance with the UN Convention on the Rights of the Child (UNCRC). Successive Scottish Governments have also promoted the *wellbeing* of children. Both should be reflected in every relevant provision of this *Bill*. This means ensuring children are always accorded at least equal protection to that given to adults – and almost always accorded *greater* protection than adults (commensurate with their inherent vulnerability as children).
 - b) **WAVE fully agrees with, and encourages the Committee to act favourably upon, the specific recommendations contained in the submission by the Children Are Unbeatable alliance about this Bill.** This proposed legislation is the appropriate vehicle to repeal the current *Criminal Justice (Scotland) Act's* "justifiable assault" defence when children are subjected to corporal punishment by parents or those acting *in loco parentis*. This would bring this *Bill* into greater harmony with Scotland's commitment to 'Getting it right for every child' (GIRFEC) and the Parliament's recent cross-party vote in favour of Scotland becoming the best place to grow up.
 - c) **WAVE's research – spanning decades and continents -- reveals that there is not a credible evidence base for either the benefits of corporal punishment, or for physical discipline serving the best interests of the child.** On the contrary, there is a great deal of robust international evidence from a variety of perspectives and disciplines that undermines the rationale for a 'justifiable assault' defence for adults in relation to children.

4. In its *Violence and what to do about it* report, WAVE Trust extensively reviewed the research on the root causes of interpersonal violence. It also presents evidence-based recommendations for how best to prevent it from happening in the first place, as well as to keeping it from becoming an intergenerational problem for children, families, society and the public purse. This evidence base has grown and become more nuanced in the years since the publication of WAVE's original report. Upon request, WAVE can provide key examples of the latest research.

5. To summarise, WAVE's extensive review of the evidence showed that interpersonal violence requires an internal, personal propensity to react violently to the varied external, societal events that trigger such reactions. Without that propensity, such 'triggers' rarely result in violent behaviour. That propensity is not an inherent part of 'human nature'. Instead, it is a *learned* behaviour/response. The social, emotional and neurological propensity to violence is usually learned – or, hopefully, avoided -- in response to the treatment and experiences of very young children in the earliest part of their lives.

6. The prime cause of a child developing a propensity to violence is absence of empathy; itself a result of the failure of parents or primary carers to attune and positively/securely attach with infants. **Absence of such parental attunement/attachment, combined with harsh discipline, is a recipe for violent, antisocial offspring.** The above findings flow from a body of research evidence tracing violent behaviour to parental competence and methods of family discipline; poor child rearing; and, "unskilled parenting".

7. The same international, interdisciplinary research indicates that some *parents unwittingly develop a propensity toward violence in their young children*. Such parents use little positive reinforcement, while effective punishment for deviant behaviours is missing or erratic, and "dozens of daily interactions" reinforce coercive, negative behaviour. Poorly skilled parents often themselves respond by shouting or hitting, which can escalate in an upward spiral of aggressive interactions. The net result is that the child learns both the techniques and the moral justification for violence from the parents.

8. Most relevant to repealing the 'justifiable assault' defence is all the research indicating that a key predictor of future interpersonal violence is *harsh family discipline*. A plethora of studies indicate that harsh or explosive discipline of children leads to violence and criminality -- and that discipline styles typically run in families over many generations (as people tend, consciously or unconsciously, to copy the parenting styles of their own parents). These child victims of harsh and physical discipline are the ones most likely to grow up and perpetrate domestic violence, commit violent crimes and suffer mental health problems, both as young people and as adults. This process helps explain the truth of the famous remark by Professor David Farrington: "Anti-social children grow up to become anti-social adults who go on to raise anti-social children".

9. Three final points should be taken into account. First, parents (even in fairly extreme cases) rarely see or describe themselves as abusing or maltreating their children; rather, they are merely disciplining them. Second, some parents are simply "doing what comes naturally" by following the pathways laid down in their own early

learning, which is how the cycle of violence is perpetuated from generation to generation. And third, Scotland can, and must, break this negative cycle by *properly supporting*: positive parenting; alternatives to corporal punishment; and, secure, healthy attachment/attunement between babies (and young children) and their mothers/fathers/carers.

10. 'Justifiable assault' of children, in fact, has no justification. Therefore, this *Bill* presents a wonderful opportunity to adjust Scottish legislation in light of what has been learned about what does – and does not – *actually result* in effective discipline, thriving children, successful families and safe communities. Instead of perpetuating the slippery slope of 'justifiable assault', the Scottish Parliament now has the chance to draw a clear line marking the disapproval of corporal punishment within Scots law. Taking this action would benefit children, society and the public purse.

WAVE (Worldwide Alternatives to Violence Trust)
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