

# **JUSTICE 1 COMMITTEE**

Tuesday 11 September 2001  
(*Afternoon*)

Session 1

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# CONTENTS

Tuesday 11 September 2001

Col.

INTERESTS .....	2625
CONVENER .....	2626
ITEMS IN PRIVATE .....	2627
PRISONS .....	2628

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## JUSTICE 1 COMMITTEE

23<sup>rd</sup> Meeting 2001, Session 1

### CONVENER

\*Christine Grahame (South of Scotland) (SNP)

### DEPUTY CONVENER

\*Gordon Jackson (Glasgow Govan) (Lab)

### COMMITTEE MEMBERS

\*Lord James Douglas-Hamilton (Lothians) (Con)  
\*Maureen Macmillan (Highlands and Islands) (Lab)  
Paul Martin (Glasgow Springburn) (Lab)  
\*Michael Matheson (Central Scotland) (SNP)  
Nora Radcliffe (Gordon) (LD)

\*attended

### THE FOLLOWING ALSO ATTENDED :

Bill Aitken (Glasgow) (Con)  
Phil Gallie (South of Scotland) (Con)  
Alex Neil (Central Scotland) (SNP)

### WITNESSES

Eric Fairbairn (HM Deputy Chief Inspector of Prisons)  
Clive Fairweather (HM Chief Inspector of Prisons for Scotland)  
Malcolm McLennan (HM Inspectorate of Prisons)

### CLERK TO THE COMMITTEE

Lynn Tullis

### SENIOR ASSISTANT CLERK

Alison Taylor

### ASSISTANT CLERK

Jenny Goldsmith

### LOCATION

The Chamber



# Scottish Parliament

## Justice 1 Committee

*Tuesday 11 September 2001*

*(Afternoon)*

[THE DEPUTY CONVENER *opened the meeting at 13:33*]

**The Deputy Convener (Gordon Jackson):** I will begin the 23<sup>rd</sup> meeting in 2001 of the Justice 1 Committee. I ask members to switch off their mobile phones and pagers.

Phil Gallie, a well-kent face to Justice 1 Committee members, and Alex Neil are with us today. I welcome them—no doubt they will take part in the meeting.

## Interests

**The Deputy Convener:** The committee has two new members: Lord James Douglas-Hamilton and Christine Grahame, who is making a comeback to the committee. I am to ask both new members if they have any interests to declare.

**Lord James Douglas-Hamilton (Lothians) (Con):** My interests are as in the register of interests; however, there are two that I should perhaps bring to your attention. I am an unremunerated director of Douglas-Hamilton (D Share) Ltd, which has interests in agriculture and property. I am also an unremunerated executor and trustee of my late father's will trust. There is some farming there, so that could be relevant if the land reform bill comes to the committee. Unlike you, deputy convener, I am a non-practising Queen's counsel. That might be relevant should the case of Scotland Against Crooked Lawyers come to the committee.

**Christine Grahame (South of Scotland) (SNP):** I have a registered interest. I am a member of the Law Society of Scotland, but I have not practised as a solicitor since about one month after coming to Parliament—I was working my notice. Although it is not very relevant, I mention for completeness that I am an elected member of the Royal Zoological Society of Scotland—I cannot think why that might come up, but I mention it just in case.

## Convener

**The Deputy Convener:** The second item on the agenda is the election of a new convener. I pay tribute to our previous convener, Alasdair Morgan. We have had two conveners—there appears to be a high burn-out rate in the committee. They were different in style, but equally good as far as the committee was concerned. We thank Alasdair for the way in which he dealt with the committee and handled a heavy work load.

We must choose a new convener. By a decision of the Parliament, the convener for the committee will come from among its Scottish National Party members. Can I have a nomination for a new convener, please?

**Lord James Douglas-Hamilton:** I nominate Christine Grahame.

**Michael Matheson (Central Scotland) (SNP):** I second that nomination.

**The Deputy Convener:** I ask Christine Grahame to confirm her willingness to take that task to hand.

**Christine Grahame:** I confirm that, deputy convener.

**The Deputy Convener:** I ask the committee to give its assent that Christine Grahame be the new convener of the committee.

*Christine Grahame was chosen as convener.*

**The Deputy Convener:** I hand the chair over to Christine in the expectation that I will never get in another word.

**The Convener (Christine Grahame):** Thank you, Gordon. We scripted that together, but you pre-empted me. I am poacher turned gamekeeper and I will be as taciturn in the role as I can. You can put me to the test on that.

There are certain matters to report to the committee. The first regards the Protection from Abuse (Scotland) Bill—that strange creature, the committee bill. The committee has delegated me to lodge some minor, tidying-up amendments in its name. If members have any difficulties with that they can come and see the amendments. However, I assure you that they are fairly minor.

The second point is that the legal services ombudsman from New South Wales in Australia is visiting Scotland next week. A meeting with members of the committee has been set up on 18 September at 2.30 in room 1.15 of parliamentary headquarters. It will give us the opportunity to speak to the ombudsman about how the regulatory system works in Australia and might provide useful information for the inquiry into the

regulation of the legal profession. Please will members let the clerks know if they are able to attend.

The third issue is to ask members to agree formally to take evidence from the Minister for Justice and the Lord Advocate, jointly with the Justice 2 Committee on 19 September, which is a taking-stock meeting about plans for the coming year and an assessment of progress to date. Do members formally agree to that?

**Members indicated agreement.**

## Items in Private

**The Convener:** Items 5 and 6 on today's agenda are the consideration respectively of the drafts of our annual report and the legal aid inquiry report. As is usual when discussing drafts, does the committee agree to take those items in private so that we can discuss the drafts and put them into reasonable shape?

**Members indicated agreement.**

## Prisons

**The Convener:** Agenda item 4 is evidence on prisons. At this breakneck speed, we will finish in no time.

I welcome Clive Fairweather and Eric Fairbairn—both of whom have been before the committee previously—to give evidence on the annual report of HM chief inspector of prisons. Clive Fairweather is HM chief inspector of prisons for Scotland and Eric Fairbairn is HM deputy chief inspector of prisons. Malcolm McLennan is inspector of prisons and David McAllister is the staff officer.

**Clive Fairweather (Her Majesty's Chief Inspector of Prisons for Scotland):** As your first customer, so to speak, convener, I congratulate you on being elected.

I appeared before the committee exactly one year ago to speak about my annual report for 1999-2000. I will start updating the committee on my opening statement last year by again paying tribute to the Scottish Prison Service's excellent record of maintaining secure custody.

I am much encouraged by further improvements in remand prisoners' conditions. What has been done at Edinburgh and Kilmarnock has been repeated at Perth and surpassed at Cornton Vale. Conditions in Barlinnie for adult remands are still wholly unacceptable, but there is some good news. Six weeks ago, after a delay of more than two years, work that will provide integral sanitation and electrical power in all its cells finally started in B hall. That work is due for completion next spring. Adult remand prisoners who are currently held in C hall will be transferred to B hall. At long last, therefore, remands throughout Scotland will live in uniformly decent conditions. I understand that, subject to the outcome of the estates review, similar refurbishment could follow in C hall at roughly the same cost—£3.7 million—and within the same time scale, with a possible opening towards the end of 2002 or very early 2003 for convicted prisoners.

That would be a quantum leap for Barlinnie. It would have three huge halls with integral sanitation and one of the best visit and staff complexes anywhere in the SPS. There would still be room for further development elsewhere on site. That is why Barlinnie is depicted on the report's front cover—Barlinnie and its staff are at the hub of and pivotal to the future of the entire Scottish Prison Service.

I have not seen, however, much progress in the delivery of a policy for young offenders that begins to meet the needs of the various communities throughout Scotland. Thus, young offenders at HM

Young Offenders Institution Polmont and, to a lesser degree, HM YOI Glenochil—which we inspected this week—remain a largely neglected group. Young offenders must be given top priority. That means providing them with much more purposeful activity and offending behaviour programmes. Court escorts often produce conflicting demands in respect of the manpower needed for them.

Last year, I mentioned two overriding concerns. First, there was a pervasive atmosphere of uncertainty among staff. That was created by the series of unprecedented prison closures, the estates review and hints of further closure or privatisation. I said that staff morale in a number of prisons was as low as I had seen it in six years. A year later, uncertainty about what central management is likely to propose in the estates review is still overarching. Staff morale continues to be the major issue. I do not think that it will necessarily improve overnight as a result of announcements about bricks and mortar. It is the future outlook and confidence of individual members of the prison staff that is important. In other words, the debate is about people and service, not just about new buildings, although it is clear that some will be needed.

The second concern a year ago was about how the Scottish Prison Service estate might cope in the short term, with its capacity so abruptly reduced, although I still hoped that an end to overcrowding might be in sight. In March 2000, two establishments were overcrowded, but in March this year we found, disappointingly, that five prisons were so affected. That has resulted in a return to deteriorating conditions and means that there will be fewer staff dealing with far more prisoners, a situation that might continue for some years unless there is a more immediate focus. With the management of prisons, the trick is how to get through the next few weeks and months and the next year, let alone the next decade.

With fewer staff, offenders may not be properly challenged in the controlled manner that we rightly expect. As important, they may not be given the sustained attention that is required to prepare them properly for release back into the community. That must surely be of great concern.

13:45

As of today, prison numbers remain unusually high, with little sign of any significant reduction, although sending the number of persons awaiting deportation to Dungavel will help slightly. As some committee members have found out first hand, the number of women being imprisoned continues to grow.

On a more positive note, I have been hugely

encouraged this year by the much lower number of deaths and suicides in custody. Generally, it would appear that Scottish prisons are becoming safer. For example, fewer serious prisoner-on-prisoner assaults were reported up to March this year, although reported violence against staff was higher than it was last year.

Overall, where are we now? Lack of knowledge about any plan for the future precludes a definite view on that. However, I would conclude by stating that restoring staff confidence through leadership and mutual co-operation will be vital in the months ahead, more especially during and after the estate review consultations.

I am here to answer questions. My report covers the period up to 31 March. We have, since then, mounted a formal inspection of Cornton Vale, and have made a number of unannounced visits to Aberdeen, Polmont, Edinburgh, Dumfries, Barlinnie and Low Moss and, more recently, we inspected HM YOI Glenochil and legalised police cells. I will try to draw from up-to-date information on those inspections where I can.

**The Convener:** The Justice 2 Committee is carrying out an investigation into women offending, women's prisons and young offenders. We may therefore be light on questions in those areas. I believe that you are set to appear before that committee in a few weeks' time, when those issues can be explored in more depth.

**Alex Neil (Central Scotland) (SNP):** Mr Fairweather, I refer to that part of your report dealing with Bowhouse prison in Kilmarnock. You state that there are high levels of misconduct and violence against staff, that there is a real problem with drugs and assaults, high levels of self-harm, low levels of staffing, high levels of staff turnover and a bullying culture in some areas. You also state:

"running a contract was not necessarily the same as running a prison."

From the picture that you paint of Bowhouse, is it fair to say that it is a bit of a disaster area and needs urgent attention? In particular, its staff turnover is three times that of other prisons in Scotland. You also commented on the inadequacy of the drugs policy. Focusing on those two issues, do you think that urgent action is required to deal with the situation at Kilmarnock?

**Clive Fairweather:** It is correct to pick out those points.

We highlighted two features that are outstanding at Kilmarnock. First is the general attitude of staff towards prisoners, which I want to commend. There are lessons to be learned. Uniformly, the prison staff at Kilmarnock deal with the prisoners in a much more customer-friendly fashion than

elsewhere. That is not to say that prisoners are not dealt with well elsewhere, but treatment is patchier. Secondly, we found that wages for prisoners were generally much higher.

Conditions at Kilmarnock are uniformly decent. The conclusion is that if you want a prison in which inmates live in decent conditions, are treated uniformly with respect and are paid high wages, using a privately run prison like Kilmarnock might seem to be the answer. Privately run prisons are also slightly cheaper to run, although we could perhaps come back to that.

We can talk in detail about the various aspects that Mr Neil touched on, although I am not so sure about drugs. Mr Neil highlighted that there is a problem with drugs at Kilmarnock. My problem is evidence. I think that we say in the report that, although we have concerns in other prisons, the drug taking that we found at Kilmarnock, according to the mandatory drug-testing figures, was not of that much concern. However, we did have anecdotal evidence of a lot of drug taking there. I suspect that the levels of drug taking may be higher than the evidence suggested, but I do not have the facts, which are often difficult to get—we are talking about anecdotal evidence. My suspicion is that the level of drug taking is probably quite high at Kilmarnock.

I will not speculate as to whether the situation is, as Mr Neil said, a disaster—that is not my role. However, I would agree that there are difficulties with self-harm and in a number of other areas. Most of all, I am worried about the number of staff at Kilmarnock and the high turnover.

As I understand it, one of the factors in running a private prison is that, in order to make a profit, the level of staff might be different. There are other reasons for fewer staff, such as better technology and so on. The wages paid at Kilmarnock are slightly lower than those paid elsewhere. I think that that contributes most of all to the high turnover.

What concerns me most about the high turnover is obtaining the continuity of experience that is needed to challenge prisoners. In the first year that we visited, 91 per cent of the staff had never been in the prison industry before. They all said that they did not receive much training. If, on top of that, you have a turnover as high as it is, there is no continuity of experience. That means—we said so in the report and I am willing to expand on that—that Kilmarnock is relatively weak on the correctional agenda. I do not think that it delivers as we would like. I think that we concluded by saying that the challenges in that area were more obvious in public sector prisons such as Peterhead, Greenock, Shotts, Glenochil and Edinburgh.

**Alex Neil:** I would like to deal with the staff issue in some detail—there are many other issues that I would like to deal with in detail, but I will be—

**The Convener:** I would like to let one or two other members ask questions.

**Alex Neil:** Yes. I will deal with the staff issue, because my constituency includes Kilmarnock.

The staff issue is critical. From the information that I have, a combination of factors lead to low staff morale and high staff turnover. Mr Fairweather mentioned wages. The fear of prisoners has been mentioned as another factor—that perhaps the prisoners are running the prison rather than the staff and that there is a culture of bullying of staff by prisoners. The staff are inexperienced, many of them are young and, as Mr Fairweather said, an extremely high proportion have no previous experience of working in a prison. What action should be taken to deal with the severe staffing crisis at Kilmarnock? It is clear that a staff turnover of 32 per cent cannot be reconciled with the achievement of the other objectives that you set, quite rightly, for Kilmarnock prison.

**Clive Fairweather:** You mentioned self-harm, of which there are some extremely worrying cases. We were told that some cases involved prisoners who were trying to avoid going to Low Moss, where the construction of the prison means that self-harmers are not usually taken in. However, we did not find that that was the case. That led us to conclude that there may be—we cannot prove it—a culture of bullying among prisoners, which often happens where there are drug and other taxing problems.

There are also difficulties with violence. Over the past few weeks, we have examined some quite worrying figures and I will ask Malcolm McLennan to speak about them in a moment. It seems that the likelihood of a prisoner being seriously assaulted in Kilmarnock could be as much as four times higher than in other prisons, such as Barlinnie. We will give you the figures in a moment.

You asked what should be done. The management of Kilmarnock will recall that when I delivered the findings of our first inspection a year ago—those findings were not made public—I concluded with words to the effect that slightly more staff were needed and that those staff might need to be paid a little more. In fact, I think I went a bit further than that and said, “You are paying these prisoners pretty high wages. How about transferring some of that money to your staff?” That information is anecdotal, if you like; I have never written it down. However, you asked me a question and that is what I think might be a solution. The problem is that I am not an expert on



manpower, manning and the like but, speaking as a layman, lack of better pay and training for the staff seemed to be the root of the difficulty.

There are excellent individuals among the staff, and I pay tribute to those whom I met—they are among the best people I have met. I left Kilmarnock feeling slightly sorry for them; I felt that they deserved a bit better. I also thought that they did not have good staff facilities. A year later, we found that the facilities had been improved, but the staff told us that they never have the time to use them. I believe that, as they work very hard. Irrespective of what comes out of my report, I would not want any slur to be cast on the staff at Kilmarnock.

**Malcolm McLennan (HM Inspectorate of Prisons):** Last year, we measured some of the establishments in order to compare them. Barlinnie, which has approximately twice as many prisoners as Kilmarnock, had 66 prisoner-on-prisoner assaults, while Kilmarnock declared 14 such assaults. In order to update those figures, we examined the figures for this financial year and found that, from 1 April to yesterday, there had been 26 reported assaults on Kilmarnock prisoners, in comparison with 31 reported assaults on Barlinnie prisoners. We then measured the serious assaults and made a worrying discovery: four of the assaults in Kilmarnock were declared to be serious assaults under the key performance indicator, while there were only two such assaults in Barlinnie. In the period that we measured, Barlinnie had 1,085 prisoners, while Kilmarnock had 548 prisoners. The figures for assaults on staff over the same period show that Kilmarnock had nine, whereas Barlinnie had 12. None of those assaults were declared to be serious.

**The Convener:** I have a supplementary question on assaults. My attention has been drawn to annexe 4 of your report, where you put a double asterisk against the figure for assaults on staff at Kilmarnock. The footnote says:

"At Kilmarnock, we have some reservations about how assaults were being classified".

**Clive Fairweather:** We have been over that before. We tried to work out what a serious assault is and to work out statistics. When we went to Kilmarnock, we examined some of the incidents. We felt—we are not experts—that some of them should have been classified as serious. After fairly long discussion with the Scottish Prison Service, which monitors the figures, one of the assaults at Kilmarnock was declared serious. I am pretty certain that the officer concerned would have thought that it was serious.

We have some reservations. Other assaults at Kilmarnock might have been classified differently.

**The Convener:** How many ought to have been

classified as serious? You have said that one was. What was it?

**Clive Fairweather:** I have a feeling that at least another couple of assaults should have been classified as serious.

14:00

**The Convener:** What incident became classified as serious assault that was not previously classified as serious? What was the damage?

**Eric Fairbairn (HM Deputy Chief Inspector of Prisons):** Any assault—be it somebody being pushed or jostled, or somebody receiving broken bones or a broken nose—would be reported as an assault. It would then be measured against set criteria to be classified as a serious assault.

A number of incident reports were submitted from Kilmarnock. We read those reports and they suggested to us that the incidents met the criteria for a serious assault. We raised those issues with the SPS headquarters. They said that they would reconsider the classification.

In the incident that was reclassified, if I recall correctly, an officer received a broken thumb. In another incident, somebody was punched in the mouth and his tooth was broken, and another officer may have wrenched or dislocated his shoulder. I think that the one that was reclassified as serious assault was because of a broken thumb.

**The Convener:** Phil Gallie wants to ask a question. Is it about Kilmarnock?

**Phil Gallie (South of Scotland) (Con):** Yes, it is.

**The Convener:** I do not want Kilmarnock to hog the discussion, but we have such difficulty finding out about the prison.

**Phil Gallie:** We spoke earlier about the drugs problem at Kilmarnock. You suggested that there is a suspicion that there is a high level of drug taking. Is that suspicion based on the fact that Kilmarnock has a high proportion of short-term prisoners? It is much easier for short-term prisoners to take in drugs.

I know that Kilmarnock has a reasonable level of security for visitors. The prison tries to maintain as lax a possible a regime but, at the same time, it appears to be thorough. Could you concentrate on the number of short-term prisoners and the visitor arrangements at the prison?

Something like £10 million of extra money—a considerable sum—was made available to the Scottish Prison Service for use in the battle against drugs in the service, but Kilmarnock was excluded. It was pointed out to me that that was

because the prison was already on a contract. You have pointed out some of the contractual difficulties for the operators. At the same time, they have difficulty in securing extra funding.

**Clive Fairweather:** I will answer the last bit first. As I understand it, the £10 million for the SPS that is committed to fighting drugs over, I think, the next three years does not apply to Kilmarnock. That is how I understood it when we inspected. Perhaps the situation has changed. We felt that it was unfair. Kilmarnock should be given the resources to tackle the problem. That is all a matter of contracts and the like.

The reasons that there might be more drug taking in Kilmarnock are a little bit more complicated than just the number of short-term prisoners. There are many possible factors. I do not think that it is necessarily due to lax security by any means—they have some good technology at Kilmarnock. Not least of the other factors is the fact that the prisoners have high wages. It is laudable that the prisoners' wages are high at Kilmarnock, but those high wages produce more money for prisoners to go out and pay for stuff to come in.

The surrounding countryside is also a factor. Access to dealers might be slightly easier in Ayrshire—I am beginning to get into tricky water. At the end, I had to make my conclusion from the only evidence that was available to me—the mandatory drug-testing figures—and quote that. We must be careful to avoid the Parliament's getting into smears, which I do not want to do.

**Malcolm McLennan:** Short-term prisoners have no effect. Barlinnie probably has the lowest positive mandatory drug sample in Scotland. In the past year, the figure was 6 per cent; recently, it rose to 9 per cent. That is approximately half the figure at Kilmarnock, yet Barlinnie has a higher throughput than any other prison. The front-line security that is employed at Barlinnie is quite staff-intensive, which may be a factor.

**Phil Gallie:** The inexperience of some staff in a new prison was referred to. Kilmarnock remains a relatively new prison. Does the way in which Kilmarnock has developed in the past year or two compare favourably with the way in which Shotts—the last new SPS prison—developed?

**Clive Fairweather:** I ask my deputy to answer that question. He was involved when Shotts came on-stream. Shotts had considerable problems, and the SPS learned lessons from that. Kilmarnock learned lessons too.

**Eric Fairbairn:** When Shotts phase 2 opened in 1987, the circumstances were different and difficult for the SPS. The prison had to open and relieve overcrowding in Perth, Barlinnie and other local prisons. Shotts opened and quickly went

from a small number of prisoners to a large number. The time that was available for staff who had been posted in from other establishments in Scotland to get together and agree a Shotts way of working was curtailed.

The SPS learned the lessons. The opening of Kilmarnock was more planned, structured and successful. Long-term prisoners were selected for the prison. I was at Barlinnie when prisoners were selected for Shotts. The idea then was "He's a long-term prisoner, put him on the bus". The lesson was well-learned and contributed to the success of Kilmarnock and the SPS.

**Clive Fairweather:** As a layman, I will feel that we have a wholly successful prison on our hands when staff turnover reduces and continuity is in place at Kilmarnock. At present, I want to measure the turnover rate most. That is a weakness.

**The Convener:** I am letting the questions run on a bit, but the committee should return to Kilmarnock if it wishes. A visit there is possible. We may wish to return to the issue, but I do not want the whole meeting to stick on Kilmarnock.

**Michael Matheson:** As a committee member who joined the inspectors on their inspection of Cornton Vale, I thank the inspectors for that. The visit was extremely informative and worth while. It was clear that the inspectors put much time and effort into arranging that visit for us.

I will return to the classification of assaults. Is a standard system in place at all prisons in the Scottish Prison Service for reporting assaults and classifying them as general or serious assaults? Does that system apply to Kilmarnock?

**Clive Fairweather:** Yes. We have had a few difficulties with the system, which members can read about in the footnotes to the report.

**Michael Matheson:** Have the difficulties with classifying assaults at Kilmarnock been experienced at other prisons?

**Clive Fairweather:** They have not been experienced to the same extent. A footnote in the report refers to the issue. I do not know how it happened but, at one stage, 15 serious assaults were reported, one of which—at Kilmarnock—we spotted and reclassified. However, we found that the figure for serious assaults then dropped back to 14 after an assault at Low Moss was reclassified. I might have a suspicious mind, but I think that the key performance indicator figure for expected assaults last year was also 14. I apologise if that sounds as though I am putting in the boot, but we have had difficulties. I hope that we will not have such difficulties in future.

**Michael Matheson:** I remember that we had a similar discussion when you presented last year's report to the committee. Why is there such a

persistent problem with the classification of assaults at Kilmarnock if criteria have already been established across the service?

**Eric Fairbairn:** Criteria have been established that are applied across the service. The issue was raised with the SPS last year and, after agreeing that the reporting system was less than perfect, it introduced some changes to ensure a consistent method for gathering information and analysing what was reported against the criteria. Although we were optimistic that the system was working across the SPS and Scotland's prisons, the changes to the figures indicate that it is not all that it could be.

**Michael Matheson:** Is the SPS continuing actively to monitor the system, or will we find ourselves identifying a similar problem in next year's report?

**Clive Fairweather:** I hope that this is an end to the problem. It has taken a little bit longer than we thought it would.

**Alex Neil:** If we read between the lines, would it be fair to say that you suspect Kilmarnock of trying to fiddle the figures?

**Clive Fairweather:** You said that.

**Alex Neil:** You have not denied it.

**Clive Fairweather:** I do not know whether that is the case.

**Alex Neil:** But you have a suspicion.

**Clive Fairweather:** I came across an incident in which someone had dislocated a shoulder, or something like that. The status of that incident had been reduced from serious assault, but I think that the assault was probably quite serious for the officer concerned.

**The Convener:** I have a final point on comparators as far as Kilmarnock is concerned. Access to data and information on Kilmarnock has proved to be very difficult for members of the committee—indeed, for MSPs. When I took the trouble to find out how many written questions have been lodged about Kilmarnock, I discovered that the figure is more than 70. We cannot find anything out because Premier Prison Services has all the information. Have you had the same difficulty in accessing such information? You seem to be alluding to such a problem in your answers.

**Clive Fairweather:** We had some difficulty to start with. For example, on one famous occasion, which was reported in the media, we were told that publishing the staffing levels would breach commercial confidentiality. Things became quite tricky, and we did not publish the figures at the time. However, we managed to publish those figures later.

Although we are receiving slightly better answers, we have to dig a little bit for them.

**The Convener:** Can you tell me whether that is right?

**Clive Fairweather:** The problem is not just Premier Prison Services; there are difficulties with the interface with SPS, which has a controller and staff monitoring the situation at Kilmarnock. Perhaps things have improved a little two years on; however, we need more transparent information.

**The Convener:** It was very difficult for the committee to find out the cost of a prisoner place, although we now know the difference between that and the cost for each prisoner. However, one of the earlier answers that I downloaded was £11,000 and a later one was £23,000. You have already mentioned the problem in passing. Now that the whiff of private prisons might be in the air—although I do not know whether that will happen—are you concerned by the committee's difficulties in accessing information that might allow us to form a view? Perhaps our ability to do so is even less than yours.

**Clive Fairweather:** The difficulty in accessing information on costs is an important issue for the committee and the Parliament, although less so for me as I am not an auditor. We did have some difficulty with that but, as I say, I am hopeful that we will get more information from Kilmarnock prison in the future.

**The Convener:** There is time for two more small questions on the subject. Members should bear in mind that we can invite the inspectorate back to discuss Kilmarnock, so it is not the last bite of the cherry.

**Phil Gallie:** I accept that, but I would hate to have put out the impression that all was bad at Kilmarnock. I would like to draw the committee's attention to pages 38 and 39 of the report, in which best practice is listed. There are 12 points that are listed as having been found to be best practice at Kilmarnock, whereas the whole of the rest of the Scottish Prison Service can only muster another 12 points. Is that by chance, or has Kilmarnock got it right in several areas?

14:15

**Clive Fairweather:** To take that on a little bit, after we carried out the inspection at Kilmarnock in May, we also inspected Cornton Vale. There were certainly 10 examples of best practice at Cornton Vale, if not more. To a degree, the list of best practice simply reflects the way that inspections happened to fall last year. There were some innovative things at Kilmarnock prison. We have also commended its health centre, although,

again, if one were to score points, I should point out that the public sector health centre at Polmont has just been awarded a charter mark, the only one in the UK to be so awarded.

I have always said that there are good things at Kilmarnock, just as there are good things in the public sector. Both need to learn from those examples.

**Alex Neil:** In the light of the evidence that we have heard, we must all be very concerned about what is going on at Kilmarnock prison. I suggest that the committee give consideration to summoning the senior management of Premier Prison Services to the committee to answer the questions that neither the minister nor the SPS can answer.

**The Convener:** That is a matter that the committee could consider when it decides how to take its investigation further. We can return to that issue. Members have questions on other issues in the report.

**Alex Neil:** Thank you for your indulgence, convener.

**The Convener:** You have made your mark.

**Maureen Macmillan (Highlands and Islands) (Lab):** I have some questions about rehabilitation programmes in the prisons. I notice in your report—and I have seen—some of the rehabilitation programmes that are under way. In Barlinnie there was a programme for sex offenders and programmes to try to divert people from violent behaviour. There is also the drug rehabilitation issue.

I am particularly interested in education in prisons. The only time that that is mentioned positively in your report is in relation to Inverness prison, where you say that it makes a “significant contribution” to the regime there. The report mentions distance learning and access to the University of the Highlands and Islands. Education is important to the development and rehabilitation of many offenders, because they may have difficulties with literacy and numeracy. Do you think that enough is being done to address that? I know that it is not always possible to interest prisoners in education. Do you have some idea of attempts to interest the prisoners in literacy and numeracy programmes that might help them in the future? That is very important for short-term prisoners.

**Clive Fairweather:** My own view as a layman is that numeracy and literacy are the No 1 things for many prisoners. That is where the education service starts, particularly for young offenders and prisoners serving short sentences. I take round with me an education adviser, a former headmaster, who considers dispassionately the

way in which the contracts are run. Generally, we are reassured by what we see. We would like to see more resources, but what we see is run quite well. Some of the facilities are not too good—Greenock was mentioned. The problem for everyone is the question of resources. In England and Wales, one hears a lot about how education in prisons is not very good. Generally, I am not disheartened by what I have seen. Perhaps Eric Fairbairn wants to add to that.

**Eric Fairbairn:** In Scottish prisons, education is contracted out. A number of further education colleges provide classes. Because the education is provided under a contract, it is measured and, because significant sums of money are involved, an effort is made to get people to classes. As the chief inspector said, we are generally encouraged by the attitude to education. Over the course of the next year, we will consider whether more could or should be done.

**Maureen Macmillan:** I will be interested in what you have to say in the next report about education, which is, I feel, significant in the rehabilitation of prisoners.

**Clive Fairweather:** There is still a huge amount of work to be done on rehabilitation and the corrections agenda. In the various prisons, we try to measure safety and decency and, more and more as the decency element is beginning to be addressed, we ask what the prison is doing to cut down on the future number of victims of crime. That comes down to the big word, rehabilitation, which means what the prisons are doing to prepare prisoners for release to stop them committing further crimes. There is a huge amount of work still to be done there.

**Maureen Macmillan:** Is it part of your remit to take any notice of what happens to prisoners after they leave prison, or does your remit stop at the prison gate?

**Clive Fairweather:** My remit just about stops there, unfortunately. We hear anecdotal evidence, but no more than that.

**Maureen Macmillan:** I am also concerned that there is nothing for the ex-prisoner to move on to from the good work that can be done inside the prisons.

**Clive Fairweather:** I hope that, as we get a bit more joined up in the justice department, that might come. My remit stops at the prisoner's release.

**Eric Fairbairn:** I know that the SPS is looking to track individuals after their release to see what the reoffending rate is and the extent to which their education is continued in other courses. It was disappointing to note that the SPS's outturn was less than target. The SPS failed to meet that

target. The target concerns drug relapse, anger management and a range of other programmes to reduce reoffending.

**Maureen Macmillan:** Obviously, it is all interlinked.

**Lord James Douglas-Hamilton:** Convener, in the interests of simplicity and brevity, may I ask all my questions together, which will be very brief?

**The Convener:** That was said so charmingly, how could I refuse?

**Lord James Douglas-Hamilton:** I thank the chief inspector for his helpful report. First, how long does he think it will take to phase out slopping out from Scottish prisons? Are we behind other countries in that respect?

Secondly, does he regret the dispersal of the expertise at Peterhead sex offenders unit, which—by all accounts—has been a particular success? Will he give us his assessment?

Thirdly, he makes reference in his report to “an unprecedented number of prison closures”.

Will he say whether contingency plans are in place to accommodate whatever number of prisoners might result from a sudden rise in the number of prisoners? Is he satisfied that the prison system could cope with a considerable increase, if that was the disposal of the courts?

Fourthly—

**The Convener:** I hope that this is the last point.

**Lord James Douglas-Hamilton:** I hope so.

Fourthly, the chief inspector published a press release a few days ago that appeared to be critical of some of the courts' disposals of women offenders. What exactly did he have in mind? Does he have any reason to suppose that community service orders and supervised attendance orders are not being used because of a lack of resources? Is he satisfied that everything possible is being done as far as drug prevention and educational rehabilitation programmes are concerned?

**Clive Fairweather:** I will answer the last question first. On drug prevention, the report says that we are generally satisfied with the direction that the Scottish Prison Service is taking—it has taken some measures and the resources involved are considerably more than they were three, four or five years ago. We could always do with more resources but the SPS is going in the right direction in tackling the drug problem in prisons.

Approximately 80 per cent of prisoners enter prisons with a drug problem but the figure suggested by random mandatory drug tests is much lower—between 15 and 20 per cent. That

shows that there is an effect. First, imprisonment stops people taking drugs far more than might be thought—it is not a case of people getting all the drugs they want in prison. Secondly, resources are marshalled to try and prevent individuals from taking drugs. We have to take heart from that.

On women offenders, the recent report that we published about HMP and YOI Cornton Vale has a number of annexes, one of which shows that community service orders are being taken up more than they have been in the past. I cannot say about supervised attendance orders. It still seems that about 50 per cent of the women in Cornton Vale are petty offenders. In some cases, it might be better to use more CSOs or SAOs or electronic tagging. Electronic tagging might be a good idea, especially as there has been a pilot scheme and it will now be used across Scotland. It should be borne in mind that up to 70 per cent of the women in Cornton Vale have children. The fact that the women could be electronically tagged and imprisoned in their own homes is attractive, especially as it would be cheaper—it would cost about £5,000 for six months as opposed to between £17,000 and £18,000 at Cornton Vale.

I first inspected the sex offender treatment programme at Peterhead in 1995 and I have examined similar programmes in Canada. I have been back and forth to Peterhead and we have consistently said that we are impressed with the programme. It is one of the best examples of a prison and its staff trying to reduce the number of future victims of crime. It is not just a namby-pamby course; it is a tough one-year course delivered by prison staff. Peterhead is one of the few prisons where such a course is delivered by prison staff and not just specialists. I have been impressed with what goes on at Peterhead, as have a number of other observers.

If the programme were ever to be moved, there would be a question about whether the expertise could easily be moved and how long it would take to build up the expertise elsewhere. I have my doubts. The public would be particularly concerned about persistent sex offenders. At the moment, Peterhead is one of the leading proponents of dealing with long-term sex offenders. Short-term sex offenders might be dealt with differently but we have come across difficulties with that elsewhere. Where possible, people and resources should be concentrated to try and change the offending behaviour.

The answer to the question about contingency arrangements and the fact that there is overcrowding comes in two parts. The first is about finding the physical space for individuals, but that problem can always be addressed. The more difficult problem for the Prison Service is staffing. More staff cannot simply be conjured up if

the number of prisoners continues to increase. That is the underlying penalty that I talked about in my opening statement when I mentioned overcrowding. For the foreseeable future, fewer prison staff will be looking after an increasing number of prisoners. The main difficulty lies more there than in the lack of physical structures.

14:30

I was asked a question on how long it will take to deal with slopping out. As of today, close to 950 prisoners—I think the figure is 957—are faced with slopping out. The majority of them are in Barlinnie prison; in C hall at Perth prison, which is for short-term prisoners; and in two or three halls in the Edinburgh prison—the problem still exists there. That issue is separate from the problem of porta potties, which is a slightly different matter. Slopping out will end for remand prisoners at Barlinnie when the new B hall is opened next spring. If Barlinnie were to open another new hall, we would be a long way towards tackling the problem, although the problem in one further hall would need to be addressed.

Perth will continue to be a problem and I am not sure what Perth prison's plans are. The situation in Edinburgh is looking optimistic, as another house block is due to be built there. Further into the future, Edinburgh also has vague plans for another house block. If that is the case, slopping out-only blocks could be demolished. There is hope for Edinburgh. Perth will eventually solve the problem, as should Barlinnie. The solution to ending slopping out is at least three to four years away.

Separate from the issue of slopping out is the situation for prisoners who have porta potties. They are not quite in the same category, as they do not involve the demeaning and degrading business of prisoners having to slop out twice a day in front of staff. Although there are porta potties in cells, they are chemical and can be emptied less frequently. That means that the practice is not as degrading as slopping out. Close to 600 prisoners use porta potties, including those at Peterhead, Glenochil YOI and Polmont.

I understand that we are to see an end to the practice at Polmont, provided that new house blocks are built there in the next 18 months. No date has been set for Glenochil YOI, but we may see the end of the use of porta potties there in the next couple of years. At Peterhead, there is no immediate prospect of the practice ceasing.

One suggestion—made by staff and prisoners—in the report was for a cheaper electronic unlocking system, so that prisoners could have access to WCs at night. Although it sounds as if it is not possible to get away from slopping out, it would be possible with more staff. The bill would

be huge, but more staff in any of the prisons would allow more people to be let out at night and at weekends. At the moment, that is not in the Prison Service budget.

**Lord James Douglas-Hamilton:** I have a brief supplementary question. If the inspector had to give his best estimate of when slopping out will have been entirely phased out of the prison system, what would be his most optimistic estimate?

**Clive Fairweather:** Not before 2005.

**Lord James Douglas-Hamilton:** Is the Executive open to persuasion on the subject?

**Clive Fairweather:** I do not know.

**The Convener:** I do not think that that is a question for the inspector.

**Maureen Macmillan:** I would like an explanation of the mechanics of the unlocking system.

**Eric Fairbairn:** The prisoners at Peterhead are in general a compliant group. An electronic unlocking system has been suggested to allow individuals to be let out of and to return to their cells at night so that they can go to the toilet. The measure would remove the need to rebuild or put integral sanitation into cells, which some prisoners do not like as they do not like to live in a toilet. The system might be a quicker and, relatively, cheaper way of achieving night sanitation.

**Maureen Macmillan:** That would mean that an officer would not need to go to a cell and unlock it manually. Is that a possibility for other prisons that are affected by the lack of night sanitation?

**Eric Fairbairn:** Difficulties arise depending on the type of prisoner. I would have my doubts about electronic unlocking in a young offenders institution, as the prisoners tend to be young and impulsive—they are half-daft and can get up to mischief when they are let out.

**Maureen Macmillan:** They would need to be escorted.

**Eric Fairbairn:** Yes. The system works well at Glenochil, which is an adult prison. A similar system could work well at Peterhead prison, if it could be put in place.

**Clive Fairweather:** That would cost around £500,000 or £750,000.

**Michael Matheson:** I want to talk about the estates review, as I am conscious that uncertainty about it may impinge on a number of the issues that have been raised so far.

As you say in this year's report, last year's report said that the issue that had the greatest impact on the Scottish Prison Service was staff rationalisation as a result of the estates review.

You note that, a year on, it is disappointing that we are no more aware of what the recommendations of the estates review might be. Will you expand on that, particularly on the impact that it is having on the SPS? I am aware that there are a number of facets to the issue, including staff morale. I find it difficult to see a clear direction in the SPS because of the delay in the publication of the review. Do you have any idea why there has been such a delay?

**Clive Fairweather:** I do not know any more than you do, but I presume that the figures have gone back and forth and have been sent to independent assessors to ensure that they are as accurate as possible. I imagine that a number of options have been put forward. Perhaps there are political difficulties as well—I do not know, as I do not know what has been proposed. When I say this, I will sound like a typical military man, but I seem to recall that we got a task force to the Falkland islands based on a week's calculations. I can only imagine that the estates review will result in quite a task force. Perhaps that is the reality of the commercial world. We must bear in mind the fact that we are talking about making large commitments of public funds, so it is right that the figures and the proposals are checked as thoroughly as possible.

The impact of the situation varies. Morale in prisons that are unlikely to be privatised or closed—Shotts and Glenochil, for instance—is not too bad. Even so, officers are uncertain whether they will be transferred to another prison and so on. We do not get far beyond that when we talk to staff. Having said that, I found the staff at Barlinnie to be fairly sullen last year, but on a recent visit I found morale to be higher, perhaps because of the work being done in B hall. There is a lot of cynicism and other difficulties among officers. As I said in my opening statement, that will not suddenly evaporate, although it will eventually disappear. There will be tricky times following the publication of the estates review. I imagine that, in a year's time, the problems will still be with us.

**Michael Matheson:** Given that we do not know what the result of the estates review will be, I have difficulty with the fact that work such as the upgrading of Barlinnie is being done. There was speculation that, following the estates review, Barlinnie might not remain open. You mentioned that slopping out may not end until 2005. I find it difficult to understand why work is being done in the context of what could be a lengthy and controversial consultation exercise that could recommend for example the closure of Barlinnie and Perth prison.

It is difficult for me to understand how we can see the future until we know what is in the estates review and what issues have to be dealt with now,

so that we have an idea of the direction in which we are going.

**Clive Fairweather:** The publication of the estates review is not far away. Ministers and the Prison Service must be having difficulties in completing it, because they know as well as anyone how important the review is. As I said in my opening statement, whatever solutions the estates review contains as far as buildings are concerned, it will take some time to implement them. I want to focus on dealing with the problem that we face in the next two years. There needs to be a great deal more emphasis on how the buildings and the staff—especially the staff—will cope during that period.

**Michael Matheson:** I am conscious of the impact that the uncertainty has on staff morale—you note that in annexe 1 of your report. There has been an increase in staff turnover at Edinburgh prison and at Barlinnie, which has increased pressure on the staff who are still working in the system. The number of assaults has also increased. Has the uncertainty to which you referred led to the higher turnover of staff? Is that producing situations in which we do not have the right staffing levels?

**Clive Fairweather:** Not necessarily. People working in prisons tend to say that they are fed up, that they are leaving and so on. Until a couple of years ago that might not have been the case. There has been some haemorrhaging of staff, particularly at Edinburgh prison. That may be due partly to the fact that in Edinburgh there are significantly higher pay rates in the police force, which is recruiting. The same applies up in Grampian and at Aberdeen prison. The situation is not quite as simple as the member's question suggests.

I do not know whether there is a connection between high staff turnover and the number of assaults, but I have my doubts. As a professional prisons man, Eric Fairbairn may be able to address that issue.

**Eric Fairbairn:** Staff turnover has been particularly high in places such as Edinburgh and Aberdeen. Those involved are generally operations staff—front-line security prison officers—who leave to join the police because they feel that in future there will be limited opportunities for advancement and a career in the Prison Service. They are voting with their feet.

We do not have figures that would enable us to say whether an assault took place because a prison was short of staff or posts were not covered.

**Michael Matheson:** Is it fair to say that some of our prisons do not have an adequate number of operational staff?

**Eric Fairbairn:** A number of prisons are under complement. The situation at Edinburgh prison is probably the worst. The SPS aims to address the problem by sending staff from prisons where there are small staff surpluses on detached duty to places such as Edinburgh. Staff are also working extra hours to cover posts and are restricting the regime, which is regrettable. Recently we visited Aberdeen prison, where the work sheds were shut and the prisoners were not engaged in purposeful activity because staff were needed to cover escorts to courts and hospitals and the like. Because of that, prisoners were not going to offending behaviour programmes or to work sheds. That makes the situation more difficult and increases tension. If we cannot move prisoners about, they get bored.

**The Convener:** We will take a final short question from Michael Matheson. Members are taking advantage of my good will today. It will not last.

**Michael Matheson:** It is interesting that Eric Fairbairn should say that in some prisons there is a shortage of operational staff. The figures with which we have been provided indicate that the number of operational staff in prison establishments is down by about 300 on last year. We have fewer prison officers now than we had last year. Is that correct? I am looking at annexe 1 of your report.

**Eric Fairbairn:** I make the figure 406.

**Michael Matheson:** I was talking about the overall figure for prisons.

**Eric Fairbairn:** In prison establishments, the number of operational staff is now 4,148, compared with 4,554 last year.

**Michael Matheson:** So the overall number of prison officers is down on last year.

**Eric Fairbairn:** Yes. That reflects the closure of Penninghame, Longriggend and Dungavel prisons, as well as the mothballing and rationalisation of institutions such as the Peterhead unit, the Shotts unit and the national induction centre.

**Michael Matheson:** The surprising aspect is that there has been a staff increase of nearly 30 at the Scottish Prison Service's headquarters.

**Eric Fairbairn:** Twenty-eight.

**Michael Matheson:** Yes. The SPS has fewer places to manage, but seems to require more staff. Do you know the reason for that?

**Eric Fairbairn:** I understand that temporary staff have been recruited to deal with the planned movement and changes. I would be surprised if that number of staff remained or if the growth in staff continued.

**Gordon Jackson (Glasgow Govan) (Lab):** A couple of details struck me while reading the report, particularly about Cornton Vale. Frankly, I did not know that there is no open facility for women. Women prisoners who are working their way through the system cannot get open conditions prior to final release, as men can. Is there a way round that situation? Do we consider it important?

14:45

**Clive Fairweather:** We hope that there is a way round that. We have been discussing the matter for a long time. Male prisoners can progress from a long-term prison to open prisons such as Noranside or Castle Huntly. Prisoners are able to work in the community, go home for the odd weekend and so on.

Accommodation is the problem at Cornton Vale. It is hoped that category D women prisoners can be housed in old accommodation quarters near Cornton Vale. Quite a few women would qualify for that. However, until we have the accommodation, there is no facility for having open conditions. Some of the category D women work in the community, but are locked up in the prison at night. There has been a lot of dialogue about having open conditions in the new quarters, but there are legal difficulties and other matters to overcome. I am hopeful that we will get there.

**Gordon Jackson:** I take it that the Prison Service shares our concern about the matter and has indicated that it wants to do something about it.

**Clive Fairweather:** Yes; it wants to do something. That highlights a point that we have made before about women offenders: generally, they are discriminated against because of their small number.

**Gordon Jackson:** You mentioned category D. Another point that I picked up in your Cornton Vale report is your suspicion that there is over-categorisation of prisoners. Too many are categorised as category B who should be of a lesser categorisation. I have two questions about that. First, how does such over-categorisation happen? Secondly, is that another situation that is exclusive to women prisoners, or do you suspect that it applies throughout the prison system?

**Clive Fairweather:** I will answer, but Eric Fairbairn and Malcolm McLennan might want to add something.

When I was investigating remands, I asked—and continue to ask—why a remand prisoner is automatically designated as category B, irrespective of their offence. Alleged murderers are—rightly—remanded as category B, but so are



petty offenders. That situation, it seems to me, needs to be reviewed, because huge amounts of money are spent to keep an alleged petty offender as a remand prisoner. I am told that one reason why a prisoner is automatically made category B is that they might have other offences and charges outstanding. I am not convinced by that explanation.

I believe that the SPS is conducting a review of the categorisation of male and female prisoners, but a report and a solution are some way off.

**Gordon Jackson:** But that is an across-the-board problem.

**Clive Fairweather:** Yes. Eric Fairbairn might want to add something.

**The Convener:** He has been sitting quietly since his introductory remarks, so perhaps he has something further to say.

**Gordon Jackson:** Mr Fairbairn was about to say something.

**The Convener:** It is not obligatory for him to say more.

**Eric Fairbairn:** Over-categorisation is an across-the-board issue, as Clive Fairweather said. One reason why some prisoners are categorised as needing higher security precautions is, perhaps, the facilities. The bricks and mortar tend to be of a fairly high security standard, and staffing levels reflect that. More staff are required for high-security prisoners than for low-security prisoners. If the building is the same, there is little to be gained by reclassifying a prisoner as category C instead of category B, for example. The regime is constrained by the building and by the staffing levels. If category B and category C prisoners are mixed, the highest common denominator will be reached and it will be ensured that all prisoners are subject to the level of supervision that applies to the higher-security category.

**Gordon Jackson:** On a slightly connected point, people often think that all women prisoners are held in Cornton Vale, but they are not: some are held in Dumfries, Aberdeen and Inverness. You have given us a clear idea of conditions in Cornton Vale, and of the fact that the women have their houses, units and so on. What is the situation like for women prisoners who are, in effect, held in male jails? Is it good? Is it bad?

**Clive Fairweather:** I will try to keep my answer as short as possible. It was the inspectorate that recommended that some of the women be held in Dumfries, Aberdeen and Inverness to be closer to their homes and families. That generally applies only to a certain number of women, particularly those with a sentence of less than two years. Some women may go to Inverness from Cornton Vale at the end of their sentence; some never go

to Cornton Vale, but are held in Inverness.

There is a real problem with this and, as an inspectorate, we have been hoist with our own petard. There is no doubt that women have preferred being held at those three locations, because they get their family visits. On the other hand, because of the small number of women, all three locations suffer from what in inspectorspeak are called impoverished regimes.

**Maureen Macmillan:** Boredom.

**Clive Fairweather:** There are about 10 women in each location and it is not possible to provide the work and so on that they could expect and would get at Cornton Vale. They tend to be given rather demeaning work just to pass the time. The governors at those prisons all recognise the situation and do their absolute best for the women, but housing the women there is not the ideal answer, and we have suggested that the situation be re-examined. The same problem has arisen in other countries.

Because of the small number of women who are criminal offenders, the resources do not exist at those prisons to meet their need for support. If women are dispersed, however, it leads to real problems. That is why Cornton Vale is concentrated, but it is in the wrong place—or at least it was. At one stage, the majority of its inmates came from Strathclyde, although that is changing. It can concentrate its resources, and can do something for the women in the area, but there is a distance problem for women who come from the Highlands and Islands and the Borders.

I hope that that answers your question. To sum it up, the women in the three outlying prisons that I mentioned do not have the regime that they could properly expect.

**Gordon Jackson:** When you used the words “impoverished regimes”, a voice in my ear said “boredom”.

**Clive Fairweather:** That would be absolutely fair.

**Gordon Jackson:** I take it that there is nothing for the women to do.

**Clive Fairweather:** They try to do things, but they get nothing near what they get at Cornton Vale.

**Gordon Jackson:** So—

**The Convener:** I am sorry to interrupt, but the Justice 2 Committee is due to carry out a detailed examination of women in prisons, so we could—

**Gordon Jackson:** Go along and annoy members of that committee about it.

**The Convener:** Yes. We can leave it—

**Gordon Jackson:** May I ask one more question, on a different subject?

**The Convener:** Yes.

**Gordon Jackson:** You made a number of recommendations on remand, some of which were knocked back by the powers that be. One of those recommendations was for a senior manager at headquarters who would oversee the whole remand thing and co-ordinate

“a coherent national policy for remand prisons”,

as you call it. That struck me, in my simple way, as quite sensible. What was the thinking behind that—that is perhaps an obvious question—and why do you think that your proposal was knocked back?

**Clive Fairweather:** The thinking behind that was accountability. If there is someone in charge of the remand side, that person can be approached and told that certain provisions need to be better. Otherwise, things can get fudged.

As to why the proposal was not taken on, I refer to the previous mention of more people working at SPS headquarters and so on. Perhaps it was not felt that paying somebody else a huge salary to take on that role was the answer; anyway, the recommendation was knocked to one side. I still stand by the idea that a named individual must be accountable for remands. I cannot say who is the named person in SPS headquarters to whom I can go and say, “Come on. Remands need better.” If I searched, I would eventually get to somebody, but I do not go to them directly.

**Gordon Jackson:** On accountability, I was thinking about getting the job done better. Would the system work better if someone co-ordinated—

**Clive Fairweather:** The system will work better once someone is accountable.

**The Convener:** I think that you are both saying the same thing.

**Clive Fairweather:** Yes.

In general, remand conditions have improved quite quickly. I have seen a big sea change in just over two years.

**Phil Gallie:** My question follows from what Gordon Jackson said. What percentage of remand prisoners are reoffenders? What percentage have been sentenced and released early?

**Clive Fairweather:** I do not have figures on that.

**Phil Gallie:** Can you find out?

**Clive Fairweather:** We probably could.

**The Convener:** A parliamentary question could be lodged.

**Phil Gallie:** My other point follows on from what

Michael Matheson said about staff reductions and prison closures. In the past year or two, the Minister for Justice and the chief executive of the prison service have been before the justice committees. Each has given an assurance that prison numbers are decreasing and has said that that justified the closures and the staff reductions that they had in mind. However, the committees’ fears have come home to roost, in that prison numbers have not decreased. There was no real basis for what was said.

Does the inspector have any concerns about the prison review? If the review is likely to reduce prison numbers or if it were to go the other way and increase the availability of prison places, would there be problems with staff recruitment and expertise?

**Clive Fairweather:** I think that staff recruitment has just started again after a two-year moratorium to run down 400 posts.

I do not want to go into the effect of the estates review. When the closures were announced and the number of staff posts was reduced, I think that I said—as I said last year in the annual report—that, fortuitously, the number of prisoners was steadying. Perhaps that was over-optimistic because, as the year came to an end, the number began to edge up. I have mentioned before that part of the reason was that prisoners were getting longer sentences and were therefore in prison longer. After a March peak, the numbers normally fall away, but they have—unusually—continued to edge up over the summer. I do not know whether they will drop away. What has happened over the summer is unusual. I do not know whether it relates to courts being closed or not operating in the same way early in the year and then coming back on stream. There are concerns, but hindsight is wonderful. We need to look forward and think of how to match up staff and buildings in the short to medium term.

**The Convener:** Perhaps it would be more useful and appropriate for the committee to have the inspectorate back after the estates review than for us to speculate. We should have the estates review at the end of October; we can address those issues then.

**Phil Gallie:** I accept that, but the chief inspector mentioned hindsight. The Justice and Home Affairs Committee queried the justification for reductions two years ago without the benefit of hindsight. The committee sought justification for the estimate that prison numbers would drop and the committee was right.

**The Convener:** With respect, we should take that up with the Minister for Justice, because we received the figures from him.

**Michael Matheson:** In your report, you indicate

that five prisons are overcrowded, with the overcrowding ranging from 32 per cent at Barlinnie to 15 per cent at Inverness. Do you expect that overcrowding to continue for the foreseeable future and do you expect other prisons to become overcrowded during the next year?

**Clive Fairweather:** The situation will probably change slightly—it always does. I have no evidence in front of me, but numbers sometimes decline over a period. Those figures could be roughly the same next March; on the other hand, that depends on whether the house blocks that are meant to come on stream in Edinburgh and Polmont are completed, which is still some way off. I suspect that the figures will be roughly the same in March, but one of the prisons might be able to solve the problem earlier. It depends on categories of prisoner and all sorts of things. However, I am not optimistic that the number of overcrowded prisons will suddenly drop back to two.

15:00

**The Convener:** Do you think that you should have a role in inspecting Dungavel?

**Clive Fairweather:** Perhaps Lord James should, as it was originally his family home.

Immigration is a reserved matter, and it is for the Home Office in London to decide what is done about inspecting Dungavel. I do not even know whether the detention centre at Dungavel operates under prison rules—I hope to hell that it does not. No one has approached the inspectorate on the matter, nor should they. It should be within the English inspectorate's remit, if anything. The English inspectorate regulates detention centres in England and Wales, reporting to the Secretary of State for the Home Department through the Home Office. I imagine that that is where the legal responsibility still lies. I do not know whether some other arrangement could be made.

**The Convener:** Prior to their detention in Dungavel, persons awaiting deportation were kept in prisons that we visited—in Cornton Vale, for instance.

**Clive Fairweather:** They still are. They have not all moved out yet.

**The Convener:** They are within your remit there, but when they are moved to another location they are not.

**Clive Fairweather:** They are held under prison rules in Greenock and the like. Because there was no specific location for persons awaiting deportation, the Home Office made it the Scottish Prison Service's responsibility to hold them. The Home Office is now in the process of taking them back and has contracted out the running of the

Dungavel detention centre to Premier Prison Services, which also runs Kilmarnock. I have no direct role in the inspection of the detention centre.

**The Convener:** Would you seek to be given a direct role?

**Clive Fairweather:** Seek is the wrong word. If someone approached the inspectorate and asked us to have a look, of course we would do so. We have experience with that group of people. I have been inspecting them on and off for five or six years.

**Lord James Douglas-Hamilton:** Surely, it would make sense for the matter to be delegated to the Scottish inspectorate if there was a need for a report, as the Scottish inspectorate is every bit as competent as the English inspectorate.

**Clive Fairweather:** Similarly, it would be interesting to know whether a report by the Scottish inspectorate would go to the Scottish ministers. However, I suspect that it would go to the Secretary of State for the Home Department, although it could perhaps be copied to the Scottish Parliament. It is a bit of a jumble, but I am sure that it could be sorted out.

**Michael Matheson:** As the committee is considering the chief inspector's annual report, would it not be appropriate for us to write to the Minister for Justice asking for clarification on the matter?

**The Convener:** I can raise that matter with the committee now that we have finished this evidence session. I thank our witnesses. I suspect that we will see you back again at the end of October and perhaps early in November, when we will have the long-awaited prison estates review.

I invite the committee—and our guests, although they will not be able to vote on the issue—to suggest what we should do now that we have completed this preliminary interview. One option that we keep mentioning is the long-awaited prison estates review, which is expected in October. When the review is available, we could timetable another meeting with the inspectorate. The committee may also want to slot in a visit to Kilmarnock prison. I am going there on Friday, wearing my other hat, as a former member of the Justice 2 Committee, but members of this committee may also want to visit that prison. Do members think that we should schedule in those activities and then invite the inspector back to the committee?

**Michael Matheson:** The chief inspector's report and the evidence that we have received raise a couple of points. Some issues will have to be raised directly with the minister, whom we will be seeing at a joint meeting with the Justice 2 Committee in the near future. However, the report

also highlights a number of key issues connected with staffing, and I would welcome the opportunity to speak to members of the Prison Officers Association Scotland, which may feel that further action is needed on those matters.

**The Convener:** That is not a problem. Choosing to call other witnesses is a separate issue. However, I am asking whether we should do that before or after a visit to Kilmarnock, and before or after the prison estates review, so that we have a fuller picture before we take further evidence.

**Maureen Macmillan:** I think that we should wait for the estates review to be published.

**Michael Matheson:** Before we do what?

**The Convener:** Before we take evidence from further witnesses. The estates review is just one part of the evidence, but we could take other evidence from the SPS and the POAS to give us a complete picture. Perhaps the visit to Kilmarnock should be considered as an entirely separate issue.

**Michael Matheson:** The Kilmarnock visit is a separate issue. Given that the Justice 2 Committee is due to visit that prison, I do not feel that there is justification for this committee going too, because that would duplicate the work. However, members of this committee have the opportunity to join the Justice 2 Committee on the visit.

If we are to leave further evidence sessions until after the publication of the estates review, we should write to the POAS asking for their views on the *Official Report* of today's meeting and on the chief inspector's report. Those views will be useful when we take evidence from the Minister for Justice.

**The Convener:** Are you asking for a written response?

**Michael Matheson:** Yes.

**The Convener:** Would members be content with a response from the POAS and the SPS to the evidence that we have heard today?

**Members indicated agreement.**

**The Convener:** Shall we fix another meeting at which we can take evidence after October?

**Members indicated agreement.**

**The Convener:** That is settled.

Do members want to write to the minister about the inspectorate's involvement in Dungavel?

**Michael Matheson:** There is a need for clarification on the matter.

**Gordon Jackson:** We could ask the Executive what its position is.

**Michael Matheson:** As we are considering the annual report, that would be useful.

**The Convener:** It would also be useful to have the *Official Report* of today's meeting, to see exactly what the witnesses from the inspectorate had to say. I got the impression that they were quite sympathetic to an approach being made to them, and they have the appropriate skills.

**Maureen Macmillan:** The point is that they have expertise on the matter.

**Phil Gallie:** I thought that the inspector made it quite clear that he did not have a remit to do that, but that, somewhere along the line, some co-operation between the Scottish Executive and the Home Office might induce a kind of subcontract to him.

**The Convener:** That is why I want to see exactly what was said, because I thought that it was more than that. When we have seen the *Official Report* of the meeting, and know exactly what his response was, shall I circulate a draft letter from the committee for members' approval?

**Members indicated agreement.**

**The Convener:** We will shortly consider items 5 and 6, which we have agreed will be taken in private.

15:09

*Meeting adjourned until 15:22 and continued in private until 16:02.*

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