You will be aware of the article in The Herald on 25 October under the headline “Fears justice delays will let criminals walk free” and the accompanying editorial which was followed by a further article on 26 October.

I consider it necessary to write to the Committee to set the record straight in light of a number of misleading and erroneous assertions contained in this reporting around the submission by the Procurator Fiscal Society (PFS) to the Committee in relation to your scrutiny of the Draft Budget 2012/13 & Spending Review 2011.

Within the constraints on the public purse, COPFS has been given priority in the Spending Review. Its total budget in 2014/15 will be £108.7M compared with £108.2M this year.

You will know that COPFS aims to take a decision in 75% of cases within 4 weeks of reports being submitted by the police who aim to report 80% of cases within 28 days of caution and charge.

For the year to date COPFS is currently meeting the target in 84% of cases.

COPFS and the police also work closely together to ensure that cases which are reported are processed by both organisations to comply with statutory timebars.

COPFS has sufficient staff to deliver a modern prosecution service for Scotland. Although there have been recent localised increases in reports submitted to Procurators Fiscal, our use of modern IT systems to move the work around the country as necessary means that COPFS responds more effectively to such fluctuations than ever before.

There is no risk that our present staffing levels would lead to cases in our current workload becoming subject to timebar. The number of cases awaiting decision as at the start of this week amounted to just over 2 ½ weeks of the average weekly reports received from the police, which is normal and is an acceptable level of “work in progress”.

It is not true that COPFS has insufficient staff. By mid year this year COPFS had 513 lawyers compared with 505 in mid year 2009.

Nor is it true that there has been an overall increase in the number of cases reported to COPFS each year. The annual number of cases received by COPFS has decreased and has been running at below 280,000 since 2009/10 compared with 320,000 in 2005/06 (when COPFS had 433 lawyers).

The articles also made reference to COPFS not employing former trainee solicitors. It has never been the case that a legal traineeship with COPFS guaranteed a
permanent post upon qualification as a solicitor. COPFS have work which is ideally suited to legal trainees and see the operation of a training programme as financially efficient as well as providing crucial investment in the future of the Scottish legal system. We also see this as an opportunity to put something back into the profession and give high quality legal graduates the opportunity to qualify as a solicitor.

COPFS offers an excellent traineeship and all who have trained with us are well placed to apply for positions across the legal profession. The Law Society endorses that traineeships are vital to the future of the legal profession and appreciates and is supportive of our current approach.

Given the reported comments by other Members, I am copying this letter to the Justice Spokespersons.

I hope this information is helpful.

The Rt Hon Frank Mulholland QC
Lord Advocate
28 October 2011