

JUSTICE 1 COMMITTEE AND JUSTICE 2 COMMITTEE (JOINT MEETING)

Tuesday 2 October 2001
(*Afternoon*)

Session 1

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JUSTICE 1 COMMITTEE

26th 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)
*Donald Gorrie (Central Scotland) (LD)
*Maureen Macmillan (Highlands and Islands) (Lab)
Paul Martin (Glasgow Springburn) (Lab)
*Michael Matheson (Central Scotland) (SNP)

*attended

JUSTICE 2 COMMITTEE

25th Meeting 2001, Session 1

CONVENER

*Pauline McNeill (Glasgow Kelvin) (Lab)

DEPUTY CONVENER

*Bill Aitken (Glasgow) (Con)

COMMITTEE MEMBERS

Scott Barrie (Dunfermline West) (Lab)
Mrs Margaret Ewing (Moray) (SNP)
George Lyon (Argyll and Bute) (LD)
*Mrs Mary Mulligan (Linlithgow) (Lab)
Stewart Stevenson (Banff and Buchan) (SNP)

*attended

THE FOLLOWING ALSO ATTENDED:

Jim Gallagher (Scottish Executive Justice Department)

WITNESSES

Colin Boyd (Lord Advocate)
Mr Jim Wallace (Deputy First Minister and Minister for Justice)

CLERK TO THE COMMITTEE

Lynn Tullis

SENIOR ASSISTANT CLERK

Alison Taylor

ASSISTANT CLERK

Jenny Goldsmith

LOCATION

The Hub

CLERK TO THE COMMITTEE

Gillian Baxendine

SENIOR ASSISTANT CLERK

Claire Menzies

ASSISTANT CLERK

Fiona Groves

ACTING ASSISTANT CLERK

Graeme Elliot

Scottish Parliament

Justice 1 Committee and Justice 2 Committee (Joint Meeting)

Tuesday 2 October 2001

(Afternoon)

[THE CONVENER *opened the meeting at 13:35*]

The Convener (Christine Grahame): Now that we have rallied enough troops, I convene this joint meeting of the justice committees, which is the 26th meeting in 2001 of the Justice 1 Committee and the 25th meeting in 2001 of the Justice 2 Committee. Before we turn to the agenda, I welcome Mr Donald Gorrie to the Justice 1 Committee and I hope that he enjoys himself on it—if that is the correct verb.

I ask members to turn off their mobile phones and pagers. I have received apologies from Gordon Jackson and Paul Martin, who are Justice 1 Committee members, and from George Lyon, Stewart Stevenson, Margaret Ewing and Scott Barrie, who are Justice 2 Committee members. Many of those people are on other committees that have clashing meetings. I thank members who have come to this meeting against the odds.

Mrs Mary Mulligan (Linlithgow) (Lab): On that point, convener, when was it decided to hold the meeting at this time? It is obviously inconvenient for a lot of members because they have clashing commitments.

The Convener: I cannot give a specific answer, but I know that the meeting has been on my timetable for several weeks. I would have to speak to the clerks about when the meeting was arranged and perhaps later we will talk about how the other meetings were set up. I have no more information on that than you do, Mrs Mulligan.

Mrs Mulligan: I realise that we are always desperately short of time and that there is a problem with arranging joint meetings. However, some of us are here when we should be in other places and other members have had to go elsewhere. The matters that are on today's agenda are important, so we have a problem.

The Convener: I understand that. I have been advised that we had to use one of the existing slots because the meeting is a joint one. If it becomes difficult for members to attend the joint meetings, as it has today, we might investigate other slots.

I remind members that stage 3 of the Protection from Abuse (Scotland) Bill will take place on Thursday of this week at 9.30 am. Although the bill

is a Justice 1 Committee bill, members from the Justice 2 Committee had a great deal to do with taking the bill, which is the first committee bill, to the stage of finalisation in Parliament. I hope that as many members as possible will attend the debate. I know that Mr Aitken will be there with a bouquet of amendments.

Bill Aitken (Glasgow) (Con): I have 68 amendments.

Interests

The Convener: I beg members' pardon—I have slipped. I said hello to Donald Gorrie, but I forgot to ask him to declare any interests.

Donald Gorrie (Central Scotland) (LD): I am squeaky clean. I have no relevant interests to declare other than a pretty strong prejudice against the legal profession.

The Convener: That sounds healthy for a member of the Justice 1 Committee, in particular because the convener is a former lawyer.

Item in Private

The Convener: Do members agree to consider item 2 on the agenda, which is to consider and structure the lines of questioning for a short period, in private?

Members indicated agreement.

13:38

Meeting continued in private.

13:44

Meeting continued in public.

Budget Process 2002-03

The Convener: I welcome Colin Boyd, who is the Lord Advocate, and Dr Alastair Brown and Bill McQueen from the Crown Office. They will answer questions on the budget's impact on the Crown Office, the Procurator Fiscal Service and other matters.

Maureen Macmillan (Highlands and Islands) (Lab): I want to ask about the global funding figure for the Crown Office and Procurator Fiscal Service. Funding for prosecution has increased from £53 million to £55 million in the draft budget. How will the extra funding be used?

The Lord Advocate (Colin Boyd): The strategic plan sets out priorities such as drugs, serious crimes—crimes of violence in particular—and sexual offences. The funds will be used to target those priorities and to recruit staff—indeed, the number of staff has increased steadily.

Maureen Macmillan: Do you mean that the funds will be used for more fiscals or more administrative staff?

The Lord Advocate: The funds will be used for both. They will be used for more fiscals and precognition officers, who do much work in precognosing serious crime. Precognition officers are not legally qualified, but may be termed paralegals and are important. They receive training to do precognition work.

The funds will also be used to recruit administrative and support staff. I think that, in the past year at least, the number of legal staff has increased at a higher rate than the number of support staff.

Maureen Macmillan: Is there a target for how many more staff you wish to employ?

The Lord Advocate: There is an immediate target of another 10 precognition officers. Recruitment of legal staff is already taking place.

Maureen Macmillan: The Crown Office response to the justice committees' stage 1 report on the 2002-03 budget process mentions the future office system network. What does that system do? Does it involve networking between, for example, the police and the fiscal service? When will it be implemented? Is part of it up and running already? On visits to fiscals' offices, I have been aware that something has been going on and that new systems are being tested.

The Lord Advocate: The future office system

network will give all legal staff and precognition staff access to a computer terminal. The idea is that a police report can be electronically transmitted to a fiscal's office. There, the report will go into the central system and be allocated by line managers through the computer system.

When members went to fiscals' offices, they will have seen the system whereby reports are e-mailed using the ISCJS, printed and then manually assigned. Under the future office system, reports will be electronically assigned to deputes for marking online. If the case is a summary case, much of the complaint will be generated on computer and the fiscal will be able to access standard styles of complaint for various charges and to amend those. Fiscals will be able to generate witness citations and standard letters using standard templates, for example. They will have access to case reports, Crown Office and fiscal service guidance and similar formal material. Through e-mail, for example, they will also have access to assistance from experts in other offices.

I do not think that you were here when I appeared two weeks ago, but Tavish Scott asked me a question about fishing. A limited number of fiscals have expertise in fishing, but if a fishing boat is arrested in an area that is not covered by those fiscals, access to an expert in another office will be available.

The system will increase efficiency; it is investment in the future. It is hoped to invest in a way that will increase the amount of money that is available for the front line—for precognition officers and legal staff. Much of the work that is done at the moment by support staff can be done online.

Maureen Macmillan: There will obviously be training implications for that and money will be allocated. Will there be training for the police—because they will be part of the network—if they are going to send their reports online? That presumably does not come out of your budget, but will come out of another budget.

The Lord Advocate: We already have a fairly sophisticated arrangement with the police. We are all part of what is called the ISCJS—if you are going to ask me what the acronym stands for, I cannot immediately remember. At the moment the police e-mail their reports—they are coming in electronically to the fiscal service at the moment. We are taking out the step that involves the printing-off of police reports, the manual allocation and marking of those reports and the typing that goes with that.

The ISCJS is being upgraded. The police will bear the cost for that. As I understand it, that will not involve significant levels of new training for police officers.

Maureen Macmillan: I have to tell you that there are still fiscals who print the reports off because that suits them better. They can cope with them better on the page than on the screen. I have a lot of sympathy with that because I do the same.

I move on to ask about the reference that you made to the decreasing reliance on end-year flexibility and how that will be addressed by the recently announced review. In the light of that, will you give an assurance that the review will provide mechanisms for monitoring to ensure that spend is taking place, given that one of the concerns about end-year flexibility is that so much money seems to pile up? How will you ensure that it gets spent?

The Lord Advocate: As far as end-year flexibility is concerned over previous years, it has been part of the planned expenditure or planned system. That may have been explained to you on previous occasions. The Treasury looked for three-year spending plans, and often looked for a flat rate across the three years. That meant that the Treasury was looking to savings being made in one year and carried through for plans in another year. I appreciate that that has not found favour with the committee in the past, but that has been the reason for end-year flexibility.

That is coming to an end. It is anticipated that there will be little in the way of end-year flexibility now. The review will deal with the allocation of resources, information systems that are available to senior management and indeed whether we have the senior management skills in the first place. We will consider all that to ensure that we get the best value for money right across the board. That includes spending properly and when required to do so.

Maureen Macmillan: I move on to talk about the concerns about work load and pressure within the Procurator Fiscal Service. What provisions have been made to direct resources to those offices that may be the most seriously affected? How will you gauge which of the offices are most seriously affected? I have spoken a lot to single-handed fiscals in remote areas and feel that they are perhaps under a different sort of pressure from fiscals in busy offices. How will you decide where to allocate your resources?

The Lord Advocate: You are probably aware that there are a number of budget holders within the service. Budget holding was devolved to the regional fiscals and operational groups many years ago, well before I took office. It is up to the regional fiscal to make whatever bids are required to properly service their region and to allocate resources among offices within their region. They have to make a judgment as to where the pressures arise and what resources are required to combat them.

I am concerned that the people who make the judgments on those matters have the right information and the right level of information available to them to make the best possible decisions. That is part of the reason for the review.

The Convener: Two other members want to come in.

Pauline McNeill indicated earlier that she wanted to ask about the review.

Pauline McNeill (Glasgow Kelvin) (Lab): Good afternoon, Lord Advocate. On 19 September you announced your intention to hold a high-level management review. You mentioned that in your paper to the justice committees. I have a few questions about that.

First, I note that the objective to ensure that the Crown Office and Procurator Fiscal Service is resourced and managed properly is similar to the objectives of the parliamentary inquiry—or to part of its objectives. In your opinion, how will the review fit into the parliamentary inquiry?

The Lord Advocate: In my view, they are complementary. If the committee does not have a copy of the remit—I am not entirely sure that I have produced that—I apologise and will have it sent.

The Convener: I can confirm that we do not have a copy of the remit.

The Lord Advocate: That is an error on my part, for which I apologise.

I have a particular interest in and commitment to the review that the Crown Office and Procurator Fiscal Service is undertaking. The review will not examine whether the office is resourced adequately, but whether it manages its resources to best effect and whether it has the right information to make the decisions—the kind of choices that Maureen Macmillan highlighted in her question.

I note from the remit of the Justice 2 Committee that the central question that it asks is whether

“the resources available to the Crown Office and Procurator Fiscal Service, including numbers of staff and the experience levels of senior prosecutors, are sufficient to meet its stated aim”.

If I might be so bold as to interpret that remit, the Justice 2 Committee is considering whether we have sufficient resources to enable us to do what we want to do and what you expect us to do. We will assess whether we have the right management tools to make judgments about the allocation of resources and the right skills to manage those resources—in other words, whether we can produce value for money in what we do.

Pauline McNeill: I would like to have further discussion with you about that. It would be useful

to see the remit.

At this stage, can you say who will carry out the review and how it will be done? Furthermore, as you regard the two exercises as complementary, will you be willing to share information on your review with the Justice 2 Committee?

The Lord Advocate: The review is being undertaken by a senior civil servant who has been seconded from the Scottish Executive, alongside our procurator fiscal, who is very experienced. They will be assisted by Bill McQueen, the new director of resources, and, on a part-time basis, by Elish Angiolini, a regional procurator fiscal from Grampian. There will also be a reference group, which will include representatives of various other agencies in the justice system, such as the Scottish Court Service, police and trade unions.

14:00

I am happy to make available the report when it is published. I am not sure what the committee's timetable is—I assume that you would want to take account of what we have done. I note that the press release refers to a time scale of one year from May 2001. If the committee wanted to know of emerging findings, I would have to discuss the matter with the person who is undertaking the review to see whether that would be viable, even on a confidential basis. Members will appreciate that the time scale that we have set ourselves is pretty tight. I would not want it to slip because we had put extra steps in the process.

Pauline McNeill: I understand that, but I put it to you that we are also questioning trade unions and some of the other people to whom you are talking. We will also be considering the issue of skills. It would make sense for us to discuss that further.

You say that you have had that agreed in consultation with the Executive. Does that mean that you have had a discussion with Jim Wallace and that he has agreed to the review?

The Lord Advocate: No. I went to see Muir Russell and asked for support in setting up and undertaking the exercise. That resulted in the secondment of the civil servant that I mentioned. Jim Wallace is aware of all this but I did not discuss with him beforehand whether I should do it. I take the view that it was necessary and therefore sought the appropriate level of support to carry it out.

The Convener: Can I just clarify that you are involving the unions? Would that include the Procurators Fiscal Society?

The Lord Advocate: Yes, it will include both the Public and Commercial Services union and the Procurators Fiscal Society.

The Convener: I am pleased to hear that. During earlier discussions on budget consultations it was made plain that the Procurators Fiscal Society had been highly critical of the fact that the Crown Office had not consulted about financing arrangements. I think that Dr Brown was at that meeting. There was some suggestion that you might consider consulting with the unions more about financing and resources. Is this a step in that direction?

The Lord Advocate: There is a broader question about how we take on board what our staff tell us and how we communicate internally with staff. That is not just about telling them what the law officers and senior management team think, but about how we feed back their opinions. The main trade unions that represent members of the service will be represented on the reference group.

The Convener: It would have been helpful to have had a note on that.

Michael Matheson (Central Scotland) (SNP): The convener has asked the question that I was about to ask.

The Convener: It was not sabotage.

Michael Matheson: The privilege of the convener is being able to jump the queue.

One of the concerns that was raised by the Procurators Fiscal Society relates to Maureen Macmillan's question about the additional procurators fiscal who will be employed. Although the PFS welcomed the employment of 20 new fiscal deputes, there was concern about the time lag.

The Procurators Fiscal Society felt that, at present, a number of experienced fiscals must deal with a disproportionate number of serious cases. The society's concern is that, at present, the service does not have a sufficient number of experienced fiscals. The danger is that a time lag develops, during which new staff coming into the service are not able to pick up the serious cases. That means that a small number of fiscals continue to be under pressure. Are you planning to do anything to bridge that gap?

The Lord Advocate: There is some truth in that observation. However, if members compare the number of staff in the service in November 1998 with the number that are now in the service, they will see that the staff has grown by 25 per cent, which is a phenomenal rate of increase. If members look at the figures for the past 18 months, they will see that the number of lawyers who are employed by the service has grown by 13 per cent.

We have noticed an increase in the number of people who are entering the service who have

experience as solicitors. Sometimes that experience is considerable and it is often experience of defence work. Over the past few years, that trend has become noticeable. We cannot produce an experienced fiscal without a fiscal serving time. Experience comes with doing the work day in and day out and by becoming familiar with patterns of working, work practices and so on. Training can bridge some of that and we try to ensure that the training programme is effective. I said previously—it has been quoted, although I did not particularly care for that—that fiscals do not grow on trees.

One of my concerns is the service's rate of increase. We are starting from a level at which we have been underfunded and we are trying to make that up as quickly as we can. However, there are limits to the speed at which we can absorb and train new people. We are getting high quality people into the service—people who have experience as solicitors and in court work—and our training programme is good.

Michael Matheson: One of the reasons why the Procurators Fiscal Society highlighted the lack of experienced fiscals as the cause of problems is the perception of the value that is set on procurators fiscal, compared with practising solicitors. A review was undertaken of fiscals' salaries and, when compared with other government solicitors and lawyers in private practice, fiscals were found to be poorly paid. That caused recruitment problems. The PFS suggested that that was also a problem in attracting the right kind of people to the fiscal service. From what the Lord Advocate said, that does not seem to be the case. However, the issues remain.

The Lord Advocate: I do not believe that the numbers that we have been taking on have been at the expense of quality. We are happy with the quality of staff and with retention rates. In the past year, 2 per cent of people left the service. Pay is an issue. The Procurators Fiscal Society's view is that fiscals are underpaid compared with comparable grades elsewhere in the civil service. That is particularly true at depute fiscal level.

Management agreed with the trade unions in the last round that there should be a pay comparability study. I have been keen to see that get off the ground and progress is being made on it. The Advisory, Conciliation and Arbitration Service has been involved not in the negotiations as such, but in giving advice. I have said to the Procurators Fiscal Society—I am happy to restate it publicly and I have done so before—that if the comparability study shows that fiscals are markedly disadvantaged, I will use my best endeavours to see what we can do about addressing that problem. However, I am not in a position to give a commitment to a funding

increase.

Donald Gorrie: I have a question that relates to lesser offences that are still serious in the eyes of the community. Like colleagues, I often hear the police say that it is no use their pursuing subject X because the procurator fiscal will never process the case and prosecute. Do you think that that sort of comment is unfair? If it is fair, is the problem money, people or other bottlenecks in the court system?

The Lord Advocate: I do not think that it is fair, to be honest. We have used diversion from prosecution as a tool to deal with minor offences. There are guidelines to which fiscals must adhere in relation to the way in which they use disposals such as fiscal fines, for example. In comparing rates of diversion from prosecution with prosecution rates I am not aware that there is a marked difference in no-pro rates. Some of those comments might be based on the misapprehension that people who are subject to a fiscal fine are somehow getting away with it. The average level of fine in the district courts last year was £94 or £96; 87 per cent of people were fined. Fiscal fines are £25, £50, £75 and £100. Much of what is prosecuted in district courts can be dealt with by fiscal fines. If we look at other systems, it is fair to say that almost all sophisticated prosecution systems in the world have some administrative way in which to deal with the lower end of prosecution.

Bill Aitken: The performance output measure for solemn cases in the 1999-2000 financial year was based on issuing indictments and bail cases. That has now been changed to issuing indictments simpliciter. Your previous success rate was only 69 per cent and you are saying that it can now be 100 per cent. What has changed to enable that?

14:15

The Lord Advocate: I cannot remember, to be honest. I remember that that was discussed a considerable time ago and I appreciate that the target has been changed. I could speculate, but I think that that speculation might raise more questions and be off target. I will write to the committee with a full explanation.

Bill Aitken: On summary cases, why was the additional target thought necessary for taking and implementing decisions in relation to those cases?

The Lord Advocate: My recollection is that we had to establish a target that was meaningful to us. Management felt that ensuring that a decision was made in 80 per cent of the cases within seven weeks was a realistic target that would provide us with a way to measure what we were doing. That is probably the answer to the previous question as well. The target was meaningful to us because it

measured a set step in the process.

Bill Aitken: I am not seeking deliberately to be awkward, but I presume that the step was taken on the basis that the previous situation was unsatisfactory.

The Lord Advocate: I recollect that in the discussion that the senior management team had, part of which I attended, we decided to set a target that measured something realistic, which would set a quantitative and qualitative figure that could be reviewed in future and which was meaningful. I was asked to agree to that idea and I take responsibility for it.

The Convener: I want to ask a question, in answer to which you might want to write to the committee.

The draft budget document states that the overall aim of the department is

"To play a pivotal role in the achievement of the purpose of the criminal justice system by providing just and effective means by which crimes may be investigated and offenders brought to justice".

I understand that one of your original aims involved

"maintaining the security and confidence of the people of Scotland".

Was that the case? If it was, why are those words no longer part of your overall aim? If it is not possible to answer that today, I will be happy to hear from you later.

The Lord Advocate: I recollect that we were seeking an aim that reflected the fact that we are but one part of a wider system and that we are a lynchpin between the police and the court. I will give a fuller and better explanation by letter, if I may.

The Convener: The aim appears to be narrower without those words.

The Lord Advocate: If those words have been removed, there will be a reason for it. However, I do not recollect that being discussed.

Lord James Douglas-Hamilton (Lothians) (Con): I want to ask a question about the European convention on human rights. The District Courts Association raised a query on training. I understand that in England the Lord Chancellor's department has provided £10 million additional funding for ECHR-compliance training. In Scotland, however, the responsibility for that fell on local authority budgets. I understand that committees have raised that matter with the Executive but I ask you, Lord Advocate, whether funding could be found centrally for training.

The Lord Advocate: My colleague Jim Wallace is sitting behind me and I am sure that he will not

like me passing the buck. The Crown Office and Procurator Fiscal Service has responsibility for training its staff; we do not have a budget for training the judiciary. It would not be appropriate for us to do that. We have contributed, when appropriate, to training as part of a wider package provided by others. As Lord Advocate, I am happy to continue to support that in any way I can, for example, through making staff available and using some of the expertise that we have built up.

The Convener: I invite Lord James Douglas-Hamilton to ask that question of the minister when he gives evidence to the committee.

I thank the witnesses.

Good afternoon. I welcome the minister, Ruth Ritchie and Jim Gallagher from the Scottish Executive.

Donald Gorrie will ask the first question.

The Deputy First Minister and Minister for Justice (Mr Jim Wallace): It was suggested that I could make a five-minute introduction.

The Convener: I am sorry. I was not aware that you wanted to make an introductory statement.

Mr Wallace: I thought that it had been arranged.

The Convener: No. My clerk informs me that she is as ignorant as I was of that. I apologise for that.

Mr Wallace: My statement might clarify some matters and save time in the longer term.

The Convener: We have received your response.

Mr Wallace: Yes—you have received a letter.

The Convener: Will you be speaking to that letter?

Mr Wallace: No. I was going to draw attention to some of the items in the budget.

It might help the committee if I highlight some of the changes that have occurred since I appeared before the committee in May to discuss budget matters. The Executive received an additional £200 million as a consequence of the budget in March. Most of that was allocated to health and education, but £16.5 million came to the justice programme to deal with drugs-related issues. Six million pounds went to the Crown Office, £3.8 million to health and £2 million to education for the same purposes.

Of that £16.5 million, the justice ministers decided to allocate £11.8 million to enforcement activities, in particular to the Scottish Drug Enforcement Agency. My deputy minister, Iain Gray, hopes to announce details of that on 10 October. £1 million will go to arrest referral

schemes that will identify and help drug users as soon as they are picked up by the police. I have set aside £2.2 million for pilot drug courts: the first will start in Glasgow in November and we have enough funding to roll them out in two more areas. The remaining £1.5 million will be spent on community safety initiatives.

Members of the committee will be aware that, since I appeared before the committee in May to discuss budgetary matters, the Executive has identified resources to meet new priorities, such as fully funding the McCrone recommendations and personal care for the elderly. The justice programme has given up a total of £30 million over three years toward those priorities. We did that because we share those corporate priorities with the Executive and I make no apology for that reallocation. We have been able to do that without compromising justice service delivery or the aims that we set out in the programme for government. The savings came from areas that will not compromise front-line service delivery. For the current year, savings of £5 million will be met from the European convention on human rights fund, which lies in the miscellaneous level 2 in the budget.

For 2002-3, the savings will be £7 million from the ECHR fund and £3 million from criminal injuries compensation. For 2003-4, the savings will be £8 million from the ECHR fund, £3 million from criminal injuries compensation and £4 million from the justice capital modernisation fund, which is also found in miscellaneous level 2.

I hope that that explanation of the savings anticipates some members' questions.

The Convener: I am a bit disgruntled—it is difficult for the committee to follow all the figures and assess their impact when this is the first that we have heard of them.

Mr Wallace: It is as well that I made the statement.

The Convener: With respect, minister, that is really not good enough. We sit here having heard an announcement of additional funding that we will have to digest. We will have to find out how that impacts on what we have considered in the budget proposals.

Mr Wallace: With respect, the additional funding is all in the draft budget. I was just drawing it out.

The Convener: Where is it in the draft budget?

Mr Wallace: It is in the changed lines, to which I am sure you have paid close attention.

The Convener: That funding is not detailed in the manner in which you have just explained it to us.

Mr Wallace: That is why I did so. I was

attempting to be helpful.

The Convener: I am glad for the attempt, but I will have to ask members whether they feel that that has been successful and whether they have followed all the details of your explanation of the funding and its impact on the budget.

I do not want to be difficult. We are trying to be open and to understand the draft budget. However, when we are given such details so suddenly, everybody starts to write them down. If the explanation goes on and on it is difficult to follow. It would have been handy to have had the statement earlier in the week so that it could have been handed out with the committee papers, for instance. Was that possible?

Mr Wallace: It would have been possible. Perhaps we can do that in future.

The Convener: We require it.

Mr Wallace: I should add that I understand from my private office that we were asked whether I wanted to make a five-minute statement. We indicated in the affirmative. I think that Fiona Groves was the clerk concerned. That is what I have been advised by my private office. I say that for clarification.

The Convener: You will appreciate that I knew nothing about that. That is a clerking matter. On the content of the statement, we are used to ministerial statements that are rather straightforward and general. The statement that you have made has many specifics. The situation is rather different when specifics are involved. I lay no blame on the minister. There is a communication problem. If such a situation were to occur again, we would want to have something with the committee papers that would make it easier for you and the committees to deal with the statement.

Mr Wallace: I am sure that that could be done.

Pauline McNeill: I know that we are running out of time, so I will be as brief as I can. I realise that you were trying to be helpful by giving us some additional information, but you will appreciate that part of the problem with the Justice 1 Committee and Justice 2 Committee is that we get so much information. It is quite important to draw such matters out in advance.

I have some questions about criminal injuries compensation, but I want to ask about other things. If the justice committees' members have any burning questions, could Christine Grahame or I get together with you and ask any outstanding questions to which the committees feel that they need answers before stage 3 of the budget process? Would that be worthwhile?

The Convener: Yes. Perhaps each of the

committees could take time to discuss and put to you in a letter any queries for further clarification that arise as a result of your statement. We certainly cannot question you on it today.

Mr Wallace: That would not pose any difficulty. The committee might find it helpful if I send my statement overnight to the clerks so that it can be circulated to members.

The Convener: That is a matter for committee members.

Maureen Macmillan: I wanted clarification on a figure that I did not quite catch on the justice capital modernisation fund, in which I am quite interested. However, if the minister will send his statement immediately, that is okay.

The Convener: Now that the preliminaries are over, we move to questions.

Donald Gorrie: I will first ask a preliminary question. On page 40 of "Draft Budget 2002-03" there is a table that shows numbers of judges and sheriffs. Just below the table, the text states:

"At present, there are 31 part-time sheriffs."

Are they included in the 136 sheriffs in the table, or are they additional?

Mr Wallace: The are additional. Those sheriffs were created following the Bail, Judicial Appointments etc (Scotland) Act 2000.

Donald Gorrie: My next question relates to delays in the sheriff courts, to concerns about those delays and to some targets that you set for dealing with the delays. What are you doing about them and what good news can you tell us about them?

14:30

Mr Wallace: I can tell Mr Gorrie and the committee that the time between a not-guilty plea being entered and the date of a trial was running at 12.2 weeks at the end of June. You will acknowledge that that is close to the target of 12 weeks that was set by the Scottish ministers and it is an indication that in the majority of courts, the delays that resulted from the loss of temporary sheriffs have been overcome.

The news about civil cases is that the average waiting time between a case being ready for proof and the proof date is now 10.7 weeks against a target of 12 weeks. Therefore, on average the targets are being improved upon.

Bill Aitken: Do you have information about the final disposal of cases? I know that target of 12.2 weeks is from the first calling to the date of the trial, but the average disposal is much longer because of the failure of the accused to turn up for the trial, because the trial must adjourn, because

witnesses are unavailable or whatever. Is that figure available?

Mr Wallace: I do not think that that figure is readily available.

Jim Gallagher (Scottish Executive Justice Department): We do not measure that figure overall, but we have some information that might be helpful, which we could dig out. Bill Aitken is right to say that not all cases are disposed of on the date set for trial, perhaps because the accused does not turn up or because the trial is postponed for some other reason.

Bill Aitken: There is also a difficulty in that summary trial courts at Glasgow sheriff court are sometimes confronted with having to deal with more than 12 cases a day, which clearly cannot happen. Many of the cases must be adjourned ex proprio motu.

Mr Wallace: You identify a problem that we are conscious of and considerable efforts are being made to find ways in which it can be addressed. In many cases, solving that problem is beyond any capability that we have as ministers. There are provisions in place for when accused people do not turn up for trial, but it is beyond our power to control whether they turn up.

However, it is within our power to set targets and as I said, we have acted to achieve those targets substantially. Bill Aitken is right to highlight those issues. When I met the Justice 1 Committee and the Justice 2 Committee last month to discuss general policy priorities, I said that we were setting up a review of summary justice in Scotland—including the district courts and summary cases in the sheriff courts—under the chairmanship of Sheriff Principal John McInnes. Without anticipating the work of that committee, issues such as those Bill Aitken raises are the kind that that committee will consider.

Bill Aitken: Have you considered whether readily available bail terms and conditions cause difficulties? For example, should people be allowed bail if they have previously failed to appear on the same complaint?

Mr Wallace: Those matters are for the judiciary to determine on the merits of individual cases. It would not be proper to give a generalised response. However, one of the factors that would be borne in mind by a sheriff—although it is not necessarily a determining factor—would be whether there had been a previous failure to appear.

Lord James Douglas-Hamilton: The minister mentioned the review of district courts that is about to take place. Perhaps he can say to what extent central funding will be available for training justices. That is the same issue that I raised with

the Lord Advocate, but it might more properly come under the Deputy First Minister and Minister for Justice's jurisdiction.

Mr Wallace: That is correct. Lord James will recall that in the letter that I sent to the conveners of the Justice 1 Committee and the Justice 2 Committee, I wrote that that issue was raised in the committees' budget report in paragraphs 49 and 50. I also stated:

"The training needs of justices, including the impact of ECHR and how such training should be funded, will fall to be considered by the forthcoming review of district courts."

That will be part of the work of the review.

The Convener: I want to clarify that all members of the committee have the minister's response in front of them.

Mr Wallace: Yes—Lord James will be able to see that his point is addressed on the second-last page.

The Convener: We have heard evidence about the electronic technology being utilised by the Crown Office and Procurator Fiscal Service in the disposal of cases from serving complaint to final disposal. Is that uptake of new technology taken into account in your targets or will it allow the targets to be shrunk or shortened further?

Mr Wallace: The targets are reviewed annually. If the greater use of information technology allows us to improve timings, so much the better. I add the caveat that we cannot get the targets down to zero. Having been a practising solicitor, convener, you will know that a time for preparation is also required.

The Convener: I appreciate that, minister.

Mr Wallace: We are keen to promote the use of technologies to link up different parts of the justice system. On Monday next week, I am going to Aberdeen to look at different components of the technology in the ISCJS—which stands for the integrated systems of criminal justice services.

The Convener: Good for you, minister.

Mr Wallace: It is not just about the courts and the Procurator Fiscal Service; it also concerns the police. We hope that the ISCJS will be a useful tool for keeping abreast of progress and providing victims of crime with information.

The Convener: Disposals are often—or at least sometimes—held up because of a failure to obtain social inquiry reports or psychiatric reports. Will such reports become electronically available and, if so, will that speed things up for the courts? Sheriffs often do not have all the information but are required to make a final decision.

Mr Wallace: Without being specific and saying that particular sorts of report will be online in the

near future, I will make the general commitment that we want to use the advantages offered by information technology to speed up the process and make it more efficient, so that the body of paperwork relating to a particular case is readily available to different people in the system who need access to it.

Michael Matheson: Do you expect that the Scottish Prison Service's estates review will have a significant effect on the accommodation costs that are projected in the budget? I am referring specifically to table 1.16, if that helps.

Mr Wallace: Even with the best will in the world, it is unlikely that much of the new build will come on stream in the period covered. However, table 1.19 is relevant in that respect. You will see that the average annual cost per prisoner place is set at £32,600 for the current financial year. There is a footnote to that, which indicates a revenue saving of £12.5 million, which forms part and parcel of the target. I have told the Prison Service that I expect that level of revenue savings, which will be directed into capital investment. Therefore, the estates review will be relevant to that.

Michael Matheson: For what capital investments is that £12.5 million intended?

Mr Wallace: There clearly needs to be capital investment in the prison estate, whether it is new build or refurbishment of existing prison sites. There was a recent announcement about Barlinnie and Edinburgh prisons—I think that Mr Matheson asked me questions about that. Refurbishment is taking place and I want to ensure that capital is available to help fund the renewal of the prison estate.

Michael Matheson: How do you expect the Prison Service to save that money?

Mr Wallace: I refer to the attendance patterns for prisons that have emerged following the industrial disagreement—although I stress that there was subsequently arbitration and that an agreement followed. The Prison Service expects that to generate savings and the cost per prisoner place reflects that. That should give the SPS a target. If it meets that target, it will realise savings that can be put into capital.

Michael Matheson: When do you expect to put the estates review out to consultation? The usual responses to that question are "autumn" or "the end of the year", but we are in autumn and close to the end of the year.

Mr Wallace: We expect the date to be before the end of the year. Cabinet colleagues are still to be consulted and we are receiving the final figures from PricewaterhouseCoopers.

Michael Matheson: Have you ever thought of using a quicker company? The figures seem to

have been with that company for some time.

Mr Wallace: It is as good a time as any to say what we have not said before. When the Prison Service examined the figures, it did not consider privately built and designed, publicly operated models—if that is a PPP as opposed to a PFI. That was not part of the Prison Service's original work. We thought that that was worth evaluating, so that we could have a comparator. No work had been done on that before, and such work is not the simplest of tasks, which is a main reason why the delay has been longer than any of us had expected or wanted. However, if that work produces information about which we can have a proper and sensible debate, it will have been worth doing.

The Convener: You talked about privately built, publicly operated models. When were they added to the prison estates review?

Mr Wallace: They were added earlier this year. I do not remember exactly when, but it was in the first half of the year.

The Convener: Will the estates review be published before the end of the winter?

Mr Wallace: Yes.

Lord James Douglas-Hamilton: I understand that slopping out is to be phased out by 2005. Will the Minister for Justice bear it in mind that as that practice is phased out, fewer prison officers will be needed, because prison officers supervise slopping out throughout the night? The saving should be measured. Could the time be brought forward, as 2005 is a long way off?

Mr Wallace: I suspect that Lord James's point is right, because that task is significant. If it did not require to be done, there would be an impact on staffing levels. However, I clarify that the end date for slopping out will depend on the configuration that emerges from the review of the prison estate. The question is one not only of funding, but of being able to put prisoners elsewhere while work is done. Therefore, the rate of build and other matters have a direct bearing on the date. I have no doubt that that will be an issue that committee members and others in the Parliament and beyond will want to consider when the prison estates review is published.

Pauline McNeill: On page 3 of your letter, you discuss treatment and post-release support. Quite a few members of the justice committees are interested in rehabilitation for prisoners. The letter says that additional funding has been allocated

"to push forward a number of elements of ... drug strategy ... particularly treatment and post-release support."

You also talk about action plans for prisoners. That has been an interest of several members—

particularly Christine Grahame and me, who visited Low Moss and Alba House, where we talked to prisoners about the key need for support when they are released from prison.

I am pleased to read about such support. What detail can you give the committees about that issue? Can you give us a detailed plan? Does it require legislation or is it simply a question of funding?

Mr Wallace: You are right to highlight the importance of throughcare. I think that we agree that rehabilitation has not been addressed as well as it ought to have been over the years. That is probably particularly true for prisoners on short-term sentences. Prisoners on longer-term sentences who are released, such as life-term prisoners who are released on licence, often have a requirement for drug treatment attached to their release conditions. We want to remedy the problem that we have identified with short-term prisoners. Mr Gallagher has specific information on that matter.

14:45

Jim Gallagher: I can give you a little more specific information and would also be happy to give you the full details. Some of the funds that were allocated to prisons for drug treatment have now been used to enter into an arrangement with a voluntary body that will supervise prisoners in, I think, the first twelve weeks after their sentence ends. Prisoners who are released are often at their most vulnerable then, particularly those who were using drugs before they went into prison, who ceased to use drugs while in prison, but who face the temptation of going back on to drugs immediately they come out. They are vulnerable socially and medically then. We have sad examples of young men going back on to drugs and killing themselves.

The arrangement is now in place and we hope that it will provide for throughcare, as the minister put it, particularly for short-term prisoners. If it is helpful, we will happy to set out in full for you what the funds will buy and what the nature of the relationship is.

Pauline McNeill: I am keen to hear a bit more detail about that arrangement, if you can provide it, particularly about such things as how the individual action plans will be drawn up and who will do that. I realise that we are a bit short of time today, so I will pick that one up with you another time.

Mr Wallace: We can ensure that that is done.

The Convener: I have another brief question about time-out centres. We previously heard from the Deputy Minister for Justice about women's

offending and the planned pilot project. What resources have been allocated for the pilot?

Mr Wallace: Off the top of my head, I cannot give you an exact figure for the resources, but we can give it to you later. The pilot is an imaginative project. I hope that it proves that something could be more firmly established. Having seen the basics of it, I think that it offers a lot, particularly for young women, so that they will not necessarily have to serve a custodial sentence. I do not want to hazard a guess about the cost of the pilot. I know that I have seen the figure and I will ensure that you get it. When we address the question on throughcare, we will also give the figure for the pilot study.

Pauline McNeill: I would like clarification on that, because we have been advised that the start of the project is only about six months away, which is a short time scale. It is quicker than we had imagined, but we are pleased about that.

Mr Wallace: That is a good thing.

Pauline McNeill: Yes. It would be useful to get the details so that we can perhaps include that matter in our report.

The Convener: Just before we move on to legal aid, I have a follow-up question about your earlier mention of young women. In your letter, you said:

"The Executive is also promoting alternatives to custody through broadening the range and increasing the availability of community disposals.

It is unfortunate that that is not happening for women offenders, more of whom are being imprisoned than were previously. I seem to recall that it was a target—it may have been an aim, a target or whatever—that there should be a reduction in the number of women in prisons. Could you say something about steps that you are taking towards that?

Mr Wallace: We would like to see fewer people in prison generally, but particularly fewer women in prison. As the committee will readily recognise, we cannot tell sheriffs how to dispose of individual cases. Those in prisons are there directly as a result of shrieval or judicial decisions. However, we can ensure that there are alternatives to custody—the diversions from prosecution that the Lord Advocate talked about. Women are one of the groups for whom that would be a particularly appropriate means of dealing with cases. I also hope that when the drug courts are established, they will offer other avenues and opportunities for diverting from custodial sentences.

It is important to ensure that alternatives to custody command shrieval confidence that they are a proper and effective disposal and that they command public confidence that they are not a soft option—sometimes they are a demanding

option. Resources are being put into that and the criminal justice social work budget has increased substantially because many of those disposals come under that heading.

The Convener: I will pick up on one of the minister's comments. Many women in Cornton Vale are in prison for minor matters, so public safety is not an issue. An issue that was raised when we went to Cornton Vale was that sheriffs do not have an option—they do not want to send women to Cornton Vale or into custody, but there are no other options. I raise that matter for the minister to think about. He said that the sheriff has discretion, but sometimes the sheriff has nothing at his discretion other than to send women to Cornton Vale.

Mr Wallace: It is difficult to comment without going into individual cases, but our objective and policy is that there should be a range of alternatives and halfway houses. Time-out centres are a possibility. Work to develop those options is going ahead and I hope that the drug courts will make a contribution to that development. Sadly, many women who are committed to Cornton Vale have serious drug problems. If we can find ways of trying to resolve those problems without the need for a custodial sentence, so much the better.

It is opportune to put it on record that the recent report on Cornton Vale by HM chief inspector of prisons showed that the prison had made considerable strides forward since concerns and alarm were expressed. Members will agree that that progress is a tribute to the previous governor and the staff.

Maureen Macmillan: I have a few brief questions about legal aid. The minister's letter states that the Executive is currently discussing with the Law Society of Scotland and the Scottish Legal Aid Board the case for an increase in fees for civil legal aid work. When are the results of that consultation likely to be announced?

Mr Wallace: I cannot give you a date. I checked before I came to the meeting and was informed that the negotiations are continuing, but that it is not possible to give a date for their completion.

Maureen Macmillan: Perhaps the minister does not want to answer this question, but does the Executive feel that there is a strong case for an increase in fees? Does the draft budget have a provision to take account of an increase?

Mr Wallace: The Executive recognises that fees for civil and criminal legal aid have not increased for a considerable time.

The Convener: They have not increased for nine years.

Mr Wallace: We have noted that the amount paid per case has gone up considerably, albeit

that the fee levels have not increased. The discussions with the Law Society of Scotland and SLAB are about those issues.

Maureen Macmillan: If the Executive decides that there should be an increase, is there provision in the draft budget to take account of that?

Mr Wallace: As I explained when I discussed the budget with the committees previously, we must pay for legal aid. If the criteria are met and SLAB awards legal aid, we are obliged to meet the costs.

Maureen Macmillan: So the legal aid fund is open ended.

Mr Wallace: Yes, it is.

Maureen Macmillan: A strange equation or correlation has been pointed out to me: the increase in funding for administering the legal aid system is £1.7 million and there has been a decrease of £1.7 million in the legal aid fund, but overall spending remains the same. Is that a straightforward case of money being shifted across from the fund to administration?

Mr Wallace: Yes. The money was shifted across to meet requests by SLAB for specific action on administration. SLAB argued that the money ought to be written into its baseline, which we did. However, the fund is not at risk from that because it is not cash limited—if demand increases suddenly for a reason that we cannot predict, the money will have to be found.

Maureen Macmillan: So the administration costs do not necessarily come out of the legal aid fund.

Mr Wallace: One of the reasons for putting money into administration was to do with equipment, although I cannot remember exactly what.

Jim Gallagher: A proposal was made for improved administration through the use of technology in civil legal advice and assistance. That investment would have the effect of cutting down on the running costs and, possibly, on unnecessary expenditure.

Mr Wallace: The money was needed to implement that project.

Maureen Macmillan: If the legal aid fund was needed for legal aid, would the money for administration come from elsewhere?

Mr Wallace: Yes. Demand would be met.

Maureen Macmillan: My last question is on the community legal service working group. Is it still on course? It was said to be reporting in October.

Mr Wallace: Yes. I expect to have the working group's report before the end of the month.

Maureen Macmillan: Has account been taken of the probable cost of developing the community legal service scheme?

Mr Wallace: Not yet. When the working group was set up, it was asked specifically to indicate what the resource implications of the scheme would be. I await the report at the end of the month.

The Convener: If no one wishes to ask a follow-up question on legal aid, I will ask about the minister's letter of 6 September and the criminal justice forum, which is of interest to me.

Pauline McNeill asked about a joined-up criminal justice system. I do not like that expression; I prefer "interlocking" or something similar. The minister's letter defined the criminal justice forum as one that brings together

"all the key players in the Criminal Justice system to discuss issues of common interest."

The minister kindly answered a written question from me on the remit of the forum. The reply states that the forum's remit is:

"To enable the Scottish Executive and those involved in the provision of criminal justice in Scotland to take an overall view of the issues facing the criminal justice system as a whole; to provide a regular opportunity for the discussion and debate of major issues in the common interest; and to improve mutual understanding and co-operation in the interests of justice; and to advise Scottish Ministers on issues of concern to the criminal justice system as a whole."—[*Official Report, Written Answers*, 19 June 2001; p 410.]

The answer goes on to list the members of the forum.

I raised a related concern in a supplementary written question, in which I asked whether the criminal justice forum had a consultative role with regard to the justice budget. It appeared to me that if the forum is to address "issues of common interest", money might be quite high on its agenda. The answer to that supplementary question was that budgetary issues do not fall within the remit of the forum. Am I chasing a shadow, or should the forum be used for such a consultative purpose?

Mr Wallace: I do not think so. Ministers, the Parliament and the justice committees must make judgments about resource allocation, priorities and the budget, whereas the nature of the criminal justice forum is to examine individual topics. For example, the forum will consider a report on short sentencing at its next meeting. Such reports obviously have resource implications—there may be savings in some cases and increased expenditure in others.

It is more important that the forum examines the issues, as its nature is not such that it would undertake the line-by-line analysis of the criminal justice budget that the justice committees

undertake. Having said that, I recollect that more than one member of the forum did not miss the opportunity of having a minister in the chair to get across their viewpoint on resources. However, the forum's discussions relate far more to the meat of a subject matter than to the specifics of the budget.

The Convener: I appreciate that, but resource implications might arise, creating overlap between the various arms of the criminal justice system. In those circumstances, it would be important for the forum to consider the sharing of resources, for example. You are saying that the forum is not used for that purpose.

Mr Wallace: From what I recall, I believe that ways of improving efficiency in the courts, for example, were considered before devolution took place—we are going back to the point raised by Bill Aitken. It is clear that savings and resources could be considered together in respect of such issues. I also think that we should consider the possibility of using videoconferencing for court appearances in the more formal parts of the process, as that would save police and prison service time in transporting prisoners from Barlinnie to Glasgow sheriff court, or, in Maureen Macmillan's case, from Inverness prison to Wick.

Discussions take place. Budget threw me off on to a different track. The forum is a suitable opportunity for the different agencies, seated round the one table, to consider some of the areas where greater efficiencies can be achieved.

15:00

The Convener: This will have to be the last question.

Michael Matheson: I have a general question. Table 1.13 in the original annual expenditure report shows that spending was to increase to around £27 million. In the draft budget 2002-03, the figure given is £19 million.

Mr Wallace: Did you say £19 million?

Michael Matheson: The draft budget report shows that the budget is to increase to £19 million but previously it had been planned to increase to around £27 million. That amount covers a range of smaller topic areas. Was there a typing error or, if the budget is being reduced, which area is being affected?

Mr Wallace: I mentioned that in my statement. The change relates to the reduction in the ECHR fund. The committee will receive clarification of that when it receives details of what I said earlier.

Michael Matheson: Is the ECHR fund noted in the draft budget?

Mr Wallace: No, it falls under the "Other

Miscellaneous" heading. Is that the line you are looking at?

Michael Matheson: Under the heading "Miscellaneous" there are budget headings for the Parole Board for Scotland, the Scottish Prisons Complaints Commission and the Scottish Criminal Cases Review Commission.

Mr Wallace: We could go into the Lord High Commissioner's garden party—

The Convener: We know about that one already, though.

Michael Matheson: I have not had an invite, so I am not really interested.

Mr Wallace: I have a complete breakdown of the figures here. If the committee thought that it would be of interest, we could distribute it.

The Convener: I thank the minister, Mr Gallagher and Ms Ritchie. Copies of the statement will be sufficient for us.

Mr Wallace: A number of specific points were raised, on which we will get back to members.

The Convener: We will write if we have any questions on the specific allocation of the additional funding. I ask the minister whether we could have a prompt reply. We have a tight timetable to deliver our report to the Finance Committee. We have to consider our report on 24 October. The draft report will have to be dealt with in the recess.

Mr Wallace: We will respond as quickly as we can.

The Convener: Thank you.

The next joint meeting of the justice committees to discuss the draft report on stage 2 of the budget process 2002-03 will be on 24 October.

I remind members of the Justice 1 Committee that there is an informal briefing from NFO System Three Social Research on its research into public attitudes towards sentencing and alternatives to imprisonment. We have a report before us on that. I am told that tea and coffee will be available—members are being bribed.

I remind members that the debate on the Protection from Abuse (Scotland) Bill is on Thursday morning. It will be an historic occasion for a committee bill. I hope that many committee members will attend.

Meeting closed at 15:03.

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