



**Official Report**  
Aithisg Oifigeil

**DRAFT**

# **Criminal Justice Committee**

**Comataidh  
a' Cheartais Eucoirich**

**Wednesday 2 September 2026**

**Session 7**



The Scottish Parliament  
Pàrlamaid na h-Alba

© Parliamentary copyright. Scottish Parliamentary Corporate Body

Information on the Scottish Parliament's copyright policy can be found on the website—  
[www.parliament.scot](http://www.parliament.scot) or by contacting Public Information on 0131 348 5000

---

## Wednesday 2 September 2026

### CONTENTS

|                                                                | Col.      |
|----------------------------------------------------------------|-----------|
| <b>DECISION ON TAKING BUSINESS IN PRIVATE .....</b>            | <b>1</b>  |
| <b>CRIMINAL JUSTICE (SCOTTISH GOVERNMENT PRIORITIES) .....</b> | <b>2</b>  |
| <b>PRISON OPERATIONS .....</b>                                 | <b>24</b> |
| <b>REMAND AND BAIL .....</b>                                   | <b>57</b> |
| <b>ARMED FORCES BILL .....</b>                                 | <b>85</b> |

---

#### CRIMINAL JUSTICE COMMITTEE

##### 3<sup>rd</sup> Meeting 2026, Session 7

###### CONVENER

Alyn Smith (Stirling) (SNP)

###### DEPUTY CONVENER

\*David Linden (Glasgow Baillieston and Shettleston) (SNP)

###### COMMITTEE MEMBERS

\*Amanda Bland (Central Scot and Lothians West) (Reform)

\*Maggie Chapman (North East Scotland) (Green)

\*Stephen Kerr (Mid Scotland and Fife) (Con)

\*Marie McNair (Clydebank and Milngavie) (SNP)

\*Pauline McNeill (Glasgow) (Lab)

\*attended

###### THE FOLLOWING ALSO PARTICIPATED:

Yi-pei Chou Turvey (North East Scotland) (LD)

Catriona Dalrymple (Scottish Government)

Dr Hannah Graham (Sentencing and Penal Policy Commission)

Neil Gray (Cabinet Secretary for Justice)

Dr Cara Jardine (Scottish Centre for Crime and Justice Research)

David Mackie (Howard League Scotland)

Tracey McFall (Criminal Justice Voluntary Sector Forum)

Colm Merrick (Glasgow Anniesland) (SNP)

Linda Pollock (Scottish Prison Service)

Jim Watson (HMIPS Prison Expert Group)

###### LOCATION

The David Livingstone Room (CR6)





## Scottish Parliament Criminal Justice Committee

Wednesday 2 September 2026

*[The Deputy Convener opened the meeting at 09:00]*

### Decision on Taking Business in Private

**The Deputy Convener (David Linden):** Good morning and welcome to the third meeting of the Criminal Justice Committee in session 7, in 2026. I warmly welcome the Cabinet Secretary for Justice and colleagues from the Scottish Government.

Our first item of business today is a decision on whether to take agenda items 6 and 7 in private. Item 6 relates to consideration of the evidence that we are about to hear, and item 7 relates to a supplementary legislative consent memorandum on the Armed Forces Bill. I propose that the committee takes items 6 and 7 in private. Do members agree to do so?

**Members indicated agreement.**

## Criminal Justice (Scottish Government Priorities)

09:00

**The Deputy Convener:** Our second item of business is an evidence session on the Scottish Government's priorities for the justice portfolio. This is the first of two planned evidence sessions with the Cabinet Secretary for Justice as part of the committee's wider consideration of justice priorities.

We are delighted to be joined today by the cabinet secretary, Neil Gray MSP, and by Catriona Dalrymple, director for justice, and Donald McGillivray, director for safer communities, from the Scottish Government. They are all very welcome.

I understand that the cabinet secretary has a police memorial event to attend later today, which means that we have a set finishing time for the meeting. On behalf of the committee, I ask the cabinet secretary to pass on our very best wishes to everyone at that event and to thank our public servants for the work that they do in keeping us safe. I know that time will be tight, but we will have a longer meeting with the cabinet secretary next month.

The cabinet secretary is going to make an opening statement of around three minutes before we go to questions.

**The Cabinet Secretary for Justice (Neil Gray):** Thank you, deputy convener. I appreciate everyone's flexibility, given my attendance at Tulliallan later this morning. I welcome the opportunity for early engagement with the committee and look forward to working with you during this session of Parliament. I also wish the convener well and hope that he makes a swift recovery.

I say at the outset that we can be immensely proud of many aspects of our justice system. We have a strong and independent legal system with a focus on human rights, fairness and justice. Crime, including violent crime, is down by almost half since 1991. Dwelling fires and fatalities are significantly down and backlogs in the summary courts are significantly reduced.

The system faces major challenges, both societal and in its capacity and capability. We are seeing increasing vulnerability, the polarisation of debate and heightened community tensions, and increased demand in key parts of the system.

If we are to maintain confidence in the system, justice must change to reflect those challenges. I will focus on three areas in this session of Parliament. First, justice is, at its heart, about

people. Many people have contact with the justice system when something negative has already happened to them or to their community, so a key part of my mission is to prevent those problems happening in the first place. After a long-term and significant reduction in crime, we have seen a recent rise, driven by some specific issues including sexual offences, domestic abuse, violent crime and retail crime.

I view violence against women and girls with particular concern, both because of the nature of the offending and because of the worrying trends that we continue to see. The First Minister has made clear his intention to provide personal leadership and to take action across Government to address that pernicious situation by supporting survivors, strengthening protection, making perpetrators accountable, changing behaviour and tackling technology-facilitated online harm.

In the past 20 to 30 years we have seen dramatic reductions in the most serious type of non-sexual violence, with homicide at a record low. However, we have seen increases in other types of violence. The Government is therefore committed to refreshing its violence prevention strategy later this year, with a strong focus on prevention and deterrence across all areas of social policy, including substance dependency, mental health, family support, employability, education and others that are crucial to the prevention effort.

My second priority is to improve the experience of people who find themselves in the justice system. The Victims, Witnesses, and Justice Reform (Scotland) Act 2025 and the Criminal Justice Modernisation and Abusive Domestic Behaviour Reviews (Scotland) Act 2025, both of which were passed during the previous session of Parliament, show our commitment to that work, but there is more to do. There will be a focus on implementing that legislation and on ensuring that victims and survivors can have their voices heard and that they receive the right information at the right time and in a way that they can understand. Modernisation, including the implementation of the sexual offences court and an increase in digitisation, is also needed to address unnecessary delay and inefficiency within the system and to respond to the growing volume of cases in the High Court.

My final priority relates to prisons. The prison population is too high and is growing at an unsustainable rate and the issues that the Scottish Prison Service faces continue to increase in complexity. The main drivers of those issues are the growth in the long-term sentence population, the volume of sexual offences in the system, and the approach that is required to tackle serious and organised crime. Serious action has been taken to

prosecute in those areas, for which I will not apologise. However, we are taking action to build two new prisons and to maximise existing capacity. We will take account of the views that have come through our recent consultation exercise to consider what more can be done to ensure that our prisons remain safe for those who live and work in them, while maintaining public confidence and ensuring the safety of victims and survivors in the wider community.

All those challenges are interconnected, which is why we need an approach that looks at the system as a whole and is focused on the principles of public sector reform. There are many other areas that I hope to have the opportunity to discuss during the committee's questions this morning, including important commitments on legal aid, social impact investment and fire and rescue.

**The Deputy Convener:** Thank you, Mr Gray. I appreciate your remarks. I will pick up on a number of things with my opening questions.

You rightly mentioned some of the major challenges, particularly around vulnerability. The number of over-65s in prison has increased by more than 100 per cent in the past 10 years. What is the Scottish Government's strategy for dealing with the increasingly older prison population? Is it morally right and a good use of taxpayers' money to incarcerate someone who has advanced dementia and does not have the cognitive capacity to understand that they are being punished or rehabilitated?

**Neil Gray:** That is a significant challenge that we face, which we are carefully considering. We need to have a conversation about how we deal with the consequences of the increase in our long-term prisoner population and the increase in the age of that population. In addition, the Crown has been incredibly successful at prosecuting historical sexual offences, which means that a number of long-term prisoners arrive when they are older than they would be if they had been prosecuted at the time of the offence.

The two new prisons that we are constructing to replace HMP Barlinnie and HMP Inverness are adapting to meet those demands and will have larger cells, in some cases, to ensure that social care and health provision can be provided. Part of our consultation on penal reform is about what prison is for. Of course, prison has to be there in order to provide a significant deterrent, and I will not apologise for the fact that average sentences have increased. However, we also need to consider what prison is for, which is a debate that we will be having in the committee as well as in the Parliament in due course.

**The Deputy Convener:** I want to talk about throughcare work, particularly in the context of

public sector reform, which you touched on and which was mentioned heavily yesterday in the programme for government. When I met Sacro recently, it told me that, in year 1 of its Upside programme, 40 per cent of prisoners who it supported in its throughcare work were statutorily homeless on their release, even when the programme sought to engage with local authority homelessness casework teams 12 weeks out from the prisoner's liberation date. What steps will you take to ensure that one arm of the state does not collide with another and end up kneecapping returning citizens the minute they walk out of the prison gate?

**Neil Gray:** Ensuring that we have joined-up and interconnected services is absolutely critical to our approach to public service reform. It is at the heart of what the First Minister set out to the Parliament yesterday in the programme for government. It is also at the heart of Ivan McKee's work, which will ensure that we are reforming and rewiring the state so that services work better together and are more joined up and moulded around the individual. A significant amount of that work will play out in the course of this parliamentary session.

If I am to be successful in my work to reduce the number of victims becoming victims in the first place, that has to be about our expansion of social policy in terms of public protection and our moving to a more preventative system. That includes expanding housing support and social care and support for mental health, substance dependency and families. The entire system needs to be rewired to ensure that we are moving support further upstream. That is certainly what I will be driving at in my conversations with Cabinet colleagues.

**The Deputy Convener:** I appreciate that the public sector reform piece will take some time, but could I ask you to go away and consider, in the short term, working with the Society of Local Authority Chief Executives and Senior Managers and your colleagues in the housing department? Could they look at sending some sort of information to local authority homelessness teams to ensure that Upside workers are not being told, "Just bring the person down on a Friday afternoon and we will sort it out"? That is not working at the moment. Will you undertake to do that, cabinet secretary?

**Neil Gray:** Some of that work is already ongoing. I convene a regular meeting of justice partners to ensure that we reduce the need for short-term remand and provide bail accommodation—indeed, the bail accommodation pilot is under way. Again, I come back to the point that it is about ensuring that our local authority partners, as well as wider justice partners, are working together to mould our services around the

individual, rather than the other way round. In light of what you said about the work being done by Sacro—of which I am very appreciative—I will take that issue away, and we can examine it with SPS and local government colleagues.

**The Deputy Convener:** That is appreciated.

My final question touches more on a policing issue. I know that I will not be the only member of this committee who is increasingly getting complaints from constituents—in my case, plenty from the Garrowhill area—who see young men dressed head to toe in black, sometimes wearing a face covering, zooming around on souped-up e-bikes and e-scooters. That activity is highly dangerous and is sometimes connected with drugs and organised crime, as has been demonstrated in the recent operation armour pilot. Constituents in Glasgow and, indeed, further afield want to know what the Scottish Government is doing to crack down on the antisocial behaviour and criminality associated with e-bikes and e-scooters. When are we going to get a grip on the issue?

**Neil Gray:** That is an issue that I am contending with in my own constituency, and I believe that all members across Parliament will be contending with the issue in their local communities. I have met Police Scotland and have asked directly what it needs from a devolved powers perspective so that it is enabled to capture and deter that type of behaviour.

There are two parts to this, one of which is the culture that we are talking about—that is, people dressed all in black, with balaclavas on. There is also a cross-section with football hooliganism, violence against women and girls, antisocial behaviour and organised criminal activity, and we have much more work to do to support what is a minority of young boys—I would point out that it is certainly an issue with young boys that we are facing. The majority of young men in Scotland are fine, upstanding citizens—good, law-abiding folk who set an example for others—but we have an issue that is being fuelled by online misogynistic behaviour, and we need to get in and amongst the more preventative space, provide diversionary activity and allow some space for hope and inspiration. That is part of the answer to all elements of that cross-sectional issue.

As I have said, I am working with the police on the powers that they need to deter this activity. It is not just e-bikes and e-scooters that we are talking about, but off-road bikes and quad bikes. That work is under way, and I hope to be able to have news for colleagues on it in due course.

I also need to work with colleagues in the United Kingdom Government, because more could, should and must be done around the licensing of



these vehicles so that the police's work in tracking and detaining individuals and their vehicles can be progressed. That is another issue that I will be taking forward.

**The Deputy Convener:** I will now pass over to my colleague Ms McNeill from Glasgow.

**Pauline McNeill (Glasgow) (Lab):** Good morning. I note that

"Across all scenarios, the prison population is expected to increase, with the average daily population in March 2027 projected to be anywhere between 8,100 and 9,150."

I know that you know the figures, because that was a quote from your letter to us.

I will set the scene by highlighting my interest here, which is perhaps an interest of other members and is, I am sure, an interest of yours, cabinet secretary. How are we going to provide alternatives to prison? What new programmes have been developed in relation to community sentences? How far down the road are we in that respect? Can you just be open about that?

**Neil Gray:** Yes. This is all about giving the courts and those prosecuting criminality confidence around community disposals. We have a very strong position that we can build on with the very high rate of compliance with community disposals—I think that the figure in that respect is around 90 per cent. I want to build on that by expanding justice social work as well as expanding the community and voluntary sector, which often provides the facilities and programmes for delivering these kinds of community disposals.

This is also about expanding monitoring and bail conditions, and ensuring that those who preside over criminal cases are given the confidence to put more of that work into the community setting rather than into short-term sentences. All the evidence shows that short-term prison sentences result in a higher level of reoffending than community disposals.

Once people enter the prison system, it becomes much harder for us to extract them from it. I would therefore prefer that, when it is proportionate and safe, we use community disposals much more than short-term sentences.

09:15

**Pauline McNeill:** To be honest, you did not say anything that I disagree with, and I could have said the same about previous cabinet secretaries. However, I am interested in what exactly you are doing to change the process. The debate about this goes back decades. Therefore, you need to be more forthcoming in telling us what work has been done.

I understand what you said about giving confidence, but what about programmes? Has there been an expansion in the number of programmes, or do you plan to expand them? How will you go about doing that during this parliamentary session?

**Neil Gray:** I appreciate Ms McNeill's question. I point her to yesterday's statement on the programme for government and the document that set out how the work will be delivered. There will be expansions to justice social work and support for community and voluntary organisations to provide those programmes.

That work is in progress. We are working with Community Justice Scotland on it, and I have also met the chief social work adviser. The work is currently in development and we are setting it in train. It has not been completed yet, but neither has consideration of the consultation responses, so we have not taken any firm decisions on how we rewire the system.

Regardless of the decisions that are taken on penal reform, we have already started work to ensure that there is more capacity available.

**Pauline McNeill:** I want to be clear about what you have said. Do you mean that it is work in progress? I am looking for an answer to that. I am not trying to catch you out in any way. I just want to know.

**Neil Gray:** No, I am looking to be—

**Pauline McNeill:** I have an interest in the work, too, and I believe in its aims. I would just like the Government to be clear about where we are on it.

**Neil Gray:** I look forward to working with Pauline McNeill and other colleagues on the delivery of the work. A lot of the information will come through when budget allocations arrive, and I look forward to working with colleagues at that point.

**Pauline McNeill:** On a similar subject, GPS technology is very important in scenarios that involve a home detention curfew. If victims are to have confidence in the system, it is important to know the whereabouts of people who might pose a risk. How far down the road are we on increasing the capacity for home detention curfews?

**Neil Gray:** We have almost doubled the number of offenders who are subject to home detention curfews during recent months. I have supported the Scottish Prison Service with its risk-based assessments on home detention curfews, and there has been an increase in the number of them. As Ms McNeill will be aware, the number of those was restricted previously. I am looking to expand that work and have better monitoring in place.

Ms McNeill talked about GPS technology. We are considering the use of technology not only in

relation to home detention curfews but also for bail monitoring, when it is available for that use.

We want to ensure that we do all we can to support people in the right places and work with them in the right ways. However, critically—and this was a central theme to the discussion that I had with victims organisations during the summer, as part of the consultation process—we want to ensure that victims are given confidence in their safety as well. I consider that to be of paramount importance in the work that we are doing.

**Pauline McNeill:** On a separate subject, I am pleased about the programme for government's inclusion of doing serious work on violence against women and girls. I think that we all have the same aims on that subject.

The commitment to a sexual offences court was part of the Victims, Witnesses, and Justice Reform (Scotland) Act 2025. However, the Crown Office warned last week that it is concerned that it will not have the resource to make it happen. My understanding is that the Scottish Courts and Tribunals Service has been doing the work for that and is committed to it. When can we expect a sexual offences court to be created?

**Neil Gray:** We are all doing that work, because we are all committed to it: the Lord President, the Scottish Courts and Tribunals Service, the Crown and the Government. I have met individually and jointly with all concerned to see how we can make progress.

I also want us to meet with victims organisations so that they can envisage how a sexual offences court can match what we are able to deliver. That work is ongoing. The letter from the Crown Agent says that the resources are not there because there has been no request for additional resources. The work is not anticipated to come through until next financial year.

This is a complex area where it will be difficult to deliver. The reform and change is substantial, it is necessary and I support it, but I do not underestimate the challenge. I will work with all the partners I have mentioned to ensure that we get it delivered.

**Maggie Chapman (North East Scotland) (Green):** Good morning, cabinet secretary, and thank you for what you have said so far. There are lots of things that we could cover, but I wish to focus initially on prisons. What is the Scottish Government's target prison population for sustainability?

**Neil Gray:** At the minute we are sitting with a prison population beyond 8,500, with a design capacity of 7,800. That will give Ms Chapman a sense of the challenge that we are currently facing.

**Maggie Chapman:** I understand the challenge, but that is not an answer to my question. How many people do you think Scotland should be imprisoning?

**Neil Gray:** That will largely depend on the business that comes through the courts. I want to ensure that the courts have the capability to incarcerate people who pose a risk to society, and I will not apologise for the fact that average sentences have increased. It is right for sentences to match the seriousness of the criminality that we have faced.

However, I believe that we are substantially beyond the level of incarceration that we should be at. That is partly because it has been driven by the long-term prisoner population; it is also because of continuing short-term sentences and the challenge that we face with remand. I have set out what the design capacity is, and that will change with the two new prisons coming on stream in the coming months—HMP Glasgow and HMP Highland—as well as the work that is under way to increase capacity, which I am currently considering.

**Maggie Chapman:** I suppose the point of my question is: if we are not sure what our target is, how do we know whether penal reform is working? I understand what you say about current capacity and projected capacity with the new prisons coming on stream. HMP Glasgow is supposed to deliver an extra 350 places at a cost of £1 billion or thereabouts. If we invested even half of that in prevention, could we shift from a problem of accommodation to a genuine admissions control policy? We are not controlling what is going in.

**Neil Gray:** I very much understand and appreciate the point that Ms Chapman is making. In principle, I largely support what she is saying in many ways. We need to move upstream, and we need to prevent people from becoming victims in the first place. However, we must also have capacity in the prison system to ensure that we are still capable of incarcerating those who pose the most significant risk to society. That is a critical part of our justice system that needs to remain. I do not think that it would be wise to set a target for what that incarceration level should be, as it will fluctuate depending on the business that comes through the courts and on levels of criminality.

The basic principle that I think Ms Chapman is driving at is one of prevention: preventing people from becoming victims in the first place and preventing criminality happening. Of course I support that, that is the work that we will be seeking to deliver on, and that is a key target of mine.

**Maggie Chapman:** You talk about penal reform: what does the success story there look like?

**Neil Gray:** Fewer victims.

**Maggie Chapman:** Okay. How, then, are Government policy and the allocation of resources following that—

**Neil Gray:** Again, deputy convener—

**Maggie Chapman:** If I could just finish. If what we define as a prison problem is a problem of failure elsewhere—of youth services, mental health services and all those things—will we see, and will you commit to, a shift of resource away from the prison problem and towards that upstream complexity around mental health, poverty, inequality and those drivers?

**Neil Gray:** Yes. My response here is similar to the one that I gave to Ms McNeill. The Government is looking to work with all parties across the Parliament, where we can, to ensure that we can deliver a budget that delivers the priorities not just of the Government but of the Parliament.

That includes moving further upstream into more preventative activity, which was a key tenet of yesterday's statement by the First Minister on the programme for government and of the document itself. All the areas that Ms Chapman has set out are areas that should be discussed at budget time.

**Maggie Chapman:** There was a lot of rhetoric about prevention, but I could not see much evidence of an action plan for delivery. However, as you said, perhaps that will emerge as part of the budget discussions that we will have in the coming weeks.

I have a quick question on shorter sentences, which relates to the consultation that is under way at the moment. In your view, how do we make a prison sentence genuinely more meaningful for the offender and for any victims of their crimes?

**Neil Gray:** I would like to return to Ms Chapman's first point. I say with respect to Ms Chapman that investment in housing, investment in the Scottish child payment and investment in mental health services are all preventative activities that are central tenets of the programme for government that we set out yesterday.

We make prison sentences more meaningful by giving our phenomenal Scottish Prison Service staff the space to provide programme work for prisoners to prevent reoffending. At the moment, our Prison Service staff face a challenge of overcrowding at such a level that they are limited in what they can do by way of programme work. As a result, the incentives and support for prisoners to go through such programmes and to progress in that regard are limited.

That is a critical element of why penal reform is required, alongside the work that I am seeking to do to expand the prison capacity, which includes

the provision of the two new prisons, as well as the other work that is under consideration.

**Maggie Chapman:** I have two final questions, the first of which is about deaths in custody. There were 64 deaths in custody in 2024, including 17 suicides. Although people on remand make up around 26 per cent of the prison population, they account for 46 per cent of suicides. That disparity is stark. How many of those deaths in custody do you believe are preventable?

**Neil Gray:** Those deaths are subject to inquiry and investigation, so it would not be appropriate for me to comment on that.

However, I can comment on the work that has been done by the Prison Service through programmes such as talk to me and the work to improve the prison estate to ensure that it is harder for people to take their own lives. I have seen evidence of that in our newer as well as our older facilities in the work to remove ligature points and the work on other safety features. That work is under way, and the new prisons will have much better facilities that will enable them to respond to the challenges that Ms Chapman has set out.

**Maggie Chapman:** My final question is about compliance with human rights in our prison system. We have heard in previous evidence sessions that our prison system is not complying with human rights standards. When will compliance with human rights standards become non-negotiable rather than aspirational?

**Neil Gray:** That is a key reason why we need to address the fact that the prison population is currently unsustainable. It is unsustainable for the human rights reasons that Ms Chapman set out, but it is also unsustainable because it affects our ability to do programme work. In addition to the punishment element of prison and the need to protect community safety, one of the principal reasons for incarcerating individuals is to address their behaviour and reduce their reoffending.

We must ensure that we address the prison population. That is a top priority, which is why we ran the consultation over the summer. One of the Government's first actions was to take the issue of the prison population very seriously.

**Stephen Kerr (Mid Scotland and Fife) (Con):** I will continue on the subject of prisons. In June, you made a statement to Parliament in which you said that you had instructed the Scottish Prison Service to produce a plan to look at all options to maximise the accommodation that is available in the existing estate. You also talked about delivering additional capacity by considering the use of temporary modular accommodation.

I have some simple questions. You made that statement nine or 10 weeks ago. Have the

business cases that you expected to receive “soon” when you made the statement in June been received? On what date were they received? What did they recommend? How many additional places can temporary modular accommodation provide, where and at what cost?

**Neil Gray:** I appreciate Mr Kerr’s questions, deputy convener. It is a work in progress, and I cannot provide as fulsome an update to the committee today as he would like. However, I can tell him that that work is very active, and I expect to be able to make announcements on its progress in relation to modular accommodation very soon.

09:30

**Stephen Kerr:** You used the word “soon” in June, and you have used it again now. What timeframes are we talking about?

**Neil Gray:** I understand Mr Kerr’s questions. He will need to be patient—

**Stephen Kerr:** I am not good at that.

**Neil Gray:** Well, I am sure that we will be able to work together constructively so that our shared endeavours for the Scottish justice system can be delivered. I give Mr Kerr a guarantee that that work has been a top priority over the summer, not only for Government, where that work is led by Ms Dalrymple, but also for the Prison Service. That work is extensive and ongoing, and I expect to be able to come forward with details very soon.

**Stephen Kerr:** Next month?

**Neil Gray:** Very soon.

**Stephen Kerr:** Okay, I will not get an answer on that. I wonder what happened when you asked the SPS to do that work, though. I am getting the impression that it has not given you anything yet—am I right in saying that it has not given you any business cases?

**Neil Gray:** With respect, I have given an answer, deputy convener. It might not be the answer that Mr Kerr wants to hear, but I have given him one. Yes, the SPS has come forward with significant work in that space, but it would be inappropriate for me to provide detail on it until decisions are taken.

**Stephen Kerr:** All right. I will temporarily let that one go—

**Neil Gray:** Linda Pollock and her team have done significant work in that space and, as I said, I expect to be able to provide details to the committee and Parliament soon.

**Stephen Kerr:** I look forward to receiving that information.

The UK Government and the Home Secretary have made it clear that they are exploring at pace the avenue of removing foreign-born prisoners from the prison estate. What discussions have you had with the Home Office and the Home Secretary about those matters? What can you report to the committee on progress towards that end?

**Neil Gray:** Obviously, the deportation of individuals from the United Kingdom is a matter for the Home Office; it is not one over which we have control.

**Stephen Kerr:** Have you discussed it with—

**Neil Gray:** However, I know that that work is ongoing, and I am hoping to be able to meet Home Office ministers soon in order to discuss that and other issues in which we have a shared interest.

**Stephen Kerr:** Have you not yet met Home Office ministers?

**Neil Gray:** No.

**Stephen Kerr:** Have you requested such a meeting?

**Neil Gray:** Of course.

**Stephen Kerr:** Okay. I appreciate that.

I move to policing. A discussion of many aspects of policing would probably detain you for many hours, but I appreciate and honour the fact that you are attending a memorial event in connection with our police service, which is very important. The deputy convener reflected that in his earlier comments to you.

His Majesty’s Inspectorate of Constabulary in Scotland issued a report dated 26 May 2026, which is entitled “HMICS assurance review of conduct and discipline”. That report is significant: it contains very disturbing information from the inspectorate about the weaknesses in the way that misconduct and discipline are being handled, especially among the most senior officers. The report issued 24 specific recommendations. Have you discussed that report with Police Scotland?

**Neil Gray:** Yes.

**Stephen Kerr:** What was the nature of that discussion?

**Neil Gray:** It is important to put into context what was in the report from His Majesty’s Inspectorate of Constabulary in Scotland earlier this year, as it also described the strong relationships in the executive team and the strong leadership that the leadership team in Police Scotland has provided.

Yes, I discussed that report with the chief constable and with the Scottish Police Authority, which I intend to meet again in the coming weeks to go into more detail about it. As I said at the Association of Scottish Police Superintendents

conference earlier this year, the confidence of the public is critical in the delivery of and the consent around policing. Therefore, we need to ensure that we are delivering a system that has full public confidence; I want to be assured that the processes are sufficiently robust.

That is primarily a matter for the SPA—the chief constable is accountable to the SPA, and the SPA is accountable to me. I am pursuing the matter with the vigour that Mr Kerr would expect.

**Stephen Kerr:** Did you say that you had met with the SPA to discuss the report?

**Neil Gray:** Yes.

**Stephen Kerr:** Are you happy with the rigour with which the SPA approaches its responsibilities in relation to the accountability levels that it needs?

**Neil Gray:** Of course. I have full confidence in the SPA, its board, its chair and its leadership.

**Stephen Kerr:** That is not quite the question that I was asking. I would expect you to have confidence in them, but are you satisfied with the level of rigour?

**Neil Gray:** Yes, although that is not something that I would take for granted or rest on my laurels on, which is why I am having a further discussion with them to discuss this and other matters around policing to ensure that they are scrutinising the actions of Police Scotland with the necessary rigour so that it is held suitably to account on the matters that it is accountable for. I will continue in that vein, to ensure that we are getting a system that has the necessary rigour that Mr Kerr is asking for.

**Stephen Kerr:** Does it not concern and surprise you that the report, which is critical—I hope that you agree that it is critical in the context of the subject matter but also in its tone—has not yet been discussed at the most senior levels in the SPA?

**Neil Gray:** I believe that it has, but—

**Stephen Kerr:** Not at the board level—the senior level.

**Neil Gray:** I welcome the report and the reflections that it contains. I am seeking to take forward with the SPA an assurance that it is taking the necessary action to hold Police Scotland to account in the way that the statutory responsibility sets out. I am going to have a further such meeting with the chair of the SPA in due course, but I have also raised those matters directly with the chief constable and the deputy chief constables who were present at that meeting.

**Stephen Kerr:** Okay. I will follow up on that on another occasion.

You have met representatives—I know that you mentioned this—of the federation, and you have also met ASPS. In relation to the recent material that has appeared in the news about available police officers for the front line, what did the federation and ASPS tell you about the situation in respect of safe staffing levels for shifts for front-line officers and the availability of officers to take their place on the front line?

**Neil Gray:** There was nothing different in what we discussed with either the federation or ASPS from what has been covered in the public domain. As I said, I have raised the matter directly with the relevant deputy chief constable and they are very much seized of that issue, recognising that the number of officers on modification is a significant challenge for the service, and it is one that they are seeking to address.

Again, I will be looking at that area and probing further, because we need to ensure that we are supporting police officers through what are incredibly challenging and often traumatic experiences. We need to ensure that we value and support them, of course, and give them the support that they need to be able to return to front-line duties should that be appropriate. I know that the Police Scotland executive is very seized of that issue and is looking to take action on it.

**Stephen Kerr:** So—

**The Deputy Convener:** We are quite tight for time, Mr Kerr. I will bring you back in if I have time at the end, but I want to be fair to all colleagues.

**Stephen Kerr:** Absolutely. Thank you.

**The Deputy Convener:** Marie McNair is next.

**Marie McNair (Clydebank and Milngavie) (SNP):** Good morning. During our recent visit to HMP Low Moss, we were advised that the prison population includes quite a lot of remand prisoners. As you are aware, the increase in their numbers is having a significant impact on overcrowding across the prison estate. What is the Scottish Government doing to expedite such court cases? What is the Scottish Government going to do to tackle the backlog in solemn courts?

**Neil Gray:** We have a very good story to tell on summary case management, and I want to see what can be done to similarly bring down the High Court backlog. In summary case management, we have seen a shift in the use of evidence sharing and technology. The issues that we are facing in the High Court can be partly addressed by that, but the reason is the substantial business that is coming through. It is the success of the Crown and the police in investigating and prosecuting cases that is driving the High Court business being so high.

I have met the Lord President and the Scottish Courts and Tribunals Service to discuss that and we are looking at the proposals that have come through from both on how we can move forward. It is critical for victims and communities that court business and the wheels of justice move as quickly as possible, and we will seek to support both in that endeavour.

**Marie McNair:** Why do we have so many remand prisoners in our prison estate? I know that it is not just to do with the backlog in court cases.

**Neil Gray:** That issue is regularly considered in the meetings that I have on a whole-system basis with justice partners, with a particular focus on how we can try to avoid short-term remand.

Clearly, decisions on remand and bail are for the courts to take. They take decisions on a risk basis, following the procedures that they need to follow.

Obviously, I am keen to ensure that we are able to address the remand population in prison. In many cases, that may well mean that someone transfers from being a remand prisoner to becoming a sentence prisoner. However, providing certainty for perpetrators and victims is absolutely critical. I recognise that. For the continued sustainability of the prison system, we need to ensure that we address court business more quickly. We are working with the Scottish Courts and Tribunal Service and the Lord President of the judiciary on that issue.

**Marie McNair:** Thank you. In the interests of time, I will leave it there.

**Amanda Bland (Central Scot and Lothians West) (Reform):** Good morning, cabinet secretary. I want to take you back to the two prisons that are due to open. What is the expected timescale for their opening and running at full capacity? What is the date for HMP Glasgow and the other new prison?

**Neil Gray:** I will bring in Ms Dalrymple to confirm the date for HMP Glasgow. HMP Highland will open at the start of next year. I visited HMP Highland over the summer because there have been delays in construction. It was important for me to meet the builder and to push as hard as I could to ensure that that facility opens as quickly as possible.

I was pleased to be able to go along to one of the important milestone events at HMP Glasgow, which involved the riser installation. I am confident that the progress on HMP Glasgow is strong. I am pleased with the progress there, but I continue to push for HMP Highland to open as quickly as possible.

**Catriona Dalrymple (Scottish Government):** The expected date for HMP Glasgow will be in 2028, with an additional 357 places.

**Amanda Bland:** If the Scottish Government is relying on early prison release and community-based solutions, what is your five-year projection of prison capacity? What will it look like in five years?

**Neil Gray:** That will largely depend on the work that is being done on increasing capacity through the use of modular accommodation or further house blocks. As I said extensively in response to Mr Kerr, those items are under consideration at present. We know that the business that is coming through the High Court, particularly on solemn cases, will drive a significant demand for prison places. We are looking to ensure that we are doing what we can to increase the capacity that is available.

We have also consulted on potential penal reform, but no decisions have been taken on that as yet. When decisions are taken, discussions will be had with this committee and the wider Parliament about how we take those steps forward.

**Amanda Bland:** My next question has been touched on slightly. I had a meeting with UpSide, and I was genuinely surprised when I was told that, upon release, a prisoner could literally be given a sleeping bag and told that no accommodation would be made available and they would be put out on the streets. That really shocked me. In terms of short-term prisoners who are released with no licence, supervision or possibility of recall at 30 per cent of their sentence, what assessment has the Government made of the risk that that poses to those released and to the public?

**Neil Gray:** Those were considerations that were taken forward as part of the legislation that introduced the release of short-term prisoners at 30 per cent of their sentence. There is information available on reoffending rates that have come from those processes.

09:45

Ms Bland's central point, about ensuring that suitable throughcare support is in place so that people are properly supported upon release, is the point—I say this in response to the deputy convener—that I am keen to explore. We need to provide the social policy support, not just to prevent reoffending—that is critical—but to ensure that, when people are released from prison, regardless of whether it was a short-term or long-term sentence, we have the necessary support in place to ensure that behaviours have been addressed and that reoffending potential is reduced.

The whole system is part of that process. Housing is absolutely critical not only in that, but in reducing offending happening in the first place—never mind reoffending. The social drivers that help to breed criminality are poor housing and poor social infrastructure, and those are the areas that I and the Government are determined to address and which are central to the First Minister's programme for government, not just for the coming year but over the coming five years. We need to make our communities stronger and ensure that those issues are addressed.

**Amanda Bland:** What proportion of those released under the early release measure engage with voluntary throughcare? Do you know the percentages?

**Neil Gray:** I do not have the figure in front of me, but I am sure that I can provide that to the committee. Some of that engagement will be mandated, depending on prisoners' circumstances, and other aspects will be voluntary. I am happy to provide further detail to the committee.

**Amanda Bland:** Thank you.

**The Deputy Convener:** We are delighted to welcome Mr Merrick, who is a guest at the committee today. Mr Merrick, you have questions for the cabinet secretary, so I will hand over to you.

**Colm Merrick (Glasgow Anniesland) (SNP):** Thank you, and good morning. Cabinet secretary, it is welcome to hear about the significant reduction in crime that you mentioned at the start of the meeting, but residents of Glasgow Anniesland and Drumchapel keep asking me what you can do further and faster, because they want to see how we can keep the momentum up.

**Neil Gray:** I recognise the ambition—which I and the Government certainly hold—to reduce criminality. I said at the outset that, overall, recorded crime is down on 1991 levels. However, over the past year, we have seen an increase, which is concerning to me. That increase has been driven in particular by sexual offences, retail crime and other factors that will be of deep concern to communities. We want to drive hard at those issues, which is why addressing violence against women and girls was, I think, the number 1 commitment that came through from the First Minister's programme for government yesterday. It is a commitment on which I have been interacting with him and stakeholders, including victims' families, over the summer.

What we are seeing in terms of social trends and rising levels of misogyny and antisocial behaviour, ultimately driven by violence against women and girls, is of deep concern. This is a malignant malevolence in our society that we must address.

That is the determination of this Government, and we will absolutely put forward every possible solution to address that.

**Colm Merrick:** We are now seeing different types of crime becoming more prevalent. We heard about youth violence and knife crime in Parliament recently, and about the no knives, better lives campaign. What groups are you going to work with, and what level of funding will be required to get these things under control?

**Neil Gray:** YouthLink Scotland's work in this space and on the no knives, better lives campaign has been phenomenal. We have a very good story to tell about the work of the violence reduction unit and violence reduction in Scotland over many years. Only through that upstream work will we address these issues.

Although the overall trend is a significant reduction in youth violence and knife crime—and, indeed, hospitalisation due to bladed weapons—we have seen some tragic and high-profile cases over the past year. I, along with the First Minister, met Kayden Moy's family over the summer and heard the very powerful points that they made about what they believe are the drivers. We will take some of those points very seriously to ensure that we can go upstream and take a much more preventative approach, and that work will include the capacity of justice social work as well as organisations such as YouthLink Scotland, which delivers the no knives, better lives initiative.

**The Deputy Convener:** Thank you, cabinet secretary. I see that we still have a little bit of time; I do want to be respectful of your time, but I know that one or two colleagues want to come in.

I have a couple of quick wash-up questions. I know that you are leading the debate on the sentencing and penal policy commission's reforms. I appreciate that a consultation on that has been ongoing—indeed, it has just closed—but I would like confirmation that, if the Government were to bring forward any legislative changes, they would come via primary legislation, not a Scottish statutory instrument. Is that right?

**Neil Gray:** Depending on the measures that were chosen, yes.

**The Deputy Convener:** Okay.

Declaring an interest as the constituency MSP for HMP Barlinnie, can I be absolutely clear that when HMP Glasgow becomes operational, HMP Barlinnie will close for good?

**Neil Gray:** That is the current intention.

**The Deputy Convener:** Okay.

I have one more question before I pass over to colleagues. As someone who is particularly new to

this brief, I have been struck by the capacity issues that exist across the prison estate. However, one area that is not at capacity is the open estate at HMP Castle Huntly. Why are we not using the open estate more, particularly for prisoners who might be a bit older or who are less likely to be of risk?

**Neil Gray:** Such considerations are for individual governors and the referral pathways on to Castle Huntly. I have to say that Castle Huntly's work is there for all to see with regard to the much lower levels of reoffending and the largely very positive outcomes for the prisoners who go through it. Maximising that capacity and the throughput through Castle Huntly is an area that I am exploring with Linda Pollock, and we are looking at what we can do in that space.

**The Deputy Convener:** Okay. Two colleagues—sorry, three colleagues—have sought to catch my eye. I suggest that we try to get this session done in the next five or six minutes, to ensure that we are respectful of time.

**Stephen Kerr:** I have a quick supplementary. We all recognise the issues with blade-related crime; indeed, I asked the First Minister yesterday about no knives, better lives and the fact that it has had a 31 per cent funding cut in the current financial year. You might shake your head, cabinet secretary, but that is the reality. The funding that YouthLink Scotland received fell from £447,000 in 2025-26 to £302,940 this year, and that money was being used for specific purposes in areas of high violence and incidents involving the use of knives in crime, particularly among young people. That money disappeared; therefore, it was a cut.

**Neil Gray:** Let me clarify, deputy convener. The core funding for YouthLink Scotland has gone up. The additional resource that Mr Kerr is referring to—that is, the £150,000 that came through education investment—was for a pilot. Obviously, we are considering the impact of that pilot, but it is not accurate to say that no knives, better lives has been cut, because core funding to YouthLink Scotland, which delivers the initiative, has increased.

**The Deputy Convener:** Pauline McNeill, you wanted to ask a question, too.

**Pauline McNeill:** Yes. It is on knife crime, again, and I thank Colm Merrick for raising the matter. I do not need a full answer to my question today, but I do not think the Government has been clear on this at all. I totally accept that knife crime had been reducing—the approach had been a success, if you like—but there have been early indications that it is on the rise again.

Therefore, I ask on behalf of the committee whether the Government can give us specific

detail on and recent figures for knife crime. I listened carefully to the exchange on this yesterday, and I did not think the First Minister got it right, if I may say so—I think that the recent trend has been upwards. However, I am asking only for clarity on the matter, because we all want to be clear about what we are dealing with.

**Neil Gray:** All of this detail is in the recorded crime statistics that are published, which I am happy to furnish the committee with.

**Pauline McNeill:** I have another quick question related to this issue and what Colm Merrick said about Glasgow Anniesland. In Sauchiehall Street in Glasgow, we have 17-year-olds using these weapons. There is the separate issue of retail crime and the fact that it is not being prosecuted, but we also have an issue with 16 and 17-year-olds using these weapons and not being prosecuted for doing so.

Again, I am just laying a marker for this. The First Minister has had two summits on youth crime. I understood that he was saying that the representations that he was getting from communities, parents and young people were that we will have to review the youth crime sentencing policy. I am not looking for detail at this stage.

**Neil Gray:** Sentencing decisions are for the courts, clearly, and all sentences are available to the courts, regardless of age. However, I understand the points that Pauline McNeill is making. They are similar to the points that have been made to me by victims' families, and those areas are under review.

**Pauline McNeill:** I am sorry, but it is not for the courts.

**Neil Gray:** It is for the courts.

**Pauline McNeill:** A public policy decision has been taken by agencies that they are going to the children's panel at 17 years old. I know that that is the case.

**Neil Gray:** I am happy to provide the committee with more detail around the process and how it works, to ensure that there is the fullest understanding of how we deal with young people through the justice system, including through the use of the children's panel and other possible options. However, in all of the cases that we have been talking about, all sentences are available to the courts, regardless of age. I am happy to provide the committee with further detail.

**The Deputy Convener:** We look forward to receiving that clarity. Ms McNeill is a very experienced parliamentarian who I know will be pursuing this issue when you appear before the committee in autumn.

The final question is from Ms Chapman.



**Maggie Chapman:** Thank you very much. Cabinet secretary, I will take you back to the questions on the prison estate. I would be interested to know—again, maybe this is not for now—about the Government's analysis of and the projections regarding the balance between the outcomes from the two prisons that are being constructed in Glasgow and Highland and the outcomes from the Bella and Liliias centres. They involve very different types of incarceration and representations of punishment. I would be interested in seeing a much more detailed analysis of outcomes for staff, perpetrators and victims.

**Neil Gray:** There has been very early consideration of the outcomes from the Liliias and Bella centres, but the indications of their effectiveness are very positive.

In the open estate, the effectiveness of Castle Huntly is there for all to see in the reduced reoffending rate. I would be more than happy to have further discussion on that with the committee in due course.

**The Deputy Convener:** I am grateful, cabinet secretary. I know that you have to get to Tulliallan for an event, so please pass on our best wishes and thanks. We thank you for your attendance and look forward to a fuller session with you in the autumn.

**Neil Gray:** Indeed—I am up for that.

**The Deputy Convener:** Thank you. I will suspend the meeting for a couple of minutes to allow the witnesses to leave and the next witnesses to come in.

09:57

*Meeting suspended.*

10:02

*On resuming—*

## Prison Operations

**The Deputy Convener:** Welcome back. Our third item of business today is an evidence session on prison operations. This session will build on evidence that was previously received from His Majesty's Inspectorate of Prisons for Scotland, the committee's recent visit to HMP Low Moss, and subsequent correspondence received regarding prison pressures and operational challenges.

We are grateful to welcome David Mackie, convener of the Howard League Scotland; Linda Pollock, chief executive of the Scottish Prison Service; and Jim Watson, chair of the HMIPS prison expert group. You are all very welcome, and I am sure that we have a number of questions for you.

I will start off by directing a question to Ms Pollock. In the penultimate paragraph of your letter to the committee of 14 August 2026, you say:

"People on remand also account for around 26 per cent of our population, but 46 per cent of all suicides. People in their first 72 hours are also at a higher risk, accounting for 11 per cent of suicides. For this reason, we have put additional support in place for young people in their first 72 hours in custody."

When the committee visited HMP Low Moss, we noted that there was no dedicated first night in custody unit, and I know that that was also picked up in the inspectorate's report. Can I ask you to comment on that and to also tell me how many other prisons in the SPS estate have no dedicated facilities for first-night care, given that you have acknowledged the massive risk and vulnerability there?

**Linda Pollock (Scottish Prison Service):** Thank you for the invitation to meet you this morning. I give my particular thanks to the committee for coming to visit Low Moss prison the other week.

We really welcome the committee's focus on prisons. I know that you are well aware of the pressures that we are under across the prisons estate. The number of people we currently have in custody across Scotland puts pressure on our support for people who are in our care, including the support that we can give to them for their rehabilitation and to help them on their journey. We welcome that focus and we are happy to continue to engage and organise more visits if that would be helpful for the committee.

A lot of work has been done around the number of deaths in custody in Scotland, which is far too high. The issue is tragic, and a lot of work has been done to look at the causes of it and what we can

do as an organisation to support people when they come into custody, with a particular focus on deaths by suicide, which are really concerning.

As you will understand, a lot of work has been done with young people, given the recent fatal accident inquiries and the tragic deaths that we have had at Polmont. In the Polmont establishment, we now have what is called a 72-hour adapted cell, which enables there to be additional monitoring of people coming in, particularly young people. From the work that has been done around young people, we understand their impulsive nature, and the operation of that adapted cell is under review, so that we can see its impact.

As you rightly noted, deputy convener, across our prisons we like to have a first-night custody suite, so that we can give people additional support when they first come into custody. We recognise that that experience can be overwhelming and scary. We have a lot to learn, and we want to help people in that situation.

There are issues relating to the overcrowding pressures that we have across our estate. I know that, earlier, the cabinet secretary noted that the design capacity of our prisons is 7,805 and that there are currently more than 8,000 people in custody. Today, the population is 8,572, and on Friday we had the highest number of people in prison that we have ever had on a Friday in Scotland. That situation has had a knock-on effect across all of our establishments and, unfortunately, that has meant situations such as the one that you have seen in Low Moss. We have to be able to receive prisoners from the courts and, although we do not know the numbers that we will receive on any given day, we have had to make space available. That has resulted in overcrowding and doubling up. In some areas, it has meant that we have had to change the regime.

**The Deputy Convener:** Just to be clear, my question is, how many prisons within the SPS estate do not have first-night facilities?

**Linda Pollock:** I would need to get the exact figures on that for you. We try to prioritise that provision, but the situation changes regularly and the provision sometimes has to be taken away. That had to happen in HMP Edinburgh, but we have been able to reintroduce it. Where we can move towards doing that, we make it a priority. However, we have to be able to receive from the courts, and that means using all available space.

**The Deputy Convener:** It is widely acknowledged that we have an increasingly complex prison population with, among other things, higher levels of neurodivergence. As a result of my written parliamentary questions, it has become quite apparent to me that we could be

doing more to screen for, better understand and better support those in the prison system who are neurodivergent. Can you outline what support is currently available and where you see good practice being developed? More important, will you undertake to develop a proper and full strategy for responding to people in your care who are neurodivergent?

**Linda Pollock:** That is an area of growth in our understanding and in the support that we can provide across prisons and with our partners. We have done work with the Scottish Government around its neurodiversity strategy and the proposed bill on neurodivergence to look at our levels of understanding and the support that we can provide, working with others.

I hope that, when you come to visit other prisons, you will see areas where we have been adapting and learning from that work. Polmont is a really good example, because, while working with the young men that are there, we have seen quite high levels of neurodiversity and have worked on aspects such as having quieter spaces for them and helping them to be able to communicate in a different way, and we have put in place services to support that.

We have also done a lot of work with our staff, putting in place training not only around working with people who are neurodivergent but in relation to our staff who are neurodivergent. I can confirm that work is under way and that there is joint work with the Scottish Government on its strategy and how we can give it greater support across prisons.

I would add again—this will be a feature in almost every question I answer today—that everything is impacted by overcrowding. At the moment, our staff are trying to meet people's basic needs, but we should be doing more than that, and we would be able to do so if we had the design capacity that gave us the correct ratios to enable us to work with people. If that were the case, we could do more.

**The Deputy Convener:** I have questions for others on the panel, but I will ask one more question of you before I hand over to colleagues.

I have heard some worrying testimony from prison officers regarding the impact of illicit substances, particularly spice, which can turn ordinarily perfectly normal and relatively well-behaved inmates into volatile, dangerous and unsafe individuals. What is the Scottish Prison Service doing to stop the flow of illicit drugs such as spice into prisons? Supplementary to that, how much of the illicit substances entering prison are coming in via drones?

**Linda Pollock:** That is a real challenge across the Prison Service, as it is in communities, and I

know that the committee previously held an inquiry into that issue. We welcomed that enquiry and the recommendations that came from it.

We have taken a number of steps and will always work with our partners, particularly Police Scotland, on what we can do to prevent substances coming into establishments. One thing that we have done is start photocopying prisoners' mail, to stop one route by which drugs were coming in. When you visited Low Moss, you saw the body scanners that are another way of stopping that happening. Every time we understand more, we will put in place what we can to stop things coming in.

As you rightly pointed out, deputy convener, we have a significant issue with drones. Scotland is not alone in that, because the issue of drone packages coming into prisons is seen across western Europe and more widely. We are working with Police Scotland, the National Crime Agency and the UK Prison Service, as well as across Europe, on the technology that can be used to detect and divert drones. That work is being advanced. Within the Scottish Prison Service, we have put additional grilles on windows in a number of establishments because we learned and understood that drones were making deliveries to specific windows and that people were able to remove part of the window to receive them. By putting grilles on windows, we have helped to prevent drones accessing establishments. That has been done in a number of prisons, and we have a programme to keep rolling that out. It will not surprise you to hear that there are other methods of trying to get packages in. We have seen an increase in what we call "throw overs", which is when things are thrown over a prison wall, and we have also, unfortunately, seen an increase in visitors bringing things in.

Whenever we see an avenue being used to bring in drugs, we will stop that, because, as you say, they have a devastating impact on people in custody. A small amount can go a long way in a prison. You have heard from our staff that people we work with and care for who can be very reasonable will become quite unpredictable and challenging when they take a substance. We now have body-worn cameras in some of our establishments and will be rolling those out further so that we can show people what is happening. People are shocked when they see that, because it is devastating and the health concerns are worrying. I know that you have Tracey McFall coming here later. We will continue to work with partners to prevent substances coming in and to tackle why people are actually taking substances and how we can help them with recovery.

I would really like the committee to come and see the recovery work that we do, because it is so

powerful. We work with people in our care and in their communities to support them.

**The Deputy Convener:** I have one last, brief question. HMP Pentonville and HMP Wandsworth have similar problems with overcrowding. Are you following the pilot that they are undertaking with what is known as Scandi wings?

**Linda Pollock:** I have been reading about that with interest. We will learn from wherever we can and will take all the advice that we can from other nations and jurisdictions. We are members of the EuroPris network and learn a lot from other European nations. We work closely with His Majesty's Prison and Probation Service in England and Wales, the Northern Ireland Prison Service and the Irish Prison Service. We will happily learn anything that we can from others. Likewise, we share a lot of information with them. We are all there to help the people in our custody and want to do anything that we can.

**The Deputy Convener:** I will have some questions for Sheriff Mackie and Mr Watson towards the end, but I am now going to hand over to colleagues, beginning with Ms Bland.

**Amanda Bland:** Ms Pollock, the Scottish Prison Service has a responsibility to keep prisoners and prison officers safe. Do you currently have enough front-line staff in every establishment to operate prisons safely and to deliver the regime that you say you want to provide? If not, which prisons are under the greatest pressure?

**Linda Pollock:** Thank you for taking an interest in our staff. I heard the cabinet secretary speaking positively this morning about them and about the work they do, and you saw that at first hand when you were at Low Moss recently. They provide outstanding care to some of the most difficult and vulnerable people in our communities.

We would always welcome more staff. I do not think I would ever sit here saying that we have enough; we could always do with more. There is a difference between safety and what we would like to do in the regime. Our prisons are overstretched and over capacity, but they are as safe as they can be just now. When prisoner numbers increase, we really struggle with safety in overcrowded situations. I have significant concerns about overcrowding and the risks to people in custody, our staff and the other people who work in prisons—including third sector workers, national health service staff and social workers—many of whom you met at Low Moss.

10:15

Safety will always be our number 1 priority, but that sometimes comes at a cost to the regime and affects other things that we should and want to do

to support people. You saw that at first hand in relation to neurodiversity, which we have already spoken about. We would always welcome more front-line staff, because we know the power of what we can do comes through having relationships with people in custody. The more we have, the more we can do.

On your specific question, the largest establishments are the ones that are under the greatest pressure. Barlinnie, Edinburgh, Kilmarnock, Grampian and Low Moss are the prisons that are at maximum capacity and that continue to be overcrowded. The struggle is with the prisons that have to receive people directly from court, but our organisation works to support that. For example, we have tried to get additional staffing in Edinburgh, and we will keep doing that work. However, we would always welcome more staff so that we could do more with the people in our care.

**Amanda Bland:** You talked about the recommendations relating to fatal accident inquiries. Quite rightly, that puts a lot more pressure on monitoring, equipment and responsibilities. Is the Scottish Prison Service provided with the resources that are needed after a fatal accident inquiry? Do the recommendations come into play?

**The Deputy Convener:** I invite Sheriff Mackie and Jim Watson to comment on that, too.

**Linda Pollock:** We work very closely with the Scottish Government on the funding that we receive. As a public servant, I am well aware of the pressure on finances across the whole public sector. With our operational responsibility, we then allocate our funding to the running of prisons.

I can speak to the joint fatal accident inquiries into the tragic deaths of Katie Allan, William Brown and Lindsay and Jack McKenzie. On the back of those inquiries, significant work was done on what we can do to support and improve facilities—particularly at Polmont for young people, but we also thought about what we can learn for the rest of the estate.

We have been working closely with the Scottish Government on additional resources. I know that the Cabinet Secretary for Justice spoke earlier about, for example, the overhaul of the talk to me strategy, which relates to suicide prevention. We have also done work on tackling bullying, and we are doing a lot of work to remove ligature anchor points. All of that costs money, and we work with the Scottish Government on funding to support those measures.

I will always say that, if we had more funding, we could do more. I am not sure that you would find any body that would not say that.

**David Mackie (Howard League Scotland):** Good morning. Thank you for the opportunity to contribute to this morning's business.

I cannot comment in any subjective way on the matters that have been raised, but I can make the observation that there should be—and, I think, is—a growing awareness not only in the prison estate but among decision makers of the risks of suicide. Sheriffs, who are most often confronted with the choice between custody or community-based disposals and questions of bail, cannot keep turning their heads away and pretending that they do not see. The decision to remand somebody or to impose a custodial sentence has the capacity to initiate or reinforce suicidal ideation or even a decision to attempt suicide. Those making such decisions cannot then sit back and say, "It's not my problem; it's the Prison Service's problem." We hear of the sterling work that the Scottish Prison Service does in extremely difficult circumstances, with overcrowding and everything else that we have heard about, such as first-night rooms having to be taken away and used for custody.

We cannot ignore that, so I simply wish to make the point that the issues relating to suicide and suicide prevention do not rest only in the hands of those in the Prison Service. Every decision maker in the process—prosecutors, police, sheriffs, judges and social workers—should be alive to them.

**Jim Watson (HMIPS Prison Expert Group):** The key point for me, in any prison environment, is that of relationships. If officers develop a good relationship with people who are serving a sentence, it goes well for both sides. That can be constructive and productive and it is not necessarily just a waste of time locking somebody up. If there were more staff who were trained to a better extent in how to develop those relationships and make sure that people's needs were met, I think that prisons would be doing a lot more on rehabilitation. Overcrowding is the key issue. There is now a transactional basis, and a lot of the rehabilitative work is being put to the side.

**Amanda Bland:** I have another question, but I am happy to leave it and pass on.

**The Deputy Convener:** At this juncture, I will bring in Ms Chapman, because she has questions about vulnerability, which follow up on what Sheriff Mackie said. I will hand over to Ms Chapman and come back to you, Ms Bland.

**Maggie Chapman:** Good morning, all, and thank you for your contributions so far.

I want to go back to David Mackie's point that every decision maker needs to take some responsibility and recognise the impacts of the decisions that they make. How do you see the

different elements of the justice system? Are there significant gaps or breakdowns of relationships that mean that conversations on impact and the recognition of impact cannot happen? Where do you see weak spots?

**David Mackie:** It is difficult to approach that in the sense of identifying weak spots. The process is highly subjective. Usually, each individual is the subject of a criminal justice social work report, and the content of that report is the product of that individual's life and life circumstances, so it is difficult to generalise on issues of this nature.

However, in any given case, the challenges facing an individual will be apparent. They will be manifest, first of all, at the start of the process when decisions on bail are being made. In the committee's next evidence session today, members will hear more about that and the desire for better risk assessments, but most of all for information for decision makers.

By virtue of human nature, a prosecutor or a sheriff will err on the side of caution. When the only information available is that an individual has a record as long as your arm, and not much else, it is hardly surprising that a decision to remand them is then made. If, however, the same sheriff has information that the individual is, in fact, already on a community payback order or a drug treatment and testing order, and that remand would undermine work that is already under way to enable them to lead a more law-abiding life, a different decision might be made. That is an illustration of an area where the information that is available to the decision maker can be crucially important, and that is where the business of the witnesses on this panel and that of those on the next one overlap.

The point that I made earlier about the sheriff's awareness of prison conditions is not made lightly. In Ireland in 2022, Mr Justice Paul McDermott refused to extradite a Scottish prisoner to Scotland because he had seen the 2022 report by Her Majesty's Inspectorate of Prisons in Scotland that talked about overcrowding and the inadequate accommodation in prisons. He decided not to extradite that person because the individual's article 3 rights to dignity and good treatment would be breached.

That is only part of the story. That same man came to Scotland two years later, when a different judge decided that he could be extradited, but only after—as I understand it from publicly sourced information that I have drawn on—a package was put in place to address the individual's attention deficit hyperactivity disorder and other neurodivergence issues. I make that point because that judge in Ireland was not being performative. He made a serious decision, based

on the information that was publicly available to him, and no doubt he was addressed on it in court. However, when will it be that a judge in Scotland will decide, "Well, I cannot send this person to prison because I know his human rights will be affected"?

I cannot think of any time in my 25 years as a sheriff when I have heard of a prison providing a care package for an individual prisoner. We would be in a perfect world if that were available, but it cannot happen because we just do not have the resources to allow it. It would be a good aspiration. That reinforces my earlier point those who are making the decision to impose a custodial sentence cannot ignore the realities. If it is a factor that might lead towards a different, community-based solution in addition to other factors, it should be taken into account.

I am departing from the specific point in your question, because it is difficult to say that there is a weak point anywhere along the line. I am more inclined to approach it by way of raising awareness throughout the system, because the change in an individual that causes them to lose hope—which is often at the heart of suicidal ideation—and move towards suicidal ideation may not occur until they are in prison or further down the line. The issues that we are addressing may not have been apparent at an earlier stage. I am more inclined to think about ensuring that every practitioner and decision maker is aware of the risks, down to the practicalities of ligature points that were highlighted so much in Sheriff Collins's determination in the Polmont cases.

**Maggie Chapman:** Thank you. That is helpful. Making the link to our next panel is useful as it gives us a strong foundation for that conversation.

Jim Watson, I will come to you with a similar approach. From the perspective of people with lived experience, how are prisoners' needs, which are increasingly complex in nature, being met? Where are support mechanisms, structures and programmes failing the most, if I can put it like that? Can you identify any significant or particular pressure points?

**Jim Watson:** There are lots of them, and it is very easy to pick them up. For short-term prisoners, the lack of rehabilitative efforts is significant. That might be due to overcrowding, or just in the nature of how things have developed. I remember that, when I first went into custody, no real rehabilitation was done with us prisoners. At no point were we offered a programme, and it was not talked about. Some unofficial stuff was happening through education that was beneficial, where we talked about why we were there and what led us there. The guy in education was really good at that, and he had a big attendance in his

class. For some reason, it was one of the few classes for which attendance outnumbered the people in the art class. He was great, until he was chastised for not getting the required number of higher national units, so he then reverted to talking about the causes of the first world war or whatever, and attendance dropped.

There is a lot of scope for a dialogical approach, where officers and other third sector providers come to prisons to look at what causes offending and at criminogenic needs, which can be done in groups. One of the questions posed to the earlier panel was about how we are being creative with community payback orders. The University of the West of Scotland is engaging with South Lanarkshire Council. We are looking to develop a level 6 programme that will fulfil 50 hours of somebody's CPO. The criminal justice team will deliver information, and participants will be assessed and receive a certificate from UWS that will count towards their rehabilitation. A lot of our focus is on including content that will make participants think about where they are at, what they have done and how things could change; it is about the secondary desistance process. That is an innovative programme that is still in the development stage. If it comes off, I will drop the committee a note and let you know how good it has been.

The other side of it is progression. I do not need to tell you how bad that is—members could go and read the HMIPS's report on it. The whole system is a shambles from start to finish. There is a lot of concern about overcrowding being held up at the back end, because people are not progressing to the national top end. When they get there, they are held for too long and they are not getting to the open estate quickly enough. That has implications for overcrowding.

Could the system be made better? Again, it is a question of resources: we need more forensic psychologists to get into the service and work there; we need more prisons offering programmes that are known to work; and we need to get those programmes delivered to people who are waiting on those courses.

Last year, prisons stopped using constructs, which is a basic cognitive behavioural therapy programme, and also stopped putting people on to pathways, which is another offender behaviour programme, because they were trying to address the waiting lists for programmes. Between January 2024 and March 2025, there was an increase of about 97 people on a list of 700 folk waiting for programmes. I do not know how that list stands at the moment, because the data is not there for me to look at, but I would imagine that it has probably got a bit worse with constructs and pathways not being available.

The focus has to be on facilitating progression through the system, which should start from day 1. It would make a significant difference to get that started as early as possible and not leave people hanging about for three or four years just because they have a big sentence and so it is thought that there is no rush.

10:30

**Maggie Chapman:** That is really helpful. I will stay with you for my next question, which is on segregation and the use of restricting contact with others. The European Committee for the Prevention of Torture has called for meaningful human interaction, an end to yo-yo segregation and better step-down facilities. In the view of the prison experts group, what needs to change immediately in the use of segregation in our prisons?

**Jim Watson:** Some of our members have been subjected to segregation, and they have very interesting views on what its purpose was and how they ended up in there. There was too much of a rush to separate them for something that had happened; and they felt unfairly treated because they had not started it—you are back in that playground.

When I shadowed the inspection at Barlinnie, I went into the segregation unit and it shocked me quite a bit. I have been in and out of prisons—while working, I might add; not serving a sentence—and I have been shocked by the way the seg unit worked. It needed three prison officers to open the door, which I felt was really oppressive and intimidating. It was possibly worse if you were on the other side of that door: one guy in one of the units was completely not there and I do not think that the seg unit was the right place for him—he needed other support and mechanisms—but the prison staff's hands were tied in relation to where they could put him, because he seemed to present a bit of a risk to others as he was completely nowhere. Those issues need to be monitored and watched.

I know that the inspectorate always visits the seg units at every inspection. Monitors, too, sometimes go into them, but, again, it is about ensuring that the monitors, who are volunteers, are aware of the purpose and nature of the segregation and reintegration units and of why people should be taken there. Then, it is about ensuring that those people are not there for too long.

**The Deputy Convener:** I will come back to you towards the end, Ms Chapman, because, due to time constraints, I need to get other colleagues in. Ms McNair, I will come to you next for your questions to the witnesses.

**Marie McNair:** I want to go back to rehabilitation. It is my understanding that one of the main issues affecting prison population numbers is prisoners' inability to access rehabilitation courses, due to overcrowding and the operational issues connected with that. Could you share your observations around that issue, the challenges, and the impact that it is having? What more can we do to address it? I give you the floor, Linda.

**Linda Pollock:** Thank you for raising that point. It is right that we look at what we can do on progression, and Jim spoke powerfully about the challenges that we have had. A lot of work has been done on that despite all the challenges that we have on overcrowding.

I know, from our conversation this morning and from the earlier evidence session, that there is sometimes a misconception that Castle Huntly, the open prison, is sitting half empty, but it is at 101 per cent capacity—it is full.

**The Deputy Convener:** That is because we have redesignated the number of beds. Is that right?

**Linda Pollock:** That is because we have a single cell in there to support people's rehabilitation. I would really encourage and invite the committee to visit Castle Huntly, because it is a powerful model of what we can do when we work with people in that phase and allow them home release. The statistics from Castle Huntly about the people who do not return to custody after having been there are incredible.

Our national top ends are full just now; the open estate is full; and the Bella and Lillas centres for women are sitting at 70 per cent and 75 per cent occupancy respectively. We are continuing to prioritise rehabilitation, and a recovery programme has been put in place for support programmes.

One of the points that I picked up after the committee's visit to Low Moss was the need for greater articulation of what we do for rehabilitation in total. I think that we were all struck by the figure that England and Wales could point to as the money that is spent on rehabilitation. However, we do not have a specific figure here, because we see every part of the work that we do as being about rehabilitation. When people come into custody, right from that starting point, we should—and we want to do so—work with them around all their needs, wherever those might be.

For those on longer-term sentences, there might be a programme to address that, but we also look at what we can do to support people through education, work parties, recovery, family support or psychology. There is a range of measures to support rehabilitation.

Again, I wish that we were doing—and were able to do—more, but there has been significant focus on rehabilitation, in particular for the reasons that Jim Watson raised. We are not getting the right throughput, despite what we have been putting in, and we need to try to increase the numbers and make that support available. We are working in particular on the backlogs for programmes. For example, there is a lot of work on recruitment for psychology and the programme that we have in place to support staff and encourage them through that process.

**Marie McNair:** Thank you for facilitating our visit to Low Moss. I found it really informative, as did other members of the committee.

Sheriff Mackie, you can obviously see the impact on reoffending levels if folk can get the rehabilitation that they so need. Do you want to say a wee bit about that?

**David Mackie:** I can only reinforce the desire to achieve rehabilitation. It is as relevant to anybody entering the prison estate as it is to somebody who is placed on a community payback order—the ultimate objective is to help people return to a more meaningful way of life. I can only add my voice to those of many others who hope that we can achieve a sustainable prison population that will enable the Scottish Prison Service to do its job in doing that work.

Earlier there was a question to the minister about what the prison population should be. I was a commissioner on the sentencing and penal policy commission, and we said that the figure was 5,775. It is a figure that places us, on average, in line with our fellow European countries. It is not scientifically based—it is an aspirational figure that happens to be very similar to the one that was suggested in 2008, when Henry McLeish produced his report. Something of that magnitude would seem to be appropriate if we were to achieve the same level of prison population and prison use as other countries in western Europe. It is not an unreasonable aspiration to work towards. In our report, we suggested that that be done over a 10-year period. That is a sustainable population; it will not happen overnight, so it is not a short-term solution, but all the recommendations in the commission's report are based on the best evidence that we had, and they would produce a balanced system.

That entire system works towards achieving rehabilitation. Something that we have not yet touched on, but which I would like to bring into the conversation, is improving the links between the prison and the community, and improving the support for families. The rehabilitation of an offender has as much to do with their relationships at home, their home circumstances and

employment as it does with their immediate day-to-day circumstances.

We are beginning to understand better the impact on families and children. If committee members have not already seen it I recommend that they have a look at a report by Dr Briege Nugent, entitled "Paying the Price: The financial cost to families of imprisonment and release", which was published 34 years ago through Families Outside. It highlights the financial impact on families and the ways in which having a family member in prison can drive some families towards extreme poverty through meeting the challenge of travel, visiting and things like paying for snacks. Apparently, in a prison visitor centre in Scotland, a can of Coke costs three times as much as it does in a corner shop.

That is to say that rehabilitation is a wider issue than the immediate circumstances of the individual in prison. We should be aware of that and address those wider issues as much as possible to support a better climate for rehabilitation.

**Marie McNair:** Thank you, Sheriff Mackie. Jim Watson, do you want to add anything to your earlier comments—or had you finished?

**Jim Watson:** There is a bigger question about what the purpose of prison is. We need to ask whether it is about being a place of punishment or a place for rehabilitation. In Scotland, that balance is very much swinging to, "Let us lock them up and chuck away the key, because the things that these bad people do is outrageous", and the idea of rehabilitation isnae something that we speak about in public, but it is crucial, and it should be the focus of everything that we are working towards.

On the point about numbers, I agree with David Mackie that it seems almost impossible to aim for a prison population of 5,700, but we can look abroad in that regard. Some 40 years ago, Finland—which is similar in size to Scotland—had similar crime rates to Scotland, but Scotland had a lower prison population. In more than 40 years that has completely reversed, because Finland took forward a policy of decarceration in which they said, "We are gonnae use experts to run our jails, and we are gonnae take the politics out of it quite a significant bit."

The other advantage that Finland has is that it does not have tabloid newspapers. The media have a huge impact and input, not only in directing how people think about justice but in misdirecting them on many occasions. I am absolutely sick to the back teeth of reading headlines such as, "Man walks free from court", but, when you read down to the second-bottom paragraph, you see that he was given a heavy community payback order, which is structured and makes more sense to me.

However, the headline is still, "Man walks free from court", and everybody cracks up about it.

At the other end of the scale, it is only recently that, when someone is given an order for lifelong restriction, tabloids have said that it is an indefinite life sentence. They used to just say things like, "Triple rapist jailed for three years," and then there would be a whole social media storm about how that is outrageous: they would say, "He will be out in a year and a half" and all the other sorts of misinformation. The Finns are lucky that they do not have that.

**Marie McNair:** I certainly share your concerns. Thank you.

**The Deputy Convener:** We will pass to Stephen Kerr for the next question.

**Stephen Kerr:** I am not sure that we can do anything about the free press, Jim, but I hear what you are saying about misrepresentation and misinformation, which is an issue for all of us.

When we went to Low Moss, I was struck by the time that we spent in the segregation and reintegration unit—I think that we all were. We heard enough to tell us that there are people in there who really ought to be in a different sort of institution. I am talking directly to you, Jim: what does that tell us about the nature of the estate that we currently have?

**Jim Watson:** It does not say much about the nature of the estate; it says more about how society in general punishes people. It is easy to warehouse social problems and disappear individuals who create those problems, rather than address the underlying social environment and the rest of the problems that put them in the estate.

**Stephen Kerr:** Sure, but if someone is clearly mentally ill in prison and they end up in the segregation unit, surely we can agree that we should attend to the provision of facilities that are more appropriate to the care of those individuals.

**Jim Watson:** Yes, but that comes back to the question of where that person was originally sentenced, what the offence was and stuff like that. That individual ends up in prison and the prison then has to deal with the disruption that they cause. The way that they have gone about—

**Stephen Kerr:** Yes—sorry, Jim—that is the point that I am making. We do not have a range of options that would properly service the needs of that population.

**Jim Watson:** The options are there for sentencers, but it is a matter of whether they are used efficiently and effectively in all cases. There will always be individuals who should be elsewhere and getting help in the medical environment. However, the number of places at



secure hospital units is restricted. The question of where we put those people is an ongoing problem.

**Stephen Kerr:** That is the very point that I am trying to make. Do we not create those restrictions?

**Jim Watson:** I get your point, but the problem that the Prison Service has is that it seems to be the default dumping ground for those issues. Where people cannot be managed more effectively and better elsewhere, they end up in the jail.

10:45

**Stephen Kerr:** That is the point that I am trying to make, and I think that you are agreeing. The range of options is restricted—I think that you used the word “restricted” in the context of the capacity of other potential destinations for individuals who ought not to be ending up in the segregation unit at Low Moss prison.

I am sorry to say this to Linda Pollock, but I was not impressed with her answer about the need for more staff resources. How many staff do you have?

**Linda Pollock:** We have more than 5,000 staff.

**Stephen Kerr:** How many of them are available for prisoner-facing operational duties?

**Linda Pollock:** More than three quarters of our staff are front-line staff working in establishments.

**Stephen Kerr:** Are they all available for the front line? The reason why I ask is—

**Linda Pollock:** They work on a shift basis, obviously.

**Stephen Kerr:** Sorry—could you say that again?

**Linda Pollock:** They work on a shift basis, obviously.

**Stephen Kerr:** Like David Linden, I have just become acquainted with this portfolio, and I recently had an education about the number of available police officers. When I asked questions about front-line availability in the police service, I was given a number. It turns out that that number was not true, because there are modified officers and people who are off ill. My question is: how many of the 5,000 are actually available to do the front-line shifts that are needed?

**Linda Pollock:** I think that your question is around deployable staff and those who work in establishments and who can work on any given day.

**Stephen Kerr:** Yes.

**Linda Pollock:** We will always have a number of people who are off sick and people who are off for other leave that they might have.

The pension age for prisoners might be of interest, as there is a lot of talk about that. You have seen at first hand what the job of someone at the front line in an establishment involves. It is very physical, and there is a question about the right retirement age for prison officers—

**Stephen Kerr:** Sure, but that is not what I am asking about.

**Linda Pollock:** If I can finish, Mr Kerr—

**Stephen Kerr:** Sure, but that is not what I am asking.

**Linda Pollock:** That means that we have a number of staff who we cannot deploy on the front line for physical reasons.

**Stephen Kerr:** Sorry. I want to know specifically, of the population of 5,000, how many are available to do the physical job of being on the front line. I am not sure that I am getting an answer.

**Linda Pollock:** I can write to follow up with the exact number of front-line officers.

**Stephen Kerr:** Can you, please? That is all that I am asking for.

When Amanda Bland asked whether there should be more resource, you said, “Oh, we would always take more people.” Have you asked for more resource?

**Linda Pollock:** Yes. That is a conversation that I have regularly with the Scottish Government, as I said.

**Stephen Kerr:** How much additional resource have you asked for?

**Linda Pollock:** We provided evidence for the pre-budget scrutiny, in which I set out exactly what we had asked for and what the budget response was. That will be on the record. I can, of course, find what was submitted at that point.

**Stephen Kerr:** Briefly, what is the basis on which that request is made?

**Linda Pollock:** I work through everything that is required for running establishments, the staffing levels and what more we could do. We spoke about drones earlier and what we could do on recovery. All of that goes into what we request. There is also the work on fatal accident inquiries and population pressures.

**Stephen Kerr:** I was struck by Jim Watson’s earlier comment that there are not sufficient available staff who are trained to develop relationships. I see that Jim Watson is pulling a face, so I will allow him to correct that.

**Jim Watson:** No, you are absolutely right, but I would not want to imply that the staff in the establishments are not doing the job that they are meant to be doing. As in any organisation with 5,000-plus staff, you will have some who are exceptionally good at what they do, and who build the relationships. There will also be, to quote a governor, a few bampots as well.

**Stephen Kerr:** Okay. Bampots aside, you mentioned a range of qualified people who you believe are currently lacking in the system.

**Jim Watson:** Certainly, if there were more people on the progression and forensic psychology side, people would get through the progression system, which would cut overcrowding and then allow other people to work on relationship building with the short-termers. There would then be that whole process of rehabilitation from day 1, which the SPS identifies as crucial.

**Stephen Kerr:** You mentioned the waiting lists for programmes, and the fact that prisoners might sometimes wait for years before they begin any kind of rehabilitation programme, if they are willing to volunteer to be part of one.

**Jim Watson:** Or, more worryingly, people are released without doing any programmes whatsoever.

**Stephen Kerr:** With the presumption that we are debating in relation to earlier release, that will become a more pressing issue. People will be released only to be returned to prison, probably through the front door, shortly afterwards.

**Jim Watson:** Many of the programmes that we are talking about are delivered by community organisations when people are back in the community, which is not ideal. When someone is locked up for a period of time, that should be when constructive work is done with them. We should not release people back into the community for them to do a programme when they are back in the community. To my mind, it makes more sense for that process to happen in prison.

**Stephen Kerr:** What I am driving at is that there is serious work to be done on the estate and the workforce. I am not asking you to be defensive about the existing provision, because you have given enough evidence in this one session to indicate that we need to do better at providing qualified people who can do the positive work that you have described.

I am sorry to pick on you, Jim, but you hit the nail on the head when you asked what prison is for. Is it a place for putting away bad people, is it a place for helping people to recover their lives, or is it both? Can it be both? Fundamentally, I do not think that we can arrive at an answer to that. You might

have a point of view on that. I am sure that David Mackie probably has a view on behalf of the Howard League.

Jim, do you want to comment on what I have just said? That is the question that you asked earlier, is it not?

**Jim Watson:** I do not think that prison is necessarily a place for putting away bad people; it is a place for putting away people who might have done bad things. There is a subtle difference.

**Stephen Kerr:** Well, there are bad people and people who have done bad things, are there not?

**Jim Watson:** It is necessary to have a fundamental belief in rehabilitation. I believe that rehabilitation is possible with everybody, but some people reject that. They support whole-life tariffs and the like, which I reject fully.

**Stephen Kerr:** I get that.

**Jim Watson:** At a society level, we need to get better at understanding the nature and scope of prisons—what prison is about and what it should be about. In Scotland, we are still struggling with that.

In academia, people talk about Scottish exceptionalism. For years, there was talk about how Scotland was different, but it turns out that the numbers say otherwise. That is particularly the case when it comes to the number of people we send to prison: the Scottish rate of 149 prisoners per 100,000 people is significantly higher than that of a lot of other countries. There must be something behind that. I would say that it is just that the sheriffs keep sending people to prison, but I do not want David Mackie to get upset.

**Stephen Kerr:** You will be not surprised to hear that I do not buy into the idea of Scottish exceptionalism.

I will allow David Mackie to comment on the issues that we have been discussing.

**David Mackie:** In our criminal justice system, some offences require punishment. We need prison in order to protect victims, whether individual victims—especially those who are in domestic abuse situations—or members of the public, from dangerous individuals. There is no getting away from that.

We punish people in other ways, though. Prison is the most obvious means of punishment, but the very fact of a criminal prosecution creates a certain stigma, which, by itself, is punishing. With community-based disposals, there are other levels of punishment that can be imposed that, to an individual, feel like punishment. For example, a community payback order keeps a person under observation in the community, where they have to

work to rules, attend sessions with social workers, do unpaid work and perhaps participate in specific programmes. All of that comes under the general heading of punishment.

The question is well put. "What is prison for?" is a question that members of the sentencing and penal policy commission asked ourselves in our report. Fundamentally, the purpose of prison is to protect people—individual victims and members of the public—from dangerous individuals. Sometimes offences are so abhorrent that the incarceration of an individual by way of punishment is seen as the only appropriate solution for society.

If we focus on that, it becomes a bit more straightforward and logical to understand that there are many people in prison who do not meet those criteria and who do not need to be there.

I hope that, slowly but surely over the next decade, we can learn to understand that better, use prison more appropriately for those who need it, and provide robust and adequate supports in the community for those who do not need prison but need other forms of support instead.

**Stephen Kerr:** I think that there are so many strands to this morning's discussion that we are not doing justice—no pun intended—to any of the different subjects that we are raising.

I beg your indulgence, deputy convener, because I have a final question that I want to conclude with. The report "Crisis Point Reached: The Pressures Facing Scotland's Prison Officers Uncovered", which was published last year, is very unsettling in what it says about how prison officers feel about the work that they are doing.

Linda Pollock, how much notice have you taken of that report? Indeed, what have you done about it, especially its finding that the vast majority of prison officers did not feel that there were enough staff to manage the number of prisoners and that they were operating in an unsafe environment?

**Linda Pollock:** I would go back to my earlier comment to the question from Miss Bland on this matter: we would always welcome more staff, because we need more staff.

For those very reasons, I take the report very seriously; indeed, I work closely with the Prison Officers Association and our other trade union partners. I was really pleased to hear what the cabinet secretary said earlier, and I know that you commented on this, too, Mr Kerr, when you were at Low Moss. The work of our staff is outstanding, and we need to keep them.

Going back to the point about rehabilitation, I make it clear that our staff are there to support people. That is why people join the Prison

Service—they work to support people, not just lock them up. We would absolutely want more staff; we want to help people do their jobs so that they can do them well, build those relationships and help people with their rehabilitation. I take the report very seriously and think that it speaks to everything else that we have been talking about.

**Stephen Kerr:** Good, and I hope that, in future sessions, we will be able to focus more on and deal with the issues that we have only been able to touch on this morning.

I reiterate that, on the basis of my visit to Low Moss, I was very impressed with the people we were able to meet. I would like to have been able to speak to more of the prison officers in their work environment, because I am sure that, had we been able to do so, we would have collected a range of views.

**The Deputy Convener:** Before I bring in Ms McNeill, I will call Ms Bland. We do have a bit of time left, and I know that she had some supplementaries.

I should also say that I intend to run the session a wee bit longer to allow colleagues to ask some wash-up questions.

**Amanda Bland:** May I go back to segregation?

**The Deputy Convener:** You may.

**Amanda Bland:** Thank you. I have a question for Ms Pollock. With regard to the decision making on and the reviews of segregation, are you satisfied that the current regimes are adequate and acceptable and, if not, how do you plan to address that matter?

**Linda Pollock:** I am satisfied that we are adhering to the prison rules on the use of segregation and separation. I do not think—and you saw this at first hand—that what we offer is always in people's best interests or what we could be doing. We have talked about people's mental health in that respect, and I would much prefer to have either different facilities or different services to support people.

I know that this came across to those who were able to meet the staff who work in the segregation unit in Low Moss—staff who do an exceptional job in trying to work with the people who are there—but the facilities are not, as you saw for yourself, how we would want to work with people. I would much prefer it if we did not have to hold people in there, and if other services were available.

Just before the population increase, we had started some work on a step-down approach with regard to segregation, and we were about to start piloting it at HMP Perth. However, we had to stop the pilot, because of the increased numbers coming into the population.

There is more that we would want to do to support people through that kind of step-down approach and to try to reintegrate them, and it is certainly a question that we need to address. When the European Committee for the Prevention of Torture and Inhuman or Degrading Treatment or Punishment was here, I was really keen to learn what other countries are doing. After all, the vast majority of western European countries have overcrowding, too, and I wanted to know what else they are doing to support that. All of us feel desperately sad about the conditions that some people are being kept in, and we all want to be doing more to help them.

Although I am satisfied that we are legally correct in what we are doing, it does not meet what we would want to be doing in terms of caring for people.

**The Deputy Convener:** I should make it clear for the *Official Report* that what the committee learned that day was that human excrement gets smeared on the walls and has to be cleaned off every three days.

11:00

**Amanda Bland:** On those so-called dirty protests, I do not think that they happen only in that particular prison.

**Linda Pollock:** They happen in other prisons, yes.

**Amanda Bland:** They are kept in those conditions for three days, but are you saying that that complies with legislation?

**Linda Pollock:** Yes, that is the case under prison rules. Quite often, there will be two cells side by side and somebody can be moved into the other cell and moved back and forth while their cell is cleaned for them. The prison rule is that it must be cleaned in around three days—that rule will always be met, but we seek to do better than that.

**Amanda Bland:** So the prison rule is around three days.

**Linda Pollock:** Yes.

**Amanda Bland:** Okay, thank you.

**The Deputy Convener:** Thank you, Ms Bland.

**Pauline McNeill:** Good morning. I will start by asking Linda Pollock about the prison population numbers projection. Looking at the cabinet secretary's letter, I think that it is clear that, if we do not change the direction that we are going in, we will be talking about 9,100 prisoners by 2027. Further to that, there are projections that, with even a 1 per cent margin either way, up or down, there will be a prison population of 9,500. Until

there is a change in direction, is the SPS having to plan for those numbers?

**Linda Pollock:** We work with the Scottish Government to look at the projections, and we have been before this committee on the issue previously. The emergency releases and the change to the STP policy—the change to the release date for short-term prisoners—were all intended to provide some relief and breathing space. I am very grateful for the work of the sentencing and penal policy commission, the suggestions that it has taken forward and the consultation that was held over the summer.

We have said on the record repeatedly that we could not look after that number of people in custody. We are already above our assessed capacity threshold. I will keep saying it, because it is important: the design capacity is 7,805. That is the point at which we are at our optimum when it comes to safety and the regime that we can run. Every time we go over that, we start to put safety at risk.

**Pauline McNeill:** Are you saying that it is something that you physically cannot plan for? Does something have to change?

**Linda Pollock:** I cannot see where we would put that number of people, given that we already sit above our capacity of 7,805.

**Pauline McNeill:** So, something has to change.

**Linda Pollock:** Yes.

**Pauline McNeill:** We do not have a lot of time to do it—is that fair?

**Linda Pollock:** Yes.

**Pauline McNeill:** I want to talk about the remand population. Howard League Scotland put it best: it is a national disgrace and an international embarrassment. I will not go over old ground about how we all feel about the issue, but where are remand prisoners placed? Do you have to just place them wherever you can, given the overcrowding? What is the policy?

**Linda Pollock:** The policy is that remand prisoners, who are unconvicted, are kept separate from convicted prisoners. That is a Mandela rule that we adhere to. There have been recent occasions when we had to place remanded and convicted individuals on the same hall because of space issues. That was temporary, and we do that only for a very short time, but it has happened recently because of overcrowding. We will continue to seek to hold people separately, because it is in their best interest to do so.

However, you are right: more than 26 per cent of our population are individuals on remand, and that period can range from a very short time to a

very long period, particularly for more than a year, and up to two years.

**Pauline McNeill:** Thank you. I will ask David Mackie about that, because he is the person who is most commonly quoted on the treatment of remand prisoners and the figures around acquittal. He will correct me if I am wrong, but a high percentage of people who are held on remand go on to be acquitted, which is utterly shocking. Something is wrong here, is it not? I am reading that the figure is 57 per cent, but that does not seem right.

**David Mackie:** I think that the figure is right, particularly in relation to women, because upwards of 70 per cent of women on remand never receive a custodial sentence, even when they are found guilty. That reflects the work that we have done in the commission. I sit here as chair of Howard League Scotland, but I also have an interest as a commissioner on the sentencing and penal policy commission, and it must be recognised that something has not worked well in relation to our decision making around remand and bail.

For example, a presumption against custodial sentences of under 12 months has now been in existence for two or three years. By definition, that suggests that it should be difficult to be remanded in custody for any summary crime. It is not impossible, nor is it impossible to be sent to prison for a summary crime, but the starting point should be consideration of a community-based solution rather than custody. Nonetheless, too many people who are the subjects of summary complaints are being remanded in custody for offences for which they are unlikely to receive a custodial sentence if found guilty. That is quite concerning.

However, there are multiple factors that contribute towards a decision to remand an individual. I am not putting blame on my sheriff colleagues, because those decisions are not made lightly. The early decision making by markers in the COPFS—the procurators fiscal who are marking papers—directing the court depute to ask for bail to be opposed is a starting point. The fact that the Crown opposes bail is a factor that a sheriff cannot ignore.

There is no meaningful risk assessment of individuals when a decision to oppose bail is made, least of all by the Crown. Often, the only indicator that the Crown has is the schedule of previous convictions. When I see a long schedule of previous convictions, I do not necessarily think of a prolific offender who is a dangerous individual who should be locked up; I tend to think more of somebody who is not coping in society, who just cannot cope on their own and who needs support. The fact that there is a long schedule does not

necessarily assist decision making. However, it might be the only meaningful piece of information that is available, and the consequence is inevitable.

**Pauline McNeill:** I will ask a quick supplementary question on what you said—if I am correct—about when the fiscal opposes bail, though you may not know the answer. There has been a lot of centralisation in the Crown Office over many years, and my understanding is that there was a lot more local decision making by the fiscals, so they could change the policy if they had more information. Is the centralisation of marking possibly contributing to what is, in some cases, a blanket approach to bail?

**David Mackie:** I hesitate to comment, because I am not involved in prosecution, and one thing that I am not very good at is management. The decision to centralise marking will have been made for good reasons, but you may well be right. I recognise that there is no ownership of a case until it is in court, so the person who is marking the papers does not have any real accountability. It is not surprising that the person who is marking the papers might take a cautious approach. They might see a long schedule of previous convictions and conclude that every indication on the paper is that the individual is likely to reoffend, whereas the person who is in court and other people locally may know or know of the individual.

I sat for 15 years in Alloa sheriff court, where I had the benefit of having a social worker in court. We had a supervised bail scheme and, with every case in which bail was opposed, I would get two sides of A4 on that individual. The social worker would have spoken to the individual and I might have had available to me the previous week's criminal justice social work report that was produced in Stirling sheriff court for the same individual. There would be local information from the social worker, and we must also never underestimate the value of the defence solicitor's advocacy in informing the court of an individual's circumstances. Those are all sources of information that would enable me to make much more informed and balanced decisions.

That is a slightly long-winded answer to your question, but I think that you may have a point.

**Pauline McNeill:** That is very helpful, especially what you said about the locality—

**David Mackie:** I will just add that, for a period in Alloa, we also had the benefit of having what was in effect a resident depute. A junior depute was allocated to Alloa for a set period of time, which produced huge benefits, because it enabled defence solicitors to speak with them and to get to know the court and the individuals. There is a criminal community that comes to court all the time

and who we encounter all the time, so having the junior depute proved to be invaluable.

**Pauline McNeill:** That is really helpful—thank you.

I have two further questions in two different areas. It seems to me that we are hearing about a crisis in the prison system. We cannot start with a clean sheet of paper, but it seems obvious that there is a need for some revisualisation of the estate. David Linden spoke about the number of older prisoners and we know that only too well, because chief executives have talked about the changing nature of the prison population. Jim Watson talked about the lack of progression through prison. It seems that we need an overhaul rather than just short-term management, but that would be a bigger question.

Would expansion of the open estate not be one obvious answer? I know that we closed Noranside prison, although I am not clear why. That is surely one issue that we should ask the cabinet secretary to revisit. There must be offenders who would, if they were given rehabilitation, meet the criteria for open prison. I liked the word “progression” that Jim used, because it cut to the chase. If the system was more free-flowing, could we get more people out and would that help you to manage the prison estate?

**Linda Pollock:** That is an interesting question. We have covered a lot of that. We are seeing the cohort of people coming into prison changing significantly. We spoke about that when you were at Low Moss. For the first time, more than 50 per cent of those in custody are long-term prisoners, which is a change. We are seeing a lot more sexual offenders in prison and a lot more serious organised criminals. The nature of who is in prison is changing and those prisoners are there for much longer, so it is right to look at our model. I am very keen to look at how we use the estate in the best way to support people who are in custody.

Overcrowding is challenging. First-night centres should be in place. I am grateful to be able to come back to the topic of the use of the open estate because there was a comment earlier about the redesignation of the design capacity of the open estate. That is for rehabilitation. There are impressive figures about the low number of people who return to custody once they have been through the open estate and have had that testing. Historically, the design capacity was based on a hot-bedding system with three people to a room. We know that that is not the way to support someone for rehabilitation, so we have redesigned our estate to give people the best support at the end of their sentence.

**Pauline McNeill:** But fewer people.

**Linda Pollock:** There are currently 187 people in Castle Huntly and being able to give each of them their own room is part of that.

We would like to be able to progress more people through the open estate and that is one of the things that we have been focusing on as part of the recovery of the progression system.

**Pauline McNeill:** What you are saying makes sense. There is no point putting someone in Castle Huntly—

**Linda Pollock:**—if we set them up to fail.

**Pauline McNeill:** I understand that, but we closed an open prison, Noranside, and there are now fewer such places. That seems obvious. I have a simple question: do you think that the cabinet secretary should look at those numbers?

**Linda Pollock:** I do. There is something else that I would put into the mix regarding the open estate. We have spoken about it before and I know that you are aware of the challenges of different regimes within custody and that there are people who we have to try to keep separate. That is difficult when there is only one open estate and we are trying to move people around.

**Pauline McNeill:** Can I quickly ask Jim Watson about orders for lifelong restriction?

**The Deputy Convener:** Very briefly. Go for it.

**Pauline McNeill:** I am not going to open that can of worms, but I notice that you spoke about whole-life tariffs. Were you talking about orders for lifelong restriction?

**Jim Watson:** I was talking specifically about the media, which tend to cover orders for lifelong restriction in the wrong way. They focus on the punishment, which is the minimum bit that someone is meant to serve in prison. They say things such as, “That person was given six years.” That was a recent example and it creates a social media pile-on of people saying, “That is an outrage. How can that offence lead to only six years in prison?”

**Pauline McNeill:** Do you think that that should be looked at?

**Jim Watson:** Are you asking about the whole system for OLRs?

There is a question about whether we, as a country, want to have an indeterminate sentence. When that was set up, back in 2003, there was enough evidence to suggest that it was necessary. More OLRs have certainly been given out than was envisaged by the original committee, but that is not necessarily a fault with the OLR disposal.

11:15

Sometimes, I see people getting a very heavy extended sentence and I myself question why, given the nature of offending, they are not given an OLR. It is very difficult to get the right balance between too punitive a sentence and one that is effective and that works. The difference with an order for lifelong restriction is that it is actually lifelong. If you do a life sentence and you are out on licence, after 20 years of keeping your nose entirely clean, you can have your supervision removed. Technically, you are still on licence, but you do not have somebody on your back every other week, which is how it feels to some of the people who come out on life licence. An order for lifelong restriction is different because the assessment of your risk does not stop until you die.

**The Deputy Convener:** I am going to exercise the chair's prerogative to run the evidence session on a little bit longer, because we have a couple of colleagues who are guesting today who will ask a question each, and then I will see whether any committee members want to come back for a final bite of the cherry.

**Colm Merrick:** This is a short question, but it might be a long answer. Sheriff Mackie, I understand that you are a strong advocate of restorative justice. How can we make that work in Scotland?

**David Mackie:** We are trying to make it work. Community Justice Scotland is working on it now, and there are pilots happening here in Edinburgh. Restorative justice is a huge area. For us, the starting point is the guidance that was published by the Scottish Government in 2017, which focuses on a group-based discussion model that would allow a dialogue between the person harmed and the person causing the harm, ideally ending up with a straight conversation between those two people. It is sometimes called family group conferencing or a group conference, and it is closely aligned to family group decision making, which, in the realm of child protection, is a highly relevant issue.

Restorative justice should be available at every stage of the criminal justice system, so it might happen through the police or the prosecution service as a form of diversion from, or alternative to, prosecution, but it should also be available, as it is in many other jurisdictions, at the point of sentencing—after conviction, but before sentencing. In New Zealand, the entire youth justice system is based on restorative justice, through the use of group conferencing. The group will meet, the dialogue will happen and the group will make a recommendation to the court. The recommendation is not binding; the court still has exactly the same discretion that it has with any sentencing decisions, but it is a factor that it can

take into account. However, I believe that, nine times out of 10, the court will accept the recommendation of the restorative justice group. That sort of regime is something that we could very easily set up in Scotland.

In Alloa, I came very close to establishing a short pilot, just before Covid and before I retired from full-time sheriffing. We had social workers trained in restorative justice, not to act as facilitators but to be able to identify suitable cases to make recommendations. The sheriff's job was simply to make space for it, and, most likely before final sentence, simply to allow a period of months for the process to take place. Sacro was lined up to act as facilitators in conducting the restorative justice process. That is what would be involved. It is quite resource intensive, it needs a lot of preparation and groundwork, and it is not suitable for every case, but it is a tool that we should have in our armoury. Other jurisdictions have it, including Belgium, Germany, Italy and Georgia. Georgia has an amazing restorative justice establishment. We should have it too.

**Yi-pei Chou Turvey (North East Scotland) (LD):** I have been following what has been going on in the committee. I have the justice portfolio in my party, so this allows me to help people with what is going on. From talking to people I know, I have seen a pattern emerging of abusive ex-partners using the police as a tool—sending police to wake their ex-partners and making allegations so that they are arrested and thrown in a cell for up to 24 hours. There are a high number of deaths in custody. That pattern is really worrying.

I have had many people coming to me with the same pattern of the police being used as a tool for an abuser to go further with their abuse. People have come to me and have told me about what custody was like when they were arrested “for no good reason”—according to them—or for something that was alleged or where there was suspicion. They say that, when they arrive in custody, they have very little contact with people. They might have nobody to contact, or just one person, and they might have just one minute in which to call someone quickly. That creates a kind of trauma. When that is repeated over a period of months—it can be repeated several times between court cases—it creates trauma for them every time, as they will be arrested again. Also—

**The Deputy Convener:** I must ask you to draw your question to a close. We are tight for time, and you are here as a guest.

**Yi-pei Chou Turvey:** People can have bad mental health; they can be fragile of mind because of the state that they are in, perhaps with post-traumatic stress disorder. There may also be a loss of faith in the police system. How can we bring

some humanity to such situations, where people have been thrown in by themselves, with nothing? Could there be some time to organise arrangements for people—including for pets and for care—perhaps with some mild distraction to make the experience less traumatising for them, and to avoid those deaths and suicides. It is really scary to see that happening.

**The Deputy Convener:** Could I ask you to respond briefly, please, Ms Pollock? I know that we covered deaths in custody earlier.

**Linda Pollock:** I am happy to. I cannot speak on behalf of the police about the initial arrest of people, or about people in that part of custody.

On the impact that remand has on people's home circumstances, it is challenging to see what very short-term remands will do for the individual, for their family relationships and for everyone else involved.

We do a lot of work in supporting people who have been impacted when they come into custody. There are various entitlements when people come into prison custody—although I cannot speak about police custody. Everybody now has phones in their rooms, so they can phone. There are various people whose numbers we can give, who can try and help, whether as a listener or to provide other types of support. In all our establishments, we have been doing training to be trauma informed, so that our staff can have conversations and can identify people for those relationships. There is a wider question around the use of the justice system as well.

**The Deputy Convener:** I will bring this evidence session to a close at half past 11, but I have two brief questions, which require brief answers, in the interests of getting a couple of other colleagues in.

Ms Pollock, the cabinet secretary seemed to suggest that you might have some information on modular accommodation. Where are we going with modular accommodation, which he announced before the summer recess?

**Linda Pollock:** We have considered it as an option before, and we will continue to consider all options that are available for us, particularly using modular. We are assessing how it has been used in England and Wales. There are security challenges with modular accommodation and how it can be used, which will have an impact on the level of prisoner supervision that could be applied. That could be considered in relation to the open estate or at the top end.

**The Deputy Convener:** When, and at how many establishments?

**Linda Pollock:** That would require a further business case and a conversation with the Scottish Government.

**The Deputy Convener:** I would really appreciate it if you could write to the committee and let us know where you are at with that.

On the Scottish Government's announcement yesterday, Sheriff Mackie, about the move to legislate to make further provision on football banning orders—and I ask you to answer this with your previous sheriff's hat on—it has been suggested to me in conversation that there is a role for sheriffs there, but do you have any anecdotal evidence that you want to mention regarding football banning orders, which the committee will no doubt take an interest in soon?

**David Mackie:** You are speaking to a sheriff who always resisted invitations to go to Celtic park and see the police in action. I would have loved to go, but I felt that it was inappropriate.

Football banning orders are in the armoury of sheriffs when dealing with sentences. There is no more specific role for sheriffs than that in relation to football. Cases come before the court involving public disorder or violence at football matches, and one of the obvious remedies, which might avoid something more serious, such as custody, is a football banning order, along with other community-based solutions. I have used them myself in my time as a sheriff.

The sheriff undoubtedly has a role to play there and football banning orders are an obvious resource in cases where public disorder and risk to the public generally is being caused by people who are attending football matches. In my personal experience, football banning orders are pretty effective at keeping those people away and keeping trouble away.

**The Deputy Convener:** Speaking as a person who was the MP for seven years for the constituency that includes Celtic park, I can say that you are welcome in the east end any time, Sheriff Mackie.

I understand that one or two colleagues might want one last bite of the cherry. I am looking at Mr Kerr—if he can be very brief.

**Stephen Kerr:** I have a tangential question. Currently, in England and Wales, the inspectorate has powers to enforce recommendations. It does not have those powers in Scotland. I raised that issue with the chief inspector of prisons recently, and I would like to have some opinions on it from Jim Watson and from the other members of the panel. Should the inspectorate have statutory powers of enforcement?



**Jim Watson:** It is the wrong time to ask me, because I have just done a PhD looking at the legitimacy of the inspection process in Scotland from the perspective of prisoners. Prisoners think that the inspectorate is a tick-box exercise—it is a PR thing and is not independent; it is too pally with the SPS, and nothing ever changes. That is fine for them to say, but digging deeper shows that that is based on wrong expectations of what the inspectorate is about. Prisoners think that the inspectorate is an agent for change, when in fact it is not. The inspectorate—and particularly Wendy Sinclair-Gieben, when she was chief inspector—would argue strongly that it should not have the powers to enforce elements on the SPS, because that would only create an additional layer of management within the SPS, and then its whole independence and oversight function could be lost. That is the previous chief inspector's view, and I would imagine that Sarah Snell very much goes along with that.

From my perspective, I see that it is difficult for prisoners who do not really understand the process. They do not see change happening, and that frustrates them. That is even more so the case with monitors, who are approached regularly with systemic issues, which they are not picking up on or addressing properly because, again, the powers are not there.

What is difficult about monitoring and inspection is related to the optional protocol to the United Nations Convention against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment—the OPCAT. It is a preventative mechanism, and it is very difficult to measure something that has not happened.

I distracted you a couple of weeks ago when I made the outrageous statement that clearly independent monitoring works, because we have not had any major disruption in Scottish prisons since it was introduced. Go on—argue against that.

**The Deputy Convener:** I would not invite you to argue with Mr Kerr.

**Stephen Kerr:** I can see that I asked the right man the question, though.

**The Deputy Convener:** I have many years of experience serving in another place with Mr Kerr, and he can argue, so we will not indulge him.

Before I bring discussion with this panel to a close, I want to give Ms Chapman a final opportunity for the last couple of minutes.

**Maggie Chapman:** Thank you very much, David—I appreciate that. First, I thank you all for what you have said. I am glad that Colm Merrick got the question in about restorative justice as well.

Jim, if I can give you the last word, what, in your view, would successful penal reform look like?

**The Deputy Convener:** Two minutes, Maggie.

**Maggie Chapman:** You have 95 seconds.

**Jim Watson:** I think that we should have a system that is based on rehabilitation and focused on the needs of individuals—because we are talking about individuals here, and we sometimes get lost in the abstraction of numbers and the problems that that can bring up. If we focused on individuals, we could get them to engage in a desistance process. The SPS's organisational review document talked about desistance on 80 occasions—on 79 of which it was spelled correctly. If we could get desistance to be made an operational objective of a prison sentence, that would be a fundamental reform, as we would be focusing on reducing reoffending and therefore creating fewer victims. That is how I would try to measure it and what I would argue in favour of.

**The Deputy Convener:** Colleagues, I appreciate you allowing me to let this session run on a bit. There was a fair bit of rich evidence in it to be picked up. It might also be the first time that “bampots aside” has entered the parliamentary lexicon. I thank all three witnesses for their evidence.

I will suspend the meeting for 10 minutes, and then we will resume with our final panel.

11:29

*Meeting suspended.*

11:39

*On resuming—*

## Remand and Bail

**The Deputy Convener:** Welcome back, colleagues, from our short break. Our fourth item of business is an evidence session on remand and bail. In this session, we will consider the operation of the legal framework, decision making and potential opportunities to reduce the unnecessary use of remand while maintaining public confidence and safety—a point that has been raised already this morning.

We are absolutely delighted to be joined by a stellar panel of experts—Dr Hannah Graham, Tracey McFall and Dr Cara Jardine. You are all incredibly welcome to the committee. I will start off by directing a question to all three of you. We are seeing similar challenges within the remand population as in the main prison population, with increasingly complex needs that contribute to challenges with the management of prisons. You will have heard about that from the previous panel. What are your views on what needs to happen to better anticipate those needs and, where appropriate, consider alternatives to custody? We will start with Dr Graham.

**Dr Hannah Graham (Sentencing and Penal Policy Commission):** On a point of clarification, is that just about how we could better respond to the needs within prison custody or is it also about how we could better respond to the needs within the community so that people do not get remanded in custody?

**The Deputy Convener:** I would say both.

**Dr Graham:** Indeed. HM Inspectorate of Prisons for Scotland has a really well-respected and detailed thematic inspection on the experiences of remand prisoners and, inevitably, a significant number of health and social care issues come up. Those issues were reflected or mirrored, perhaps inadvertently, in the series of lived experience workshops that the sentencing and penal policy commission ran for people with lived experience of the criminal justice system, including bail and remand. In some cases, family members came along to those workshops as well.

One issue was the need for timely access to the NHS—being in pain, not being able to get dentistry or not being able to concentrate, or considering substance-related options to try and escape that pain, were points that were raised. There is also the issue of mental health distress—there are a lot of issues around the availability of NHS and social care within prisons that the chief inspector of prisons for Scotland has highlighted. The commission is incredibly aware of those points.

Although our remit focused more on the different stages and what can be done at those different stages, we would associate ourselves with the chief inspector's calls for much better—and timely—access within custody for people with those issues, not only through the public sector. We also need to bear in mind whether people feel that they can access things such as recovery cafes and support groups without fear of judgment or action when their legal status is pending and they do not want to look like a risk. I am not alleging that that happens, but if you or I were in remand, we would also be thinking, "How will this look?" as well as, "How well am I?". There are a lot of considerations that my colleagues who specialise in what happens in prisons, including in remand custody, could comment on.

The commission was really attentive to what could happen better in communities. That could involve bail supervision, but the commission was also aware that there is a need for better recognition of more holistic bail support. In Scotland, there are also initiatives, which are not necessarily evenly available across the nation, for arrest referral schemes and custody link worker schemes, for example—you might understand that in relation to the role of a community link worker who is embedded in a high-needs general practitioner surgery. Some of these schemes work with police custody suites for people who are coming through those suites, and a lot of it is around different groups—women, young adults, first time in custody, second appearance in six months, and so on.

Separately, as a criminologist, I have done some research on this with the Highland Community Justice Partnership and Police Scotland. Across Fife and elsewhere, some things have been offered through the third sector; there has been a multifaceted response earlier on and an ability to see those issues as health needs and human rights and not only through the lens of risk. Risk matters, so we should be aware of risk and we should assess and manage risk at earlier stages, but mental health distress, trauma, alcohol and drug issues—and I imagine that we will get on to housing and homelessness later—are pervasive in this group in many cases, and not having those supports earlier on may be a factor in decision making that leads to remand in custody.

HM Inspectorate of Constabulary in Scotland has looked at arrest referral schemes nationally and how Police Scotland is working with third sector and public sector partners to deliver them, and it commented that they are not necessarily evenly available. In addition, Community Justice Scotland has done some work with partners in recent years to ask hard questions about what we could do to support people better.

11:45

I have interviewed people who are on such schemes and the workers, and I have visited a lot of places in the Highlands. It would be useful if there were more attentiveness not just to the bespoke, person-centred support that can be offered—which complements what a justice social work team can do on bail supervision—but to what our NHS and GPs could be offering. There is an awareness that more than 100,000 people pass through some of these areas within the given timeframe—I have the report with me, but I do not have the timeframe—and only 1 per cent of them are accessing arrest referral schemes. The need is recognised, and we have fairly good evidence that the benefits are quite extensive in relation to mental health distress, drug and alcohol considerations, family context considerations, suicidal thoughts and so on.

Most of the issues that will be brought before this committee—and, indeed, that were considered by the sentencing and penal policy commission—need an interdisciplinary and cross-sectoral response, because health and welfare is where a lot of those issues will be supported.

**The Deputy Convener:** I raised a similar point—in relation to housing—with the cabinet secretary earlier this morning.

**Tracey McFall (Criminal Justice Voluntary Sector Forum):** For me, there are three aspects. Pre-prison, before people go into court, the national justice social work standards state that, where possible, all relevant agencies that are involved with the person's care should be contacted. However, at present, from a third sector perspective, there are no clear and consistent routes for how that happens. The situation is very variable across the country.

If people are in prison, ongoing assessment is critical. We have already talked about the pressures in the prison estate, and if those continue, there will be very little room for manoeuvre in relation to progression in programmes.

From a very practical point of view, thinking about when people leave prison, we need to implement section 12 of the Bail and Release from Custody (Scotland) Act 2023, because that will give us the statutory footing in relation to pre-release planning. That has been in the pipeline for some time.

There are some really practical things in the potential areas for the committee to look at. When I last gave evidence to your predecessor committee, Ms McNeill, we talked about some of those practical things that would be really helpful.

**Dr Cara Jardine (Scottish Centre for Crime and Justice Research):** Thank you for inviting me. I am really pleased to be part of the discussion. I would echo everything that has already been said. It is worth recognising how harmful remand is. The HMIPS inspection described it as the “harshes regime” in Scottish prisons. As Hannah Graham noted, people are experiencing difficulty in accessing healthcare, and there are potential breaches of human rights around solitary confinement and the lack of access to fresh air or work. The high use of remand creates really substantial harms, including loss of income, loss of housing and impacts on families.

Sheriff Mackie referred to the research by Families Outside that found that families are spending £300 a month supporting a person on remand. That is just about the money, but the issue is also about the time that families spend. People who are being held on remand are entitled to six visits a week, and families may be travelling to prison that often. Families are spending money supporting the person on remand because they are locked up from very early on Friday evening to late on Saturday morning. They are providing food because people are hungry, and the Families Outside report shows the reality that families are going hungry. People are being pushed into very deep poverty. Remand is very harmful. As Hannah Graham described, it needs to be tackled as a wider social health issue.

The research on how bail and remand are used in Scotland shows how quickly decisions need to be made. Schemes such as the one that Sheriff Mackie described, whereby a social worker in court is able to provide the additional information that people may not have when they are making decisions, are really important. The research also shows that there is a difference between bail support and bail supervision. Supervision and support are not the same thing. People might need really holistic support to be able to comply with the conditions of their bail, and that is really important.

Housing is a key factor when we talk about the outcomes of remand. About half of people who are remanded do not go on to receive a custodial sentence, and that is particularly true of women, about 70 per cent of whom do not go on to receive a custodial sentence. We have to ask whether people are being remanded because we do not know what else to do with them and cannot find them appropriate housing in time. Housing is an absolutely crucial part of the picture.

A smaller issue is how easy or hard the justice system makes it for people to comply. How do we communicate with people? Are we sending them letters? Could we text people or provide them with more support? Can we make the system more accessible? I am sure that you can understand that

some people with difficult life circumstances might find it difficult to turn up at court, but that does not necessarily justify some of the harms that I have just spoken about regarding what remand does to people and to families.

**The Deputy Convener:** I will come back in later on, but I have a final question for now before I open the meeting up to colleagues.

GPS technology is not new in itself, but has certainly come to the fore in the Scottish Government's pilot projects. What are the biggest barriers to the uptake of electronic monitoring? We will start with Ms Jardine and work our way along the panel.

**Dr Jardine:** We know from the research into decision making in that area that provision varies across Scotland. Schemes look different in different parts of the country and different pilots are being run in different places. I understand that a GPS pilot is running currently, and it would be really helpful if some level of evaluation was built into that from the outset so that we can understand what is happening.

Witnesses in the previous panel said that we need to have a wider conversation about what prisons are for and what they do. We also need a wider conversation about what GPS is for and what it does. What do we want it to do? Are we using GPS because we want to deter people or want them to comply? Is it part of safety planning for victims and survivors or could that be done differently? You need to have a plan for what you are going to do. All that GPS does is tell you where someone is, but what are you going to do when you find out that they are not where they are supposed to be?

Some really interesting research about standard electronic monitoring was done by Ryan Casey at the University of Glasgow. They found that a level of discretion is built into electronic monitoring systems. There is also the question of who is going to do it, because a lot of it is outsourced to private companies. Dr Casey spent time with those companies in their control rooms and found that there is a huge rush at 7 o'clock because the standard tagging condition goes from 7 pm to 7 am. All the people in the control room are watching where all those tags are, so they cannot possibly respond to all of them immediately, which means that they do not. That means that the people on the order do not know how the order is going to be enforced. They might be thinking, "Can I take 10 minutes longer to pick my son up from football? It was fine on Wednesday but maybe it won't be fine today." If people do not know the limits that they are working within, or are not clear about the purpose of the tag or what is going to do, I think

that is a big barrier to that being an effective system.

**Tracey McFall:** I will quickly add that when we talk about electronic monitoring or GPS we also need to think about the support that people need within the process. I spoke to a woman yesterday and found out that the restrictions that GPS placed on her meant that she could not access the support she needed. That is not doing her or her family any good as part of her recovery.

**The Deputy Convener:** For the record, can you give examples of the support that she has essentially been prohibited from accessing?

**Tracey McFall:** She had to look after her children throughout the day so she cannot access the recovery cafe or recovery support during the day. She cannot take a child there and there is no childcare within the area. That has meant that she can only access recovery support after 7 o'clock at night—but she cannot access recovery at 7 o'clock at night because of restrictions placed on her by GPS.

There is a whole person within the process. Risk is really important, but we are talking about humans that we want to rehabilitate. It is so important that we look at a person's whole situation. I hope that adds a human element to the discussion, because there are human beings, communities and families in these situations.

**Dr Graham:** I have had the opportunity to think about this topic because I moved from Australia a decade ago to work on European comparative research on the use of electronic monitoring and to lead the Scottish component of the research.

Our findings, which we published in 2016, showed moderate support in Scotland for the introduction of electronic monitoring on bail, which has since happened with the Management of Offenders (Scotland) Act 2019, and moderate support, too, for the use or introduction of GPS tagging technology. The research was published in 2016 and the approach legislated for in 2019. Now that we are in 2026, we are starting to see the use of GPS tagging and tracking technology being piloted, but for prisoners released on leave.

Meanwhile, electronic monitoring as a condition of bail is one of the fastest growing areas. Incidentally, I should mention that, last week, I was at the national electronic monitoring centre and now have the booklets on wearing a GPS tag. We have the statistics for electronic monitoring as a condition of bail, and it looks like it has been used in more than 1,700 cases. It is therefore being used.

There are a few considerations that we really need to think about if GPS tagging and tracking is to be introduced as a feature in some cases of electronic monitoring as a condition of bail. When it comes to an assessment of or preparation for home detention curfew, you have 10 to 12 weeks for that preparation, whereas for an assessment or preparation for electronic monitoring as a condition of bail, you have hours or days. The timeframes are a lot shorter. Such an approach also involves the rights of the child and the rights of the family, where they cohabit, because the GPS will have a home monitoring unit installed in the home and/or curfews could be used.

The exclusion zones also need to be thought through carefully where they are victim-centric; they cannot be really tight around a victim's home, workplace and so on, because there needs to be enough time for the authorities to respond. In some cases, exclusion zones have been considered for entire towns or mass geographic areas. Others have been considered for specific times because we know, for example, that, on a Friday night on the high street, an individual routinely gets into the things that their record has told us about.

The approach is meant to complement and reinforce compliance and safeguarding efforts, but tech on its own will not stop things such as domestic abuse or reoffending in other forms. Our victim support organisations and advocates have made it clear in a really articulate way that they have different views on the subject. Some are calling for its use; in fact, there is a current campaign that was featured last week after a very distressing high-profile case.

We do not want to see the technology used if it could appear to provide a false sense of security, as considerable victim support and safeguarding efforts will still need to be made. Does it need to be co-imposed with bail supervision, special bail conditions and so on? Those are decisions for the court but, that said, in summary cases—or alleged summary cases—where domestic abuse is the alleged index offence, not many people are remanded.

This is a live issue, and the commission decided very early on that, when it came to court decisions in individual cases, we could not, or would not, give an opinion, retrospectively and usually in what would be highly sensitive and distressing cases, on what the judiciary or the fiscal should or should not have done. However, we can speak to it thematically. We want electronic monitoring to be used proportionately. If its use is not proportionate and not well risk assessed, we can see risks of up-tariffing, net widening and so on.

Electronic monitoring is just one option, and we must ensure that there is good consideration of

information-sharing issues. The electronic monitoring company can communicate with Police Scotland, and it might be able to communicate with the court, but if other things are co-imposed, can it also communicate with, say, a bail officer or a justice social work team? There are data protection and information-sharing issues to take into account, too.

There are also learnings to be had when it comes to people wanting to change their address. Unfortunately, in some cases where that has happened, it has been with malign intent, and there was, subsequently, a very serious case in that respect. Far more attention has to be given to how someone might change their address if they want to harm, but what if someone is a victim in their own home and/or in and around the places where they might go? Can they change the exclusion zones or their address in those circumstances? What is the process for that?

Forgive me—it is a passionate topic. However, the technology needs to be used appropriately and proportionately and risk assessed well, because it is not appropriate in all cases.

**The Deputy Convener:** I may well come back to that. I will hand over to Mr Kerr.

12:00

**Stephen Kerr:** This is a fascinating topic. I want to come back to Dr Jardine, if I may. You said that people may not know the restrictions that are applied to their bail. Please help me to understand how that is possible.

**Dr Jardine:** People who come into the criminal justice system often live complex lives, and the justice system is not particularly user-friendly. If we take a different example, it becomes easier to understand. Quite often, when people are being diagnosed with a serious illness, the advice is that they take someone else to the doctor with them, because it is hard for them to listen. It is hard for people to take in large amounts of information.

**Stephen Kerr:** Is that what you meant when you said that people do not know? They have been told, but they do not retain the information.

**Dr Jardine:** They may not have a good understanding of what they are being asked to do.

**Stephen Kerr:** That makes sense.

I was interested in what I think Tracey McFall said about there being a difference between support and supervision. Did you say that?

**Dr Jardine:** That was me.

**Stephen Kerr:** Could you expand on that, please?

**Dr Jardine:** Supervision is orientated around whether someone complies with what we require them to do. It is not just limited to bail; we could think about it in terms of a community payback order—supervision might look at whether someone is turning up to all their appointments or whether they are undertaking all the hours that they are required to. It could be looking at whether they are attending court as they are supposed to.

Supervision is therefore more about compliance, but support is about what might be preventing someone from complying. We might consider whether someone needs addiction support or whether they are able to access mental health support.

**Stephen Kerr:** That is the person-centric bit. You all seem to all have the same view—the basic premise is that there is not sufficient person-centric allowance and there is not discretion around that; there is kind of a blanket approach.

**Dr Jardine:** If you look at the HMIPS special report on remand, it is clear that the group of people who we are talking about have high levels of vulnerabilities and have experienced trauma. We really need to start from a person-centred position and consider what has brought someone into the situation.

If we are asking someone to comply with something, we need to consider what they will need in order to do it. When we think about having a range and suite of options for courts, it is important to remember that the more that we ask people to do, by the nature of it, the more likely it is that they are not to comply. If someone has more bail conditions, there is more that can trip them up.

If we are going to ask people to comply with more conditions, we need to give them the support that will make that reasonable. There is a moral and ethical argument, but there is also a case from a purely instrumental view. If we are trying to stop people from going to prison on remand but we give people a load of conditions to comply with without support, they will breach those conditions and end up in prison on remand.

**Stephen Kerr:** Is the support fragmented or non-existent, depending on where you are in Scotland? What is driving the variables—is it geography?

**Dr Jardine:** Yes. Tracey McFall would be best placed to speak to that.

**Tracey McFall:** What is available in an urban city centre such as Glasgow is completely different from Argyll and Bute and the Highlands and Islands. There is a real dichotomy in what is available in rural areas compared to urban areas.

I will add to Cara Jardine's point about why people disengage. If they are sent a letter but they cannot read or have issues with literacy, it is difficult for them to take in what it means. Decisions are usually made when they are at their most vulnerable—they may have been arrested, kept in police cells over the weekend, or have had issues with mental health, addiction or trauma.

It is important to note that sometimes the third sector is the only one that sticks alongside those people. When we are talking about information sharing and having a joined-up approach, we need to ensure that the third sector is in that space. Currently, it is very variable.

**Stephen Kerr:** Why is it variable, given the critical nature of the involvement of the third sector, as you have described?

**Tracey McFall:** Let us think about Sheriff Mackie and the fact that he needs a range of information to make a decision. The experience is variable because there is currently no systematic way that the third sector feeds into the process—unless there is a really good criminal justice social worker who says, “I’m going to ask what third sector organisations you’re connected with” and then seeks out those organisations. However, when someone is in a pressurised court, that is so difficult—

**Stephen Kerr:** As you say, the third sector is with the person all along their journey, but they are, in effect, excluded and on the outside.

**Tracey McFall:** Yes, and the person who has been supporting an individual might not know that they have been arrested on the Friday night. They might not know that until the Monday or Tuesday, so, again, it is about how we are joining these things up to make the process much more co-ordinated.

The third sector brings a very different perspective to a person's life in relation to what is really happening. People are potentially more likely to be honest with a third sector provider—someone who is supporting them and who they have a relationship with—than they are with a criminal justice social worker who they have seen once in the police custody cells.

**Stephen Kerr:** I was listening to Dr Hannah Graham talk about the fact that, if there is too much focus on the technology and we are not adequately addressing the issues that you have both described, there is a real danger that a technological asset, such as GPS, could lead to a loss of public confidence, when it should have the opposite effect.

**Dr Graham:** The member has picked up very well on the interacting effects. The commission heard views and examples relating to the period from March 2023 to March 2024, during which time almost 20,000 failure to appear warrants were issued for failure to appear at court. Views were presented to us that failure to appear at court drives the use of remand in both the case in hand and, if the case looks as though it is failing, in potential future cases. One of our recommendations is to improve court communications with those on bail, including consideration of an electronic nudge or reminder service. COPFS has been doing that with witnesses to try to improve engagement.

I want to make the link that is helpfully inherent in the question. When we did our lived experience workshops with people who have been on remand and bail, some of them said, “Can I have a text message?” or “Can I have a diagram or something that works for me?” That is about the immediacy of communication telling someone that they need to appear at court, but they would then get on to talking about the reality of their lives with disabilities, including learning disabilities and neurodivergence, and issues with buses and poverty in relation to getting places.

There is good research in Scotland on why people do not comply. The issue is therefore not only about paying for new technology for a reminder system or paying for GPS electronic monitoring tags—a significant amount of money would be needed for those systems, which would continue to need to be procured in the next contracts—but about who support workers are or what the relational context is.

Processes such as bail supervision typically involve three meetings with the justice social worker or a justice social work assistant per week, which can then be downgraded and involve the third sector. Those are a fraction of the larger numbers that could possibly be involved, so where are the people and the relationships that go along with the tech?

The GPS tags will pick up non-compliance. There are some considerations around faults—no technology is perfect—or the court might see that nudges have been sent alongside letters and that the person still did not respond, but we need people who have sight of and up-to-date information on where the person is at, before they tip into a more harmful or unwise decision that could be a breach for all sorts of reasons. Bail offences are quite high in Scotland. Conditions can also be breached because someone has gone on to do something very unwise, potentially including harming others.

**Stephen Kerr:** Help me with regard to the human infrastructure and support. You talked about supervision and about reaching 7 o'clock and everything coming online. Forgive me for asking such a basic question, but what have we got right?

You are talking about the situation, and I am getting the impression that there are so many holes in the system that we are not doing very much right at all. Help me to understand how complete or incomplete the picture is with regard to the human infrastructure needed to support any technology that we talk about so that bail is—I am going to use the word—“safe”. I am thinking primarily from the point of view of victims about whether it is safe.

What is your response to my heartfelt question?

**Dr Graham:** Heartfelt questions are incredibly welcome, and that question brings up a number of considerations. There is unevenness or inconsistency—or, we might say, inequality—which might be place based and localised. That could be about the funding for the service provision, or the staffing or the time that is available.

**Stephen Kerr:** Those are all the variables. How far short are we with all that?

**Dr Graham:** You could look at the numbers of people who are able to comply with bail conditions, but some of the people involved will have access to their own privately funded legal representation—they might be middle class, have a job and be very organised. In other cases, there might be a high level of need and a lack of access to resources and infrastructure.

We need to support people with the right to liberty, the presumption of innocence and all the articles in conventions that, on paper, surround the process—the articles in the European convention on human rights, and so on. How are those rights are being realised?

There are people who comply with bail conditions. However, when there is non-compliance or there are concerns, we need better information sharing, communication and HM Inspectorate of Prosecutions—

**Stephen Kerr:** I am relieved to hear that we have people who do conform with their bail conditions.

Tracey McFall, you look as though you want to speak. I come to you.

**Tracey McFall:** It is really difficult to answer. I was speaking to Sheriff Mackie before the committee meeting. We can easily go down a black hole about what is not working, but there is some amazing practice happening across Scotland in relation to joined-up approaches across local authorities.

There is a bigger systems element about integration—the integration joint boards, health and social care partnerships, alcohol and drug partnerships and community justice partnerships. Where the leadership of those is co-ordinated and they are working together—

**Stephen Kerr:** Is that across the board, between agencies, bodies and organisations?

**Tracey McFall:** Yes. That works better for front-line practice locally.

**Stephen Kerr:** Is that down to individual leaders in those organisations coming together and making that happen, as opposed to the system allowing for it?

**Tracey McFall:** Leadership is an absolutely critical element.

Another variable could potentially help fix the issue. In local authorities, criminal justice and social work get funded through section 27 of the Social Work (Scotland) Act 1968. That money comes from Government through section 27 and is allocated in a range of different ways. Not every area uses that section 27 money to engage the third sector—it is very variable. We need to value the third sector and understand it in the space. The third sector is agile and flexible, and it can pick up the pieces. However, there is still variability in relation to the money, which is not ring fenced.

**Stephen Kerr:** The deputy convener is going to take the questioning time away from me, and I have not asked about the Bail and Release from Custody (Scotland) Act 2023.

**The Deputy Convener:** You might be able to come back in later on, but I want to go to Ms Chapman now.

**Maggie Chapman:** I thank all three witnesses for their contributions so far.

I want to explore in more detail something that we have alluded to and that you have mentioned in different ways: housing instability, complex needs, mental health and neurodivergence all contribute to remand decisions in a way that maybe they should not. Are we effectively imprisoning people because they do not have a safe address or because they do not have healthcare?

**Dr Graham:** The commission had a call for evidence. We received 100 submissions; and we

had meetings, visits and round-table events the length and breadth of the country. One of the strongest themes was housing: “housing” is mentioned more than 70 times in the commission’s report. That comes against the backdrop not only of the prisons emergency but of 14 local authorities declaring housing emergencies between June 2023 and March 2026. The commission said:

“Stable accommodation is often flagged as a key consideration in bail decisions, working both ways: if someone has a stable address, sheriffs might consider the risk of losing a tenancy. On the other hand, the lack of a stable permanent address (‘no fixed abode’) could present a challenge to bail.”

There are also moderately high numbers of homelessness applications on people’s release from prison.

We made a recommendation to place a specific statutory obligation on local authorities to look at that. I heard the cabinet secretary mention this morning that a bail accommodation pilot is in train. I am not privy to all the details around that, but I would be interested in it.

12:15

Something that we, as a commission, would draw attention to is that not all emergencies collide and that it is not all doom and gloom. There are things that we can do. We heard examples of good practice, and we reflected those back to the Convention of Scottish Local Authorities and others when we met them.

There is really good practice in Ayrshire and in Angus. Perth and Kinross Council has done a lot of work, including a remand test of change, in which residents from Perth and Kinross who were held in prison remand had access to, for example, a complex needs co-ordinator and drop-in sessions. Ayrshire had a similar model that was delivered by a housing aid centre that is co-funded by a few of the Ayrshire local authorities, working with HMP Kilmarnock, HMP Barlinnie and HMP Greenock.

It is important to have proactive expertise from amazing housing advisers who can contact private landlords, deal with housing associations, consider the possibility of discounts or not paying council tax for someone who is held on remand and deal with local authorities. We have heard some excellent examples. In the sustainable housing on release for everyone—SHORE—standards, one sees multiple pictures of good practice in which people with complex needs are supported. A lot of that is to do with how support is provided across the 32 local authorities and how people with multiple intersecting needs or emergencies are supported when leaving remand.



**Maggie Chapman:** Part of the issue is whether there is a safe address for someone, and you have highlighted some of the other housing issues. That turns structural problems into individualised risk—perceived risks. As well as dealing with the issues of securing accommodation and all of the other things, including healthcare, how do we get the culture change that would shift us away from that individualised risk? How does one of the decision makers that David Mackie mentioned earlier ensure that they are not just assuming risk because of mental or healthcare instability or some other instability? I am interested in that cultural element, too.

**Dr Graham:** The commission has an entire chapter on leadership, the future and the need to avoid going round the incredibly well-trodden mountain again, given that we have been talking about these issues in Scotland for a long time.

We also have a chapter on data, evidence and information sharing. In practical terms, research and evidence from a range of organisations give us a fairly good understanding of the time and workload issues that the Crown Office and Procurator Fiscal Service and that court-based justice social workers face. In addition, the information sharing that Police Scotland submits in the standard prosecution report—SPR—is quite uneven and patchy.

Those are organisations that can and should speak to one another and advance cultural change together. SHORE has helped to drive some of that change, as has, for example, the response to the drug deaths emergency. A shift to more structural approaches is starting to happen. Unfortunately, we are sometimes talking about many of the same people. Work cultures and policy-making cultures will need to change to support that shift.

There are other nations that have policy guarantees or commitments that every minister in Cabinet, not only the justice minister, has to sign off on, where multiple budgets are expected to support those commitments and where there is an outsourcing response. The most famous example is the Norwegian reintegration guarantee for sentenced people, although we need to be careful not to put it on too much of a pedestal. However, there are nations where responsibility does not fall to a single minister who, in the midst of an emergency, may be feeling a lot of pressure and doing a lot of firefighting. Instead, they can say, “Whose budget is this coming out of?”

It would take time, but the change needs to happen at much higher levels. The front-line workers would probably clap if they heard the question that you have just asked. Of course, there is plurality and diversity among front-line workers, but a lot of them would love for there to be more

integration, a plan and culture change at the strategic level.

**Maggie Chapman:** Thanks. I want to bring in Tracey McFall at this point, because, although the work of the third sector is key to all this, it has been gutted, essentially.

**Tracey McFall:** You need only look at the “Hard Edges Scotland” report, which was written by Glen Bramley and other academics. That describes people bouncing around with problems that are related to drug and alcohol harm, the justice system, homelessness, domestic abuse and mental health. The report was published in 2019, so the data could be updated, but it still indicates that we are talking about the same citizens. Indeed, this is not really about populations; it is about people in our communities who are being bounced around the same systems.

Therefore, I totally agree that there needs to be strategic leadership, but I would go even further and say that there is a real role for Government in ensuring that the portfolios and departments across it speak to each other and look at following the person. Right now, things get siloed when the money comes into the system.

Another huge element is local governance and accountability, but I will stop there.

**Maggie Chapman:** Cara, do you want to come in on that, too?

**Dr Jardine:** For the sake of brevity, I would just add that Scotland is not alone in having difficulties with bail and bail support. Our bail support services, which were introduced around 1991, are sometimes described in research and policies as a Cinderella service.

Policy work that was carried out in Australia highlighted Scotland as having good practice in this area, because other jurisdictions provide even less support. However, that particular policy report also said that Scotland’s model promised a lot without delivering it. As a result, much of this is about implementing what we are trying to achieve and ensuring that criminal justice social work and the third sector are properly resourced to do so.

**Maggie Chapman:** Thinking about those who are remanded, I would start by pointing out that remand is legally different from punishment, and yet I do not think that our practice always reflects that distinction. What needs to change to ensure that, for someone who is not convicted but is put on remand, the conditions of detention are not worse than those of sentenced prisoners?

**Dr Jardine:** As I have said, HM Inspectorate of Prisons for Scotland’s special inspection of remand concluded that remand prisoners experience the harshest regimes in Scottish

prisons, partly because the thinking has always been, “Well, if you haven’t been convicted of a crime, we can’t compel you to engage in what the Prison Service would describe as purposeful activity”—in other words, work, education or rehabilitative content. There is no basis to compel people in the prison rules, either.

In the previous evidence session, Linda Pollock made the really important point that, when systems are completely overwhelmed, as the prison system is, they do only the absolute minimum. There is no legal and statutory basis for ensuring that remand prisoners have access to education or work.

In fact, the point about work is really important, because it is partly why those families are having to spend so much money. Remand prisoners do not have the same financial resource. The more recent findings on access to healthcare, fresh air and on time out of cell—that is, the fact that people are spending 23 hours a day in their cell—are really concerning, too.

In answer to your question, then, we need to bring down prison numbers. Indeed, the previous panel attested to that. Prison regimes can be as well intentioned, and staff as ambitious, as possible, but there is a limit to what people can deliver in the context in which we find ourselves.

**Maggie Chapman:** Hannah, I have a specific question about the sentencing and penal policy commission’s recommendation that someone should not be remanded where there is no real prospect of a custodial sentence exceeding 24 months. Is this one of the most important structural reforms that we could be looking at to reduce unnecessary remand?

**Dr Graham:** Different places and nations have considered the no-real-prospect-of-custody issue, so we would not be the first to think about that. The commission was very aware that there would be a diversity and plurality of views on the topic, and we wanted to ensure some coherence between what we were recommending in the sentencing chapter and what we were recommending with regard to the bail and remand system.

I can give you some international examples that go further than that. The Dutch system is lauded for all sorts of reasons, especially for closing prisons. There are all sorts of reasons why the Dutch have the system that they do. I would not necessarily say that we want Scotland to exactly emulate what they do on bail and remand, but they have restrictions on the use of remand, some of which are statutory. Where there is no real prospect of a custodial sentence of under four years, they would seek not to use remand as a form of pre-trial detention.

There can be deliberations by the Government and Parliament, and there has been a call for evidence. We want there to be consistency and coherence between the different chapters in our report. We will probably draw attention to the significant number of acquittals and of people who do not go on to be sentenced to custody.

I also note that in Spain, where there are quite heavy restrictions on both sentencing and remand, people who are remanded in custody but do not go on to be convicted become eligible for compensation and damages, which I believe has focused the senses there.

That is not necessarily a recommendation that we have majored on here, but we want there to be an awareness of what prison custody is used for. The commission was broadly supportive of, and attentive to, the refinement of the bail test introduced by the Bail and Release from Custody (Scotland) Act 2023. Increasingly, there are conversations about what factors should feed into decisions. If people can reasonably expect a custodial sentence of more than two years, because of the nature and seriousness of the offence, or perhaps because of a significant number of previous convictions, that feeds into the recommendation about remand. There is usually a lot going on in those cases that might lead to remand being used. We would want to emphasise public protection, which includes consideration of victims’ safety, but we also want to be consistent and to say that, if there is no real prospect of custody that is an important provision. The test could be reinforced or expanded.

**The Deputy Convener:** I hope to come back to Maggie, but I can see other members who want to come in and I want to be fair to colleagues.

**Maggie Chapman:** Can I ask a question on that final point about victim safety?

**The Deputy Convener:** Yes, if it can be 30 seconds long, including the answer.

**Maggie Chapman:** I am keen not to position ideas about victim safety and about not remanding people as being in opposition to each other. What needs to exist in communities to make safer bail possible? We have addressed some of that, but would asking that question help us get to the nub of why the dichotomy and opposition between risk and safety are so apparent in all our discourse?

**Dr Graham:** That is an important point.

I am not a member of the judiciary, but I associate myself with former commissioner David Mackie’s observations about prosecutions. Section 4 of the prosecution code discusses the public interest. When considering decisions on bail and remand, and then the sentencing guidelines, one sees a number of factors that derive from the

Criminal Procedure (Scotland) Act 1995 and were subsequently reinforced or amended by the 2023 act.

Those things can coexist. We see that victim safety and public protection are in the public interest test as factors that prosecutors can have due regard to and be aware of, and that there are particular specifications regarding domestic abuse and violence against women and girls. HM Inspectorate of Prosecution in Scotland has also carried out important work and provided valuable critique on COPFS's handling of domestic abuse cases.

A lot of those cases will not lead to someone being remanded in custody at summary level, so the inspectorate looked at what could improve victim-oriented information, communication and support, and at the actions that police, prosecutors and others can take to try to improve that.

I also emphasise the importance of Victim Support Scotland, of Scottish Women's Aid and of the advocacy, support, safety, information and services together project, which is known as ASSIST. We cannot champion enough the work of organisations that operate independently of the formal system but ensure that communication, victim safeguarding and support needs remain at the forefront. Victim safety and safeguarding can certainly be supported during bail, with remand being reserved for the more pressing and serious cases where there is an active risk.

12:30

**Pauline McNeill:** Good morning. I have found it really interesting and helpful to hear about that. You have a crisis—but you had a crisis two years ago, and I do not know what you call it now.

There is one thing that I have found frustrating regarding the remand population, and I cannot seem to get an answer as to why the situation is as it is. Who are all these people we are remanding? It may be that the data is not available, and you can tell me if that is the case, Dr Graham. We may say that we should not be locking everybody up, but who, then, are the people sheriffs are remanding but should not be?

I am not asking you to answer all of that, but can you help me to find where I can read about the profile of the remand population?

**Dr Graham:** There is information available on that. I have gone through official statistics about those who are remanded in custody and the types of index offences that they are accused of. We also have broader information on the demographics.

Referring to one significant group who get remanded, in a one-year period, the average daily

population on remand accused of common assault was 303, which is differentiated from the index offence of more serious assault. We are seeing things around robbery and common assault, and there are some people there for serious assault.

The average daily remand population accused of an index domestic abuse offence was 60. It might come as a surprise—I can provide information on this in writing with links and references later if the committee wishes—but, when we look at the number of arrivals on to remand and at the total counts in a one-year period, we find that, according to the last available year of statistics, using the Scottish Government's prison population app, more people were remanded in custody for shoplifting than for cases where the alleged index offence was domestic abuse. People are also being remanded for vandalism.

I do not need to explain to a committee such as this that there are quite different weights, gravities and risks. The commission would not excuse any of those things, but there would perhaps be a strong emphasis on some of them. Drugs supply is another example. There is also quite a lot related to those accused of crimes against public justice—and we do not know enough about what is going on in that black box.

It is a good question. We can provide links about who is on remand and what they are allegedly on remand for.

**Pauline McNeill:** Thank you very much. I found that really helpful.

You have expanded a lot about the home detention curfew. Indeed, all the witnesses have given us some important things to think about. It is not so simple, as I know as I have been pursuing this point. When a sheriff is deciding about bail and remand, can they decide on their own to apply a home detention curfew? How does that work? How is that available to a court—or is it not?

**Dr Graham:** Referring to what is available under the Management of Offenders (Scotland) Act 2019—there have probably been more provisions and implementations since then—sheriffs can currently impose electronic monitoring as a condition of bail, which is a decision for them. That involves a radio frequency tag. It cannot tell where you are; it is oriented around the home curfew, which can be tailored or bespoke, although it is likely to be 7 pm until 7 am, or something similar.

Where electronic monitoring is used, there will be a risk assessment. There are very good reasons to understand, sensitively, who else is affected where a home curfew is imposed. Home curfews obviously affect families or other householders; they can affect substance use or

mental health distress. Having done the research for electronic monitoring, we have found that, when people who have significant drug or gambling debts are known to have a home curfew, people who would like to find them may seek to do so. There are other safety planning and practical considerations.

Currently, sheriffs can impose EM as a condition of bail, and they can co-impose it with bail supervision if they want to. They can also explore other support options if they wish. GPS is not yet available as a part of that, but I believe that the Scottish Government has said that it would consider that.

**Pauline McNeill:** I am glad that you said that, because it is important to make that distinction. You are talking about the old tagging system, but I think that more victims would want to see GPS being used, even with all the problems, just because they would probably feel safer, generally.

**Dr Graham:** There is research on that in other nations where it is used extensively. We have to be very careful not to homogenise victims but, in some places, victims can opt into carrying a device—it is not on their body; they carry it—so that the GPS can pick up if somebody is approaching. That works not only in their home. Rather than feeling that they have to stay home, go to work, then stay home, some victims want to be able to carry a device that can tell monitoring authorities if that happens. There is variability in how victim support organisations and advocates feel about that and whether they feel that there is enough capacity to respond and react should there be an alert.

The Inspectorate of Prosecution has said that, with other forms of bail, when there has been what looks like non-compliance or breach but a tougher form of action was not taken in response, victims of domestic abuse felt as though that might have emboldened the accused, because they then knew that they could do some things without there being a response. It is about checking that standard conditions and special conditions are being met, but it is also about having a wider understanding around the home, the relationships and the safety considerations in relation to the tech.

**Pauline McNeill:** My final question might be for the panel generally. I hear what everyone is saying about the remand population and the question of purposeful activity and all that. We are becoming very alive to all the pressures on the prison staff who are trying to manage all this, but I am deeply disturbed that we might not get any answers on how to relieve the pressures and we might not be able to do anything at all in the short term.

I do not know what the answer is, but I want to finish by asking about that. The fact that a remand prisoner would not get access to fresh air every day—a basic—because of the pressures of overcrowding makes part of me think that maybe we should just legislate for some of the human rights around this. I am not arguing for that per se, but surely something can be done to improve the conditions that remand prisoners in Scotland face before we can start to make some changes to the prison system. Alternatively, do you feel that nothing can be done?

**Dr Jardine:** That is a really good question. Sometimes, people refer to the slopping-out cases as one of the biggest drivers of penal reform in Scotland, because there was very clear legislation. Because we were found to be in breach of upholding people's human rights, action had to be taken and money had to follow that, so in some ways I have some sympathy with the case that you are making—that if we had a legislative basis, that would be another lever to pull and perhaps more money and investment would follow.

Something that has not come up in the discussion but which we need to understand is that the rise in the remand population is being driven by how long people are spending on remand. This is not the case for everybody—there are still people who are coming into remand for seven, 14 or 28 days, or whatever—but the data shows that there is a significant rise in people spending longer and longer on remand, so there is perhaps a lever to be pulled there. That issue came up in the HMIPS specialist report, as well. We have now returned to the pre-Covid limits on how long we can hold people, but we need to enforce those, because they can still be extended in individual cases by application. We need to create a culture where we say that the limits of 80 or 140 days are the time that you have. That might be one way to address some of the issue.

**Tracey McFall:** If there is no way that we can reduce the prison population or increase capacity, we need to look at what we can do when people come out of prison. That is a lever that we could use now. For example, the 2023-24 HMIPS report shows that there were 5,125 liberations from remand, 79 per cent of which were liberations from court. That is an added complication, because it means that someone who is on remand goes to court not knowing whether they will get a sentence and is released that day from court with no support. We could do something relatively quickly on that. Again, the third sector has a critical role to play in that, because it is already present in the communities that we are talking about, so there are some quick wins to be had in this space with regard to scaling up what the third sector can do.

The third sector is ready to pick that up and start going with it, but we need resource.

**Marie McNair:** My line of questioning has mostly been covered. I wanted to know what more could be done and what more is needed. Also, given your experience, I wanted to find out about other areas of good practice outwith Scotland—for example, in other European countries. If you have any examples, please share them with the committee. If you do not have any, that is okay and I will hand back to the convener.

**Dr Graham:** The commission considered international examples. Obviously, we were small, did not have an extensive budget and were very mindful of public finances, so we did not go on public tours, unlike the independent sentencing review down south, which involved a lot more travel. We had an internal paper on international comparisons with countries that already have a lower prison population and features of a justice system that we might want to look to or countries that have drastically reduced their prison population, with some features that we might want to look to. We do not fully believe in penal policy import or a copy-and-paste approach, because those systems will not necessarily work particularly well here.

Some of the comparative or international insights were more around sentencing reform, early release, the provision of rehabilitative options, the use of electronic monitoring, and prison sentences not actually being served but converted to community-based responses. There were some moderately tight restrictions on the use of remand in nations such as Germany, the Netherlands and elsewhere. They also had really interesting and significant prosecutorial discretion and leadership. In the Netherlands, the prosecution can look at cases that might attract a sentence of up to six years and do things that might look like a fine or diversion from prosecution. I understand that that will feel outrageous in some contexts, but I would not hold the Netherlands up as a particularly wild outlier.

Approaches to prosecution have also involved prosecution leadership, working with community groups, and investment. Also, an approach that tried to be pragmatic about workload and bureaucracy in the German system led to things that did not necessarily need to be dealt with in courts being dealt with in communities with prosecutorial leadership. Dealing with things a bit more upstream in that way means that the matters that the courts deal with are things that people might reasonably expect should be there. Numerous nations also have different stipulations and apply juvenile legislation to young adults. The ages to which that applies can vary, so there are considerations in relation to that. Thankfully, that

is not necessarily a really large group in the Scottish prison population any more, but I am sure that we still have progress to make.

We looked at processes internationally and considered that evidence alongside what we heard here. A lot of bail support just looks like really good relationships and more preventative focus, rather than cleaning up the mess. Cleaning up the mess is profoundly important—I am speaking very candidly, but this is also about trying to get more to the roots of the circumstances. Other places, such as the Netherlands, have early intervention, too. In the Netherlands, their approach uses the Dutch equivalent of our acronym ASAP, which involves multidisciplinary rapid responses that look at whether an individual even needs to be considered through the system for bail and remand or whether prosecutors could work with other authorities.

I should emphasise that, in most, if not all, of those nations, they have really strong provisions in relation to victims' rights, victims' interests and victims' access to legal advice, including their own counsel and support, so the binary idea just does not work—two things can be true at once.

Scotland has obligations to address and prevent violence against women and girls as well as violence against all victims, and it also has an obligation to ensure the lawful and humane operation of custody. There is plenty of evidence that the latter obligation is being breached at the moment, so the question is: how can we hold these two things in the same space? Much could be said about Finland, but that has already been commented on by the earlier panel.

12:45

**Marie McNair:** Can you share the paper with the committee? That would be helpful to us.

**Dr Graham:** Indeed I can.

**Marie McNair:** I would be interested in seeing it.

**Dr Graham:** It is very academic and anoraky. It has many references—I got very excited. There have also been comparative studies of the use of bail and pre-trial detention across Europe, and there is a handbook of good practice.

**Dr Jardine:** We can also look outside of bail and remand at other analogous examples within Scotland that speak to what Hannah Graham was saying about the importance of upstream work and prevention. We need only look, for example, at what we have achieved in Scotland with regard to young people; we have had success with the whole-system approach and have reduced numbers of young people in custody as well as removing children from custody.

We can make change—it can be done—and preventative work is really valuable and important in that respect. Even though it is not some immediate lever that we can pull, it will have benefits—and more longer-term benefits—than we would get trying to build our way out of a prisons crisis. It is a criminological adage that, if you build a prison, you're gonna fill it. That will not help you in the long term, whereas preventative work will.

**Marie McNair:** Thank you.

**The Deputy Convener:** Last, but by no means least, I call Ms Bland.

**Amanda Bland:** Thank you for outlining some really detailed arguments for avoiding unnecessary use of remand. However, I want to continue to focus on the victim's perspective and go back to some of the points that the panel members raised in relation to the accused, and their potential vulnerability, with high need and a lack of literacy skills.

As a result of those things, the accused might not understand their bail conditions, with curfews depriving them of potential rehabilitation activities, or access to drugs and alcohol support and mental health opportunities. Moreover, when breaches of bail occur, whether deliberately or due to a misunderstanding, there might be a lack of response from a control room, if electronic monitoring is involved.

That lack of response is potentially dangerous for the victim, and there might be consequences for the accused. On the other hand, the breach might not have been deliberate; the person might not have been informed, so they might have breached their bail conditions simply because they did not understand them.

The whole system feels very erratic, with, as I think Mr Kerr said, lots of holes in it. I am sitting here, wondering whether, if I were a victim listening to this, I would be right to be scared that the system was not going to work for me. Can the panel members comment on that?

**Dr Jardine:** What we know is that victims really deserve advocacy and support all the way through—that is one of the biggest things that you can do. It is very difficult to plan for every eventuality, and every set of circumstances will be unique and varied, but you can give victims advocacy and a named person to whom they can speak all the way through the process and who can raise and escalate their concerns.

I think that that would be a really basic place to start when it comes to supporting victims and survivors in the sort of adversarial criminal justice system that we have in Scotland. It is not very user friendly by design. Indeed, one of the problems

with having very long periods on remand is that victims and survivors have to live with really long periods of uncertainty, wondering, "What's going to happen? How is this going to be resolved?" and with the possibility of having to appear in court hanging over them.

Therefore, as a baseline, we have to think not just about what we put around the accused person. What we put around the victim and survivor is really important, too.

**Amanda Bland:** It sounds as if you are talking about the future, and what can be done, while my question was about the here and now.

**Dr Jardine:** Those services certainly exist.

**Amanda Bland:** They may exist, but do they function effectively? That is what I am asking.

**Dr Graham:** Those issues have been surfaced extensively in bills that have become acts of this Parliament. The commission held multiple victim support organisation round tables, and the chair held meetings with leaders in the area. From our perspective, we wanted to ensure—throughout our process and any subsequent parliamentary or Government decision process—that victims, survivors and their advocates, as well as families, including bereaved families, are fully and carefully heard. There has already been some attentiveness to that.

I will also remember to say that the commission recommended that there could be an inspectorate function for the Scottish Courts and Tribunals Service. One of the things that could be picked up is consideration of the experiences and perceptions of victims. Some really good work has been done by the Inspectorate of Prosecution from 2024 and, currently, there is a focused follow-up inspection.

**Amanda Bland:** That is ideal-world thinking. My question was quite clear.

I will move on to the next question. I would like some clarification on electronic monitoring. You spoke about what happens in the case of breaches. There would be a trigger in a control centre but, because they would all happen at, say, 7 pm, it sounds as though the resources do not have the capacity to address them. Could you talk me through the system and what happens when breaches occur?

**Dr Graham:** Electronic monitoring in Scotland is provided end to end by a private service provider that is tightly managed by a Scottish Government contract team, which would hold very good data on what happens and what does not happen. There is a national centre and a team that works with electronic monitoring. The team could be making or taking phone calls and monitoring the

information that is available to them about home curfews or location monitoring. My understanding is that the authorities can be alerted quite quickly in an emergency and that alerts go to Police Scotland. There are report writing teams that report to the courts, which make decisions about what to do with bail, remand and sentencing, and there are tables in their booklets that outline the managing authorities for each order. The private company does not have the authority to make decisions; it merely has to collect and understand evidence.

**Amanda Bland:** From what I am hearing, there is a real potential that nothing will happen. Am I correct?

**Dr Graham:** The reporting is quite proactive in this nation and others. It is up to the decision makers as to what they want to do about it. The reason that might be given for the breach could be, "I was disorganised", or "The bus was late". That is a very different level of gravity to a notification that someone might be going to their ex's house.

**Amanda Bland:** For clarity, if I were a victim and I thought that the curfew was from 7 pm to 7 am and the person was five minutes over that, I would like to be informed that they were in breach of their curfew.

**Dr Jardine:** I think that that was something that I said, which is that the system would have a level of discretion built into it. That does not mean that it is wrong or that it is not working. In prison work and police work, we know that there it is what we call a skilled use of discretion. The point that I was trying to make is that when you tag someone, it is not as simple as being able to absolutely guarantee that they will be where they should be from 7 pm to 7 am. There may be valid reasons why they are not. That is what I mean by being clear about what something does and what you want it to do.

There are good reasons as to why discretion is built into the system, because people might be dependent on public transport or there might be exceptional circumstances. Equally, some circumstances are not acceptable, in which case, the processes that Hannah Graham has outlined would be followed. By saying that there is discretion, I am not saying that the system does not work; I am just saying that, when we are talking to victims and survivors about what we can provide, we need to be clear about what we expect something to do and what it can do realistically.

**The Deputy Convener:** Dr Jardine, Ms McFall and Dr Graham, you have been incredibly generous with your time. I realise that we have gone over time somewhat, so it has been a very long evidence session today—but a very rich one. Thank you for your attendance today—we really appreciate it. This is a new committee, and I am

sure that we will continue to take evidence from you in future. Thank you for your forbearance today.

Before we move to the next item of business, I will suspend the meeting for about 30 seconds, just to allow our witnesses to leave.

12:55

*Meeting suspended.*

12:55

*On resuming—*

## Armed Forces Bill

**The Deputy Convener:** Item 5 on our agenda is to consider our approach to the Armed Forces Bill, which is UK Parliament legislation. This afternoon, we will consider our first supplementary legislative consent memorandum, LCM-S7-3, which relates to the bill. The LCM was lodged in the Scottish Parliament by the Cabinet Secretary for Justice on 16 June 2026. Under standing orders, the Scottish Government must notify the Parliament through a legislative consent memorandum when a UK bill affects devolved matters. A lead committee considers the LCM before the Parliament decides whether to grant consent.

The Armed Forces Bill was introduced in the House of Commons on 15 January 2026. The purpose of the bill is to introduce a series of measures to update and extend legislation relating to the armed forces, reserve forces, defence bodies and the protection of military remains.

The Scottish Parliament granted legislative consent to the bill during the previous session, following the scrutiny of the original LCM by the Social Justice and Social Security Committee. The SLCM relates to amendment 30, which was tabled on 22 May 2026 and agreed to in the House of Commons on 2 June, concerning the enforcement of service restraining orders in cases where an individual leaves the armed forces and enters the civilian justice system. The amendment triggered the need for a supplementary LCM.

The SLCM states that the provisions would align the armed services justice system more closely with civilian justice systems across the UK, and it recommends consent. Given the late stage of the bill's passage through the UK Parliament and the limited time available to scrutinise the supplementary LCM, the committee wrote to the Cabinet Secretary for Justice during the summer recess, seeking further information to support its consideration of the memorandum.

Are members content to consider and reach a conclusion on the supplementary LCM today?

**Members indicated agreement.**

**The Deputy Convener:** Do any members wish to make comments, for the record, on the supplementary LCM?

**Maggie Chapman:** I have a question about clause 8(5)—referring to the amendment that was tabled and agreed for England and Wales and the disapplication of section 109 of the Victims, Witnesses, and Justice Reform (Scotland) Act 2025. I want to be clear that the disapplication of that provision will not affect the operation of SROs

in Scotland because of clause 8(4). Would it be appropriate to ask about that?

**The Deputy Convener:** That is a fair question. Ms Chapman will understand that I do not have the answer to it, but I think that it would be entirely appropriate for the committee to write to the Scottish Government to seek clarity on that matter.

**Maggie Chapman:** I do not want to delay the committee's recommendation to agree to the LCM. It would be helpful to get clarity on that specific point in writing, however.

My concern is about victims and witnesses who think that they are covered by section 109 of the Victims, Witnesses, and Justice Reform (Scotland) Act 2025, but because of the amendment that has been made, it turns out that they are not. How will they know that they still have their protections, given that the Westminster amendment has been passed down south?

**The Deputy Convener:** I understand the question. It would be entirely appropriate for the committee to write to the Scottish Government, noting that we understand that there is a time pressure. I am relaxed if members have questions that they want to be answered, and we can ask the Scottish Government to answer them in quick style.

13:00

**Stephen Kerr:** I am in a similar place to Maggie Chapman, because, of course, I support the principle behind the bill. However, my questions are really about the legal mechanisms and understanding the intention, because, sometimes, there is a world of difference between what is intended and what will actually happen in practice. That is what I am concerned about, and my questions fall into a number of areas, but I will be brief. I want to be absolutely assured that there will be no gap in protection for victims. If someone who is subject to an SRO leaves the armed forces today, does that protection transfer automatically into the Scottish civilian system? How does that work? We need to be reassured on that. That does not mean that we will stand in the way of the bill, but we need to know about those technical aspects.

How exactly will Police Scotland learn that an SRO has become enforceable in the Scottish jurisdiction? Is there an automatic notification, and is there a mechanism that creates that information sharing? Who has responsibility for ensuring that the victim is informed when the order moves from the services justice system into the Scottish civilian jurisdiction for enforcement, and who becomes the victim's point of contact? How does the process work? If the order is breached after the individual has left the services jurisdiction, is there complete



clarity that Police Scotland will investigate and the Crown Office will prosecute, in exactly the same way as they would a breach of a Scottish non-harassment order?

Finally, can we get an idea of how many current SROs relate to individuals who reside in Scotland, and how many cases the Government reasonably expects to transfer into our jurisdiction each year? Those are the five different areas—which run alongside Maggie Chapman's concerns—that warrant a response from the Government, but I in no way seek to impede the progress of the LCM and I am fully supportive of it.

**The Deputy Convener:** I understand that, Mr Kerr, and those questions are on the record. I am sure that our colleagues in the clerking team will have captured them all. My suggestion to the committee is that we delegate to the convener the ability to write to the Scottish Government, reflecting the points made by Ms Chapman and Mr Kerr. We will make clear to the Scottish Government the need for those to be answered very quickly, but, on that basis, we will have to defer the decision on the LCM. I am mindful that we want a decision on it quite quickly, but I absolutely appreciate the points made by Ms Chapman and Mr Kerr, and I undertake to take those away.

Are colleagues content to proceed on that basis?

**Members** *indicated agreement.*

**The Deputy Convener:** Before I conclude the public part of the meeting, I want to say that our convener is disappointed not to be here today, and I am certainly disappointed that he is not here. I do not intend to be in this position again, but I want to say an enormous thank you to everybody for their forbearance with me. It has been a very long meeting, and I do not think that the intention is to have four-hour evidence sessions, but we have got through an awful lot today. The clerking team and I thank you for your forbearance—it is much appreciated.

We will now move into private session to consider agenda items 6 and 7.

13:03

*Meeting continued in private until 13:05.*



This is a draft *Official Report* and is subject to correction between publication and archiving, which will take place no later than 35 working days after the date of the meeting. The most up-to-date version is available here:  
<https://www.parliament.scot/chamber-and-committees/official-report>

Members and other meeting participants who wish to suggest corrections to their contributions should contact the Official Report.

Official Report  
Room T2.20  
Scottish Parliament  
Edinburgh  
EH99 1SP

Email: [official.report@parliament.scot](mailto:official.report@parliament.scot)  
Telephone: 0131 348 5447

The deadline for corrections to this edition is 20 working days after the date of publication.

---

Published in Edinburgh by the Scottish Parliamentary Corporate Body, the Scottish Parliament, Edinburgh, EH99 1SP

All documents are available on  
the Scottish Parliament website at:

[www.parliament.scot](http://www.parliament.scot)

Information on non-endorsed print suppliers  
is available here:

[www.parliament.scot/documents](http://www.parliament.scot/documents)

For information on the Scottish Parliament contact  
Public Information on:

Telephone: 0131 348 5000  
Textphone: 0800 092 7100  
Email: [sp.info@parliament.scot](mailto:sp.info@parliament.scot)

---



The Scottish Parliament  
Pàrlamaid na h-Alba