



Official Report
Aithisg Oifigeil

DRAFT

Criminal Justice Committee

**Comataidh
a' Cheartais Eucoirich**

Wednesday 30 September 2026

Session 7



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CRIMINAL JUSTICE COMMITTEE **7th Meeting 2026, Session 7**

CONVENER

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

DEPUTY CONVENER

*Ben Macpherson (Edinburgh North Eastern and Leith) (SNP)

COMMITTEE MEMBERS

*Amanda Bland (Central Scotland 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:

Councillor Maureen Chalmers (Convention of Scottish Local Authorities)

Carol Eden (Victim Support Scotland)

Jackie Hamilton (Social Work Scotland)

Karyn McCluskey (Community Justice Scotland)

Colm Merrick (Glasgow Anniesland) (SNP) (Committee Substitute)

Sheriff Scott Pattison (Scottish Sentencing Council)

Jimmy Paul (Scottish Violence Reduction Unit)

Dr Marsha Scott (Scottish Women's Aid)

LOCATION

The David Livingstone Room (CR6)

Scottish Parliament

Criminal Justice Committee

Wednesday 30 September 2026

[The Convener opened the meeting at 09:33]

Decision on Taking Business in Private

The Convener (David Linden): Good morning, and welcome to the seventh meeting in session 7 of the Criminal Justice Committee. I have received apologies from Marie McNair and Pauline McNeill. I welcome Colm Merrick, who is substituting for Marie McNair. I invite Mr Merrick to declare any relevant interests.

Colm Merrick (Glasgow Anniesland) (SNP): I am a councillor with East Renfrewshire Council.

The Convener: Thank you, Mr Merrick.

I also welcome Yi-pei Chou Turvey, who is observing today's meeting.

Our first item of business is a decision on taking business in private. Do members agree to take in private item 5, which is a review of evidence?

Members indicated agreement.

Subordinate Legislation

Dangerous Dogs (Compensation and Exemption Schemes) (Miscellaneous Amendment) (Scotland) (No 2) Order 2026

09:34

The Convener: Our next item of business is consideration of a Scottish statutory instrument. As members will recall from last week's consideration of the SSI, the amendment requires holders of exemption certificates to ensure that exempted dogs are not in close contact with children under the age of 12 unless they are supervised by a person aged 16 or over. The requirement applies in non-public places, including private homes.

Last week, the committee agreed to write to the Scottish Government to request further information. On 25 September, we received a response from the Government, for which we are grateful. The response is published on the committee's web page. No motion to annul the instrument has been lodged.

Do members have any comments on the instrument?

Stephen Kerr (Mid Scotland and Fife) (Con): I have a quick comment. I accord with your comments, convener, and express my gratitude to the Minister for Victims and Community Safety for coming back to us as quickly as she did. However, one of the questions that we asked was why the age threshold is set as 16. In essence, the answer was, "Because it is." Although no motion to annul the SSI has been lodged, the answer on the age issue was not as satisfactory as I would have liked it to be, because there is disparity between what is happening in Scotland and what is happening in England and the rest of the United Kingdom in relation to the capacity of those aged 16. I simply put that on the record.

The Convener: Thank you, Mr Kerr. I am grateful to you for putting that on the record. I know that Scottish Government officials who follow our proceedings will be made aware of that. I propose that the committee makes no recommendations in relation to the instrument. Do members agree?

Members indicated agreement.

The Convener: Thank you. The arrival of some of our witnesses for the next item has been slightly delayed. I will suspend proceedings briefly until they arrive.

09:36

Meeting suspended.

09:37

On resuming—

Custodial and Community Sentences

The Convener: Agenda item 3 is an evidence session on custodial and community sentences. We have a stellar panel before us, and I know that members are keen to put some questions to our witnesses. I warmly welcome Councillor Maureen Chalmers, community wellbeing spokesperson for the Convention of Scottish Local Authorities; Jackie Hamilton, Social Work Scotland's chief social work officer in South Ayrshire; Karyn McCluskey, the chief executive of Community Justice Scotland; and Sheriff Scott Pattison, from the Scottish Sentencing Council.

We will move straight to questions. My first question is directed to Ms McCluskey, although I will also seek to bring in Sheriff Pattison. When Community Justice Scotland made representations to the sentencing and penal policy commission, it suggested that strengthening the presumption against short sentences does not go far enough and that sentences of under 12 months should be abolished or restricted to exceptional circumstances. Where have we got to with the presumption against short sentences? What might be helpful for the committee to be aware of in that regard?

Karyn McCluskey (Community Justice Scotland): On the presumption against short-term sentences, numbers have come down from the levels of five or six years ago. Slightly under 75 per cent of sentences are for under six months. The evidence that we are seeing shows that, when people go into prison, there are no treatment options available and they will not receive behaviour-change programmes because they are there for too short a time. Often, we are making people homeless. We send them back into communities where it is almost like a cliff edge. The likelihood of those people returning to prison is significantly increased.

We believe that there is much more that we could do with community sentences in our local areas, but funding would have to be provided to keep people safe and properly managed and to allow them to repay their debt to society through measures such as unpaid work.

The evidence base is poor. We know that the reoffending rate for people who serve sentences of under 12 months is about 56 per cent, whereas it is about 23 or 24 per cent for those who receive community sentences. It is not an exact science—there is no randomised controlled trial—so we need to take into account background details, such as criminal history.

However, all the studies show that people reoffend more if they are on short-term sentences, regardless of some of the evidence-based briefs. The more sensible and evidence-based approach is to keep people in their communities. There are exceptions. I always say that this is about smart justice. We absolutely must jail those whom we are afraid of, but those whom we are not afraid of should remain in their communities.

The Convener: I invite Sheriff Pattison to comment on where we are with the presumption against short-term sentences.

Sheriff Scott Pattison (Scottish Sentencing Council): Before answering, I will provide a little context about my evidence and the capacity in which it is given, just to make that clear for members.

I am here as a judicial member of the Scottish Sentencing Council. Some of what I say will draw on my experience as a sheriff, but I should make it clear that I am not speaking on behalf of the Scottish judiciary today.

I will provide some brief background information on the council. It has a statutory role in promoting consistency in sentencing, assisting with the development of sentencing policy and promoting awareness and understanding of sentencing policy and practice. As members might be aware, one of our key functions is the preparation of sentencing guidelines, which have force once the High Court approves them. It goes without saying that, as a council, we are bound by that remit.

Part of our role involves education and promoting awareness of the sentencing process and what it entails to promote public confidence in it. We are always happy to provide briefings or information on that process, including to the Parliament and parliamentarians, with the slight caveat that we are a small organisation with a full work programme. However, we always try to accommodate such requests whenever we can.

On the presumption, I will not comment on the policy itself, but I will say that, in 2021, the council undertook research with sentencers, who were supportive of community-based alternatives and found them to be a robust alternative to custodial sentences, assuming adequate resourcing of social work programmes. Rehabilitation offers long-term public protection, and sentencers support that.

If there is to be an enhanced presumption against short sentences, there will be a need to look again at the range and variety of programmes that are available to local authorities as direct alternatives to custody. There will be a need to consider issues such as the length of restriction of liberty orders and how robustly they can be

enforced. There will also be a need to look again at breach processes—when court-imposed orders, such as community payback orders and restriction of liberty orders, are breached—to ensure that they are prompt, effective and robust. That is for two reasons: to increase sentencers' confidence in those disposals and to increase public confidence in them.

Assuming that there are adequate resourcing and an increased variety of programmes, sentencers will continue to have faith in community alternatives.

The Convener: Would I be right in inferring from that that you do not think that there is an adequate amount of information? I think that Social Work Scotland has said that it wants prosecutors and sentencers to look for compelling reasons why someone could not be managed in the community. Is it your view that those involved in sentencing have not got adequate information to make some of those decisions?

Sheriff Pattison: In my experience, social work reports are usually of a very high standard in assessing risk and giving recommendations on how an individual could be managed in the community. Where things fall down slightly is in this regard. Through local liaison, improvements could be made by increasing the judiciary's awareness of the range of local programmes that are available as alternatives to custodial sentences.

If there is to be a more robust presumption against short sentences—I will put it that way—there will be a consequential need to ensure that local authority social work departments are adequately resourced to provide alternatives to custody that sentencers have confidence in.

09:45

The Convener: That brings me, quite helpfully, on to my next question. I do not know whether you have seen my notes, Sheriff Pattison, but you seem to be following the choreography.

Before I bring in our local government colleagues, I want to ask you about drug and alcohol treatment orders, which we do not appear to be using as often. Is that because they are not available, or is there a presumption against using them?

Sheriff Pattison: There is no such presumption. The current legislation is a bit cumbersome when it comes to alcohol and mental health treatment requirements, and a number of hoops require to be jumped through before they can be imposed. For example, a designated medical professional must be identified before a particular programme or requirement can be utilised.

I am speaking from personal experience and the experience of my colleagues in south Strathclyde, but most sheriffs will, instead of imposing a specific alcohol or mental health treatment requirement, try to encompass that under a general supervision requirement and perhaps give direction to the social work department at the sentencing process or the sentencing diet that it should focus on mental health or addiction, whenever possible. Sheriffs sometimes draw back from things such as alcohol and mental health treatment requirements, because they make the process longer. There are a few administrative things that require to be done.

The Convener: Can you give some practical examples of those administrative roadblocks? It just strikes me, from looking at the research, that we are not using such options as much as we should be.

Sheriff Pattison: First of all, it is simpler to say to a person, "You will be supervised by the local authority social work department, and you will have a supervising officer who will route you to programmes to deal with your alcohol issues", than it is to say, "I'm going to impose a specific alcohol treatment requirement where I need to nominate a particular person and set out a particular programme for you." I am sure that, for the mental health treatment requirement, the law says that you have to have a report in advance and you have to nominate a particular medical practitioner to supervise it. I might be wrong about that, though.

The Convener: Is that why you are saying that the process is a bit cumbersome at the moment?

Sheriff Pattison: It is a bit cumbersome. Another issue, which you will be aware of, is the delays that we encounter in the court system when we seek psychiatric and psychological reports. We usually allow up to eight weeks for a psychiatric report, for example, and that delays the sentencing process. I think that sheriffs and sentencers want the process to be as swift as possible, for the benefit of everyone involved—the victim of the crime, the person accused of the crime and the public. At the moment, it is simpler to deal with most of the rehabilitative mechanisms under the auspices of a general supervision requirement.

The Convener: That is very helpful. I appreciate that you will not have all the details in front of you, but, if you do not mind, could you write to the committee on some of the blocks that you see in that respect? We would be keen to have a look at that.

Sheriff Pattison: I am, of course, happy to do that.

The Convener: I appreciate that.

I turn now to our social work and local government colleagues. Are there any capacity

issues that you want to highlight? I know that there has been a lot of success with community payback orders, for example. Other colleagues on the committee will have questions on resourcing, but perhaps, Councillor Chalmers, I can start with you on capacity issues with regard to alternatives to custody.

Councillor Maureen Chalmers (Convention of Scottish Local Authorities): Absolutely, and thank you for inviting us along today.

Justice social work services have experienced significant growth in diversion, bail supervision, structured deferred sentences, throughcare and public protection responsibilities. There has been quite a lot of new work in recent years. Services are facing recruitment and retention challenges as well as increasing case complexity involving trauma, addiction, mental ill health and high-risk behaviours. No doubt we will come back to that issue.

Although the workforce vacancy rates in justice social work are lower than those in the wider social work sector—the figure is just around 5.9 per cent for justice social work, compared with about 9.5 per cent overall—retention, case load pressures and the increasing complexity of cases remain significant concerns. Indeed, one in six social workers leaves the profession within five years, and we are working jointly with the Scottish Government to consider the justice social work workforce in the context of the broader look that we are taking at justice social work capacity.

It is key that we develop a baseline for the profession, which will be crucial when scaling up any community justice interventions. The key message is that capacity must precede demand. Local government absolutely supports further reform, but community justice services must be adequately resourced before additional responsibilities are transferred from the prison system. I am sure that Jackie Hamilton can provide details on that.

The Convener: Great—you have set up Ms Hamilton nicely.

Jackie Hamilton (Social Work Scotland): In response to the convener's question about a presumption against an extension of such sentences, I do not disagree with anything that the other witnesses have said about the difficulties that would be presented to justice social work in relation to resourcing, for example. We probably need to do a bit more work to understand why things have not fully worked, given where we are. We need to think about sentencers' confidence in community sentences.

As the sheriff pointed out, court reports are extremely robust and are full of risk assessments.

They go through all the sentencing options that are open to the court, with information provided on what would happen to the person if a certain option was chosen. They cover the risk of harm, the risk of reoffending and the needs in that regard. At the end of the report, things are summed up and there is an action plan if, for example, a community payback order is given. At that point, consideration is given to alcohol and drugs, mental health and so on. The sheriff is right about the problems relating to the alcohol and drug treatment requirements. We need to name providers, but, when court reports are produced, we do not always have providers ready to be named, because risk assessments are dynamic and continually change. We need to get to know the person before we find the right provider for them.

In relation to shorter-term sentences, an increase in court reports and assessment at that stage would probably be extremely useful. Social Work Scotland has said that we would need to do more assessment at that stage in order to see whether a community disposal would be more appropriate than custody. However, that would require resources, because we already produce a huge number of court reports every year, and we are talking about an extension of that.

The Convener: I suspect that we will come back to the issue of resourcing, as we have done in many of our evidence sessions thus far. I know that members have questions about that.

I have a final question for Ms Hamilton, from a social work perspective. I have been learning more about orders for lifelong restriction, because I am interested in them. What is your experience, from the social work sphere, of managing individuals on OLRs?

Jackie Hamilton: I have very little personal experience of that, because orders for lifelong restriction are few and far between. However, the risk management plans that are developed for such orders are extremely robust and rigorous. They are developed in line with the risk management of the person, and they involve the risk management authority, psychiatry and psychology services and whatever other services are necessary. The plans are reviewed regularly as the risks rise or reduce.

The Convener: Ms McCluskey, given your experience, do you have anything to add on OLRs? I realise that I have gone slightly off piste—I am probably abusing my position as convener by asking that question.

Karyn McCluskey: I do not have anything to add on OLRs, but I will make a point about drugs. As you know, the drug death figures were published last week. A third of the people who died had been in contact with justice services over the

past 12 years. We cannot punish people out of addiction.

The evidence base on drug treatment and testing orders has been declining because of the variety of drugs that are now used. In a way, it was quite easy—well, it was not really easy—when we were dealing with people on heroin, because we could put them on a reducing amount of methadone and so on. However, we are now dealing with nitazenes, cocaine and a range of other drugs. Increasing the number of rehab beds and alternatives is a much better way of doing it. It is a health issue. I have known people who have said that drug treatment and testing orders have been the starting point for them getting on to a recovery journey, but it is incredibly complex.

Each year, around 6,000 people who come into contact with the justice system are both homeless and in addiction; they might be serving life sentences or short-term sentences. They are constantly in and out—there is a churn—and, if we could tackle that, we would almost solve our prison population issue at the lower level, because around 6,000 people come in every year for short-term sentences—sentences under six months. That is about 780 prison cells, although we would need significantly more justice social work capacity. I have done a very rough piece of maths, which I am sure will be wrong, but, on average, to take everybody out of the system who is sentenced for under six months, we would probably need to give justice social work an extra £25 million. England and Wales have just had the Gauke review and the Sentencing Act 2026, and an extra £700 million has just been announced for probation. It is not like for like, but the equivalent here would be an extra £66 million into justice social work. However, it is not just that, is it? It is also housing, drugs and mental health—that is where we need to see an increase.

The Convener: I can see that at least one of my colleagues is making a note of that, so I imagine that you will be questioned further on it. In the meantime, I will hand over to Ms Chapman, who might also have a declaration of interest to make.

Maggie Chapman (North East Scotland) (Green): Good morning, everyone. I remind colleagues that, before I was elected, I worked for a rape crisis centre in the women's sector.

I thank the witnesses for being here and for their contributions so far. Karyn, I will pick up where you left off on what is needed to support effective community justice. You articulated quite clearly the cycle of conviction and reconviction. How can we shift our thinking about what we measure, because, if we measure reconviction rates, that is only one element. How can we shift our thinking about measuring things such as harm reduction

and substance abuse reduction? How does community justice work?

Karyn McCluskey: That is a great question. In lots of jurisdictions, they measure wellbeing. Criminal social work does itself a disservice—no offence—because it has really blunt metrics such as, “Did we see you within seven days?” or, “Did you complete your order?”, which are no measure of improvement. The services, including third sector services, are amazing and do much more in trying to move people towards a more stable environment, sometimes getting their children back, getting free of drugs and alcohol and getting into employment. I talk about employment all the time, because it is important to get people into employment so that they pay tax and their kids see them going out in the morning. It is those things that make a fundamental difference to people's lives.

We need a paradigm shift in our thinking about what keeps people out of offending. My whole career has been based on having fewer victims; I focus on the perpetrators because I want fewer victims. To do that, I need to provide perpetrator programmes, we need to look at things such as anger management and I need to be very involved in drug treatment. We are doing some work at the moment on community justice to rehab, so that, when we know that somebody has an addiction to drugs and alcohol, we can offer them a pathway in from the very earliest point that they hit the justice system. Things such as that require a shift.

It is not about being soft—I hate using the word “soft”, because everybody uses it. It is about being smart and following the evidence. The evidence is about what works, and you are quite right that we need to measure that differently. It will provide the public with a much better understanding about what works in community justice. We need to make things such as unpaid work more visible to the community, because that is how people repay their debt. I see great unpaid work taking place. Since unpaid work orders started, we have had 11.5 million hours of unpaid work in Scotland. Communities are transformed, but we need to make it more visible. That is a job for me, too.

Maggie Chapman: Thank you for that. If I have time, I might come back to the unpaid work question.

Jackie, how do you respond to the comment about measuring success differently through how we see harm reduction coming through the process?

Jackie Hamilton: I absolutely agree with what Karyn McCluskey said, because we are in a cycle of measuring how quickly we can get somebody started in unpaid work, how many days it takes us to see somebody, how often we see them and the

length of time an order lasts. It is all the very practical and easy-to-measure things. The things that Karyn is talking about are a lot harder to measure.

10:00

To see the shift from the start, we use a risk tool called the level of service case management inventory, which looks at a person's risks and needs. You can see the shift in the scoring from the start to the end, and we need to get better at promoting that. Sometimes, it can be a very tiny shift that does not show in the raw data, but the fact that the person has left court and appeared at a justice social work office can be an immense step for them. They manage to come in when they have been asked to, or they contact us when they are in need—those wee bits are steps towards them not reoffending.

We have to be careful that we do not measure the reoffending as the ultimate thing, because it can take someone quite a while to get to that point. Just as Karyn said, it is about reducing the number of victims, and, if we can reduce the level of offending, that in itself can be seen as success. It is not always the success that you want to see on the front page of the paper, but, for someone who is homeless, is in addiction, has mental health problems or has had a life in the care system and so has had no stability at all, to be able to reduce the number of times they go to court and to reduce their reoffending can be extremely good for them.

Maggie Chapman: Maureen, what do we need to start measuring the right and more appropriate things? Just because we do not measure something does not mean to say that it is not important. What resources or other things would we need to achieve the shift?

Councillor Chalmers: One of the difficulties that we have is that everybody is working in silos, whether nationally or locally. A benefit of having local community justice partnerships and community planning partnerships is that you can start to pull things together. Effective community justice depends on a wider ecosystem of services including housing services, mental health services, alcohol and drug services, employability support services and violence against women and girls services. Public protection arrangements and all those services need to work together.

We need to pull all that together and work differently, which, due to the complexity and the demand, requires a combination of the way in which we plan things nationally with national policies and the effectiveness of local community justice and community planning partnerships. However, we are not starting from zero, because a lot of work has been done to feed into the

sentencing and penal policy commission. We did quite a lot of work in COSLA from day 1 of the commission being set up, with our professional advisers feeding in to say what it could look like. Preparation has been done. If we are doing it in a multidisciplinary way, we can look at what data we need to collect and how to do so. The tools are there, so it is about pulling it into one place and ensuring that it is working effectively.

Maggie Chapman: And resourcing it appropriately.

Councillor Chalmers: Absolutely.

Maggie Chapman: I know that other members will come back to the figure of £25 million. Scott, you talked about the willingness to use alternatives to custody across sentencing. We still have examples of those alternatives not being used. How do you balance the information that you get about the availability of programmes and what needs to be there to give you confidence to use the system, and things such as public confidence and people questioning whether the alternatives are punishment?

Sheriff Pattison: That is a good question. I will address the last part of it first. There is a huge issue with public confidence in alternatives to custody, and the system needs to grapple with that and do better to assure the public about the robustness of those alternatives. The Sentencing Council is doing its best to get that message out. Someone may have to do 300 hours of unpaid work or they could be supervised for three years. They may be under a restriction of liberty order for 10 months or have to pay £2,000 in compensation. There is a good message to get across about the robustness of the alternatives, and we need to do a better job of assuring the public about that.

You asked about cases where those alternatives are not being used. In every case, we try to do justice and sentence in a fair and proportionate way in pursuit of a particular sentencing aim or a combination of aims. Judges and sheriffs are primarily looking at the seriousness of the offence and considering how culpable the person is and what harm has been done. For the committee's purposes, we are looking at summary cases. There are some serious cases that are being prosecuted in summary procedure in Scotland. There will always be cases for which custody will be required as a sentence of last resort. As I understand it, that is what the law sets out at the moment.

We are still seeing some very short sentences. The Sentencing Council has a pilot study under way and the results of it will be published in due course. Karyn McCluskey may want to come in on this, but the early signs from some of our interviews with sheriffs suggest that many short

sentences are awarded to people who have repeatedly breached a community payback order. If someone has breached their sentence once, twice, or even three times, it is very difficult for sentencers to deal with that. Many sentencers will give people a second and third chance and will err on the side of mercy and rehabilitation, which, as I have said, is about public protection in the long term. Some short sentences are awarded when people have been on remand and their sentence will be backdated.

We need more research and we will share ours with the committee once we have it. There will always be cases in summary procedure where custody is required—for example, charges such as assault to severe injury and permanent disfigurement are now appearing to a greater extent. We need more information about the very short sentences, which the council is trying to contribute to.

Maggie Chapman: That is helpful. The committee will look forward with interest to the research from the pilot when it is published. Do you get adequate information when there have been breaches of community conditions to enable you to distinguish between wilful disregard of justice and unmet needs, such as housing or addiction support? Can you use that information in determining whether you award a custodial sentence?

Sheriff Pattison: We are talking about when there has already been a disposal in the case, a community payback order has been given and the court receives a breach report from a local authority. Breach reports are usually fit for purpose. I am not saying that they always have all the information that we need. Sometimes, as part of the job, sheriffs have to be proactive and ask for information. On the basis of the report that I have received and when I have asked for anything else, I have found that I have always been able to get the information that I needed in order to make a decision.

Sometimes, we receive breach reports when an individual has not turned up for unpaid work for the first 10 occasions. There is not always much more information than that, because the person has not been in touch and it may have been difficult to get hold of them, which we understand. On the face of it, it looks as though that is a flagrant breach. A sentencer may be justified in moving to a custodial sentence straight away; I am not saying that that is not appropriate sometimes. However, sometimes, with a little bit of prodding, you can find out that the person is living in absolute chaos. You may already know that they have a background of significant trauma in their lives. All that feeds into the sentencing process, because the information is mitigatory. I do not know whether that answers

everything that you asked me but, in my experience, I find that information is usually available and, if not, you can get it eventually.

You alluded to the need for a holistic approach to sentencing. I have found that to work extremely effectively on several occasions, with social work working alongside health and housing to create a problem-solving approach for the individual concerned. Sometimes the problem is where the person stays, because their peers are all around them. When they are sent back from court with a community payback order with a number of different requirements, and when they perhaps have a significant drug problem in their lives, living next door to people who have similar issues can be at the root of the problem. In such cases, rehousing has worked. Karyn McCluskey mentioned measuring wellbeing: I can think of a number of cases in which an individual has been rehoused and placed under significant social work supervision as part of an order, and their wellbeing has gone from zero to 99.

Maggie Chapman: Thanks, Scott, that is really helpful.

My final question is for Karyn McCluskey. You responded to a question about the difference in reoffending rates, and we are also aware of the harm that custody can cause, particularly to people who have experienced trauma and other vulnerabilities.

Locking people up might be appropriate in some cases, but how do we reduce the number of circumstances in which custody is necessary? What do we need in the community system to reduce that number?

Karyn McCluskey: I am a huge advocate of problem-solving courts and problem-solving sheriffs who think not only about the harm that the person has caused and how to address that through a sentence, but about what the person needs in the courts.

There is a whole thing around procedural justice, bringing people in and saying, “What is it that you think you need?” and taking a much more holistic approach to sentencing. Sometimes that can involve bringing people back into court. I see sheriffs across Scotland who are adopting that approach because they realise that those people are constantly coming back. There is great evidence for that problem-solving approach and, although it can seem more expensive, it costs less in the long run. That is one thing that I hugely support, particularly in relation to specialist courts such as domestic abuse courts, because you can look at things in the round and achieve good sentencing outcomes.

People always think about the court building, and the average cost of a problem-solving court is around £3 million. That calculation was made in around 2022. However, you can have a problem-solving sheriff and give them some of the supportive elements that they need in the courtroom, as well as some of the services that people need, and you can prove that you can achieve a reduction in offending and a better outcome.

Housing is at the heart of all this, though. The number of people I see just circling through homeless accommodation—it is chaos. We had something like 4,300 breaches last year. We have done some work on it, which involved looking at 209 cases where people breached. Sometimes they do not have the money to be able to turn up. Sometimes they are in debt. Sometimes they are in chaotic environments. Sometimes they are unwell.

We have worked with social workers to consider what assertive outreach looks like in the first seven to 14 days, so that we can start to reduce the number of breaches and provide sheriffs with better breach reports. The breach report was most recently revised around 20 years ago. It is quite old-fashioned, so we need to revisit it with social work colleagues to work out what sheriffs need in order to consider what sentence might be appropriate.

Stephen Kerr: Given the number of breaches, why are we talking about something that has not been updated in 20 years? Why do we have so little data? It seems astonishing to me.

Karyn McCluskey: It is astonishing to me as well, Mr Kerr.

Stephen Kerr: I was going to say that I have a lot of sympathy for you, but that word sounds patronising, so forgive me. You have a very difficult job, because you do not have any levers to pull, do you?

Karyn McCluskey: I trained as an intelligence analyst and was in the police. That is my whole background. I know that there is a paucity of data in justice. We have tried our best. For example, we had to ask social work colleagues to pull out 209 cases. In some cases, they had to go to four different systems to get the data that we needed.

Stephen Kerr: It sounds chaotic.

Karyn McCluskey: It is not chaotic. We have to work around the situation. I do not have a magic wand or £300 million.

10:15

Stephen Kerr: You have been in the role for 10 years, I think.

Karyn McCluskey: Yes—for 10 years. We started up from nothing.

Stephen Kerr: You are almost on the sidelines. You are like the coach on the sidelines.

Karyn McCluskey: We are a system actor—we try to look over the whole system.

Stephen Kerr: But you cannot have an impact on anything that is delivered.

Karyn McCluskey: We can. We have legislation, under which we can issue improvement notes. We can issue improvement notes if we feel that the system is failing. We can issue improvement notes to local authorities; we even issued an improvement note to the Government.

Stephen Kerr: Do you have any enforcement powers?

Karyn McCluskey: I do not have as many teeth as I would like to have—

Stephen Kerr: You have no teeth.

Karyn McCluskey: —but we can issue improvement notes to local authorities and, indeed, to the Scottish Government.

Stephen Kerr: But they can just ignore those, can they not?

Karyn McCluskey: Yes, they can ignore them. The Sentencing Commission for Scotland suggested that we should have more teeth so that we can hold people's feet to the fire in relation to services that are not delivered. We also need to be able to talk about money in the system and what that means for the provision of services. We cannot be the Cinderella service. If we want to tackle the prison population, the answers lie in robust, visible community justice.

Stephen Kerr: On the issue of the lack of information in the system, where do you go to say, "This needs to be fixed—fix it"?

Karyn McCluskey: The criminal justice board.

Stephen Kerr: That is part of the problem, is it not?

Karyn McCluskey: Data is absolutely critical—

Stephen Kerr: No—part of the problem is the lack of accountability in the system.

Karyn McCluskey: The people who have the data are the police, the Crown Office and Procurator Fiscal Service, the Scottish Courts and Tribunals Service, the Scottish Prison Service and, to a lesser extent—because they involve 32 different systems—social work services.

Stephen Kerr: But, on CPOs, they have all the data.

Karyn McCluskey: They give us the figures. They present us with the hard numbers, because we do the CPO report for social work every year.

Stephen Kerr: Is the data complete?

Karyn McCluskey: Yes, the data is complete. It is good that we get the numbers, but the detail behind them is missing.

Stephen Kerr: You are talking about the whys.

Karyn McCluskey: Yes. We have to say to colleagues, "Give us some intelligence behind why this is happening."

Stephen Kerr: Does that tend to be anecdotal?

Karyn McCluskey: It does, but it backs up some of the figures. We look at the experience of social workers and ask, "Why is this happening?". The issue might be partly a workforce issue, or it might be partly to do with the complexity of the cases—we might be talking about people with a really high level of need. There are sometimes good reasons for why the figures are as they are.

However, you are right in the point that you are making about data. In last year's outcome activity report, we said that one of the big ways in which we needed to improve was in relation to data. We are constantly trying to bring together data sources—

Stephen Kerr: I almost feel guilty for putting you under the spotlight, because I do not feel that you can be accountable for any of this. In his 2021 report on community justice, the Auditor General suggested that there were six areas where the system was not functioning that were of heightened concern. I have gone through those six areas in an attempt to find out whether anything has changed. Nothing has changed in five years. There have been marginal improvements in one or two areas. We can go through them one by one, if you would like to, but the number 1 issue was accountability and leadership. In fact, this very year, the sentencing and penal policy commission said that there were a lack of national leadership and a lack of co-ordination and accountability. The system was weak and fragmented in that regard. Why has nothing changed in five years?

Karyn McCluskey: I think that there have been a lot of improvements in justice, but—

Stephen Kerr: Not in that specific area, though.

Karyn McCluskey: When it comes to accountability specifically, the problem is that each part of the system is accountable for its own—

Stephen Kerr: I know—it is too fragmented, is it not?

Karyn McCluskey: It is fragmented. I talk about the criminal justice system, but sometimes it feels

like a series of processes rather than a system, because it does not work as a system. I absolutely agree that it needs substantial investment. Even following someone through the system is incredibly hard.

Stephen Kerr: It is not cohesive enough.

Karyn McCluskey: It is not.

Stephen Kerr: That is why there are people, including me, who are dreadfully concerned about the direction of policy when it comes to early release and the presumption against short sentences. The current community justice system is not cohesive. It is fragmented. There are no clear lines of accountability.

I am addressing my comments to you, Karyn, and I feel guilty about it, because I do not feel that you have any levers to pull. You are on the sidelines saying, "Here's the best practice—here's what we should be doing," but you do not get to deliver anything.

Karyn McCluskey: We work with individual local areas and community justice partnerships, as you have mentioned, and we give—

Stephen Kerr: But that is the weakness, is it not?

Karyn McCluskey: It is. I have to achieve more by encouragement than by going in and saying, "This is absolutely terrible."

Stephen Kerr: I know.

Karyn McCluskey: We work closely with local areas, but you are right. I have to say that it is not the community justice system that is fragmented; it is the justice system. This is not just about community justice.

Stephen Kerr: Yes—it is a reflection, is it not?

Karyn McCluskey: I understand your comments about early release. There is a bit of a Hobson's choice just now. Early release is happening all over the UK. We have people who are in their cells 23 hours a day. The prison service cannot cope, so something needs to be done.

Stephen Kerr: The people who I want to protect and, ultimately, the people who are at the centre of my concern, are the victims. I do not want the victims to become easy to disregard in this. You talk about Hobson's choice. You think, "We have a problem here, another here and another here—the system does not work. Therefore, we're going to release these people back into the community, even though we know the community justice system doesn't work properly."

I am going to take the heat off you for a minute, Karyn, because you are getting all the questions. Jackie Hamilton said something earlier that set

alarm bells ringing for me in relation to my concern for victims, given the current direction of policy and the weakness of the system. Jackie said that we have to be careful that we do not measure reoffending as the ultimate thing. Why not? We want to get people out of the justice system and back into—

Jackie Hamilton: I meant that we should not do that immediately. It needs to be somebody who has—

Stephen Kerr: But you said “ultimately”. Surely, the ultimate thing must be that we help people to get out of the system.

Jackie Hamilton: Yes. Ultimately, having somebody who is not in the system is definitely where we want to go.

Stephen Kerr: Right.

Jackie Hamilton: At the end of the process, we want a person who has been through the system and comes out at whatever point. At the earliest point possible is the best but, with some cases, given the needs, it is not going to happen overnight. That is what I mean. We should not think, “Oh, that person has reoffended four times in the last year,” without noting that, the year before, they reoffended 44 times. It is a gradual process and it is about working towards getting people out of the system.

Stephen Kerr: I accept that. We are all a work in progress—I understand that. However, the ultimate objective is to get people not to reoffend and to get them out of the system. I am glad that we agree on that.

I turn to COSLA. The second area of weakness that was mentioned in the Audit Scotland report was about geographic variation. Councillor Chalmers, that is your bag at COSLA, is it not? What is the reason for that? Five years after that report and 10 years after the Community Justice (Scotland) Act 2016 was passed, we still have a variety of uneven, fragmented and sometimes difficult-to-access services.

Councillor Chalmers: Every local authority in Scotland has a different shape and size and different demographics, so that is part of it.

Stephen Kerr: So, can they not do it, then?

Councillor Chalmers: It is about unwarranted differences. I am in South Lanarkshire Council, which is a huge council with a range of services and a particular demographic. There are smaller councils, such as island councils, which look different, including in the way that they approach community justice.

Stephen Kerr: That is not what the report says. It does not say that they look different. It says that

there is “geographic variation” in the way that community justice is administered, in terms of access to support, supervision and specialist interventions. Are you saying that local authorities across Scotland are not equipped to do this?

Councillor Chalmers: Some local authorities will be struggling with capacity and workforce. Some local authorities, because of their size and focus, can pull in resources and do that differently. Others would struggle to do that because of their funding and workforce capacity.

Stephen Kerr: Thank you for being absolutely transparent in that answer, because clearly that is a problem. If we are going to put more pressure on the system and we do not deal with the geographic fragmentation and uneven distribution of services, we are failing victims and the people who are the offenders.

The third area that is mentioned in the Audit Scotland report is data and the ability to measure outcomes. Five years on, that has not got any better.

Convener, I can feel you breathing down my neck.

The Convener: You have one minute, Mr Kerr.

Stephen Kerr: We have touched on funding and capacity. Do I have time to ask about the £66 million and the £25 million, convener?

The Convener: Go for it.

Stephen Kerr: He is very indulging as a convener.

Tell me about those numbers, Karyn. I wrote them down and thought, “What does that mean?” That is not a lot of money.

Karyn McCluskey: It is not a lot of money. I took the figures from the increase in the probation budget in England and Wales, which is the £700 million that the Westminster Government has just allocated to probation. The way that I worked it out, although it is very back-of-an-envelope stuff, was to take the number of cases—

Stephen Kerr: That is okay. We get a lot of back-of-an-envelope stuff—do not worry about it.

Karyn McCluskey: I was doing it for the committee. It is about the number of cases that a social worker can carry at one time. They often have around 25 cases, but they can have a mixture of complexity. You can get someone who has done a one-off offence and is on a CPO but who does not have much complexity, and then you can get somebody else who is just in chaos. That makes a difference to how many people the justice social worker can deal with.

Stephen Kerr: Yes, and they are under a lot of pressure.

Karyn McCluskey: They are under pressure. We need to keep their workloads down so that people do not leave and get burned out. I was working out how many cases they can hold and how many extra social workers we would need if we were to transfer people with sentences under six months—I know that it would not be all of them—back into the community.

Stephen Kerr: Was that the £25 million figure?

Karyn McCluskey: That is the £25 million.

Stephen Kerr: What is the £66 million?

Karyn McCluskey: That was just a percentage of the £700 million, if it were translated to Scotland.

Stephen Kerr: Is it 9 per cent?

Karyn McCluskey: Yes—it is just what it would be if it were translated to Scotland.

Stephen Kerr: Okay. I get where you are coming from. The bottom line is that resource for front-line capacity is lacking, and you are advocating that as a starting place.

Karyn McCluskey: It must matter. We need to assess in the way that the health service does. The health service will know how many people come in with fractured necks or femurs, brain tumours, or anything else. The justice system does not do that work in advance and think about how many people are coming into the system. That is not about the number of cases, which is what the sheriffs would look at; it is about the number of unique people. What needs do they have? How many have addiction? How many are homeless? That would allow us to estimate how much resource local areas need to address the issue and get better incomes.

Stephen Kerr: I will conclude, because of time, and move on to the sixth area in the Audit Scotland report—I have missed out the fifth one but we might come back to that. It is about outcomes. We talked a little bit about that. You have now landed on outcomes.

Karyn McCluskey: Absolutely.

Stephen Kerr: The current situation is that we have an unsatisfactory amount of resource committed through local authorities, particularly in the area of justice social work, and you are advocating for more. However, we need a more defined framework on what a good outcome is. Do you agree?

Karyn McCluskey: I absolutely agree.

Stephen Kerr: That report is five years old, and we are still talking about this, which is lamentable.

Karyn McCluskey: We have outcomes performance indicators, which we revisited. Predominantly, those are based on the data that we could gather from each local authority, and you will see that in our outcome activity report. We measure them year on year. Is it fulsome? No, it is not. Could we get better? We absolutely could. It would be a success for community justice if we could prove more of the outcomes in the round and demonstrate them to the public.

Stephen Kerr: The case is proven when you can prove it, right?

Karyn McCluskey: Indeed.

Stephen Kerr: That is obvious, so I agree with that.

The one thing that we did not talk about—

The Convener: We do not have time to talk about it, Mr Kerr. We are running out of time, so I am going to—

Stephen Kerr: There is tremendous pressure on the police as well.

The Convener: Yes. I will bring in Ms Bland. If I have time towards the end, I will bring you back in, but I want to be fair to colleagues.

Amanda Bland (Central Scotland and Lothians West) (Reform): Good morning. Sheriff Pattison, you said that sheriffs “draw back” from imposing specific alcohol or drug treatment programmes because the administration is cumbersome and it is simpler to use a general supervision requirement.

Stick with me on my thought process here. Karyn McCluskey talked about the idea of

“problem-solving courts and problem-solving sheriffs”.

Taking into consideration what we have heard this morning, where are the time and resources for that idea?

Sheriff Pattison: That is challenging, for sure. I need to be clear that I am speaking not for the Sentencing Council at this point but from my experience, and that was the context in which I answered that question earlier. However, I am aware of a number of problem-solving courts that are extremely effective—for example, there are some in Glasgow. Obviously, there has been significant investment there.

10:30

Karyn McCluskey’s point was that judges and sheriffs, being informed about the nature of the particular case in the sentencing process, can approach it as a problem-solving exercise in the course of their normal work. Please bear with me on this. Sometimes, that involves asking social

work for more information. Sometimes, it involves—

Amanda Bland: But that goes against what you said about time delays and being conscious about moving things forward for everyone involved. What I am trying to get at is that there is an ideal situation, and then there is the reality.

Sheriff Pattison: When I addressed the issue about alcohol treatment requirements and mental health treatment requirements, I based my answer on my experience that it takes a longer time to sentence someone. As one of my colleagues said, no information is fronted up in the first social work report to name the particular individual or medical practitioner who will be able to supervise the mental health treatment requirement, so there is an in-built delay in that. Sentence would already have been deferred for four weeks. You would have to go back and defer sentence again to have that information, but one could get to the same end through a supervision requirement. That is where I was coming from in that answer.

In relation to problem-solving courts, I am sure that Karyn McCluskey would agree that, if we were to try to roll that out across Scotland—

Amanda Bland: That would need heavy investment.

Sheriff Pattison: Absolutely. That stands to reason. However, much can be done in the judicial process. I have done it myself by trying to bring different parts of the system together at the sentencing stage to try to create an order that will genuinely punish and rehabilitate the person.

I can think of a number of cases—I referred to one earlier—where housing was key. We can have a package of measures involving drug treatment and testing orders, unpaid work and a housing move. There are things such as that where the system comes together. It can be a bit disjointed, but the sheriff can have a kind of convening power, if I can put it like that, to ask different bits of the local authority, where they might not have done this already, to come together in pursuit of a legitimate sentencing aim, which is the rehabilitation of someone who may have—I think that I said this earlier—been through significant trauma in their life and who presents as completely addicted to something. They are causing society harm, but they can be rehabilitated. That is my answer.

Amanda Bland: In roughly what percentage of cases is the procedure that you have just described used, with the sheriff being able to pull all that together into a multi-agency approach?

Sheriff Pattison: It is not routine.

Amanda Bland: I understand that it is not routine, but I am trying to understand the situation.

Sheriff Pattison: I think that over a—

Amanda Bland: What you are really talking about is best practice, is it not?

Sheriff Pattison: That is purely my own experience. It perhaps reflects the experience of a couple of my close colleagues, but in perhaps two cases a month where someone who is a significant recidivist—

Amanda Bland: So, it is a tiny number.

Sheriff Pattison: It is a very small number. We can contrast that with the problem-solving courts, which are hugely effective, in my view.

Amanda Bland: How many problem-solving courts do we have?

Karyn McCluskey: We have about four at the moment. We have a women's court and there is a drug and alcohol court in Lanarkshire.

Amanda Bland: Out of how many courts?

Karyn McCluskey: There are very few. I do not know the number of courts in Scotland, but I will find out for you. I have to declare an interest—

Amanda Bland: It is a tiny number.

Karyn McCluskey: It is a small number. However, we have started them up. Sometimes they have been driven by a proactive sheriff. We have such courts for women because of the unique challenge there, and the evidence base on drug and alcohol courts shows that they are effective, too. Some of the analysis that has been done of the Lanarkshire drug and alcohol court is incredibly positive.

Amanda Bland: It sounds as if people who are convicted would be lucky to find themselves in such a court, because the majority will not.

Karyn McCluskey: Yes. That is a fair comment.

Amanda Bland: I am just going to throw this out. Things are difficult for people with chaotic lifestyles and traumatic experiences, and community payback orders are almost setting people up to fail.

Jackie Hamilton: You are right. Too often, justice social work is used as the last resort. People who have really complex needs struggle to access services in the mainstream, so, when they get to the court stage and they end up on a CPO, that is the point at which they can start looking at things such as housing. Sometimes we get people who do not have a doctor, who are unable to get access to basic care—

Amanda Bland: Why are we giving people CPOs when they are not managing to deal with them and we know that they are going to really struggle with them?

Jackie Hamilton: It is because that is the start of the process. If we do not give them a CPO, what do we do with them? They will just wander around, going from service to service and office to office with nothing, racking up offences and victims because we have not tried to target our support.

Amanda Bland: Is that because we are trying to manage them in the community?

Jackie Hamilton: The approach also does not work in custody, because those people do not get access to the services that they need—

Amanda Bland: So, nothing is working.

Jackie Hamilton: They might see a general practitioner for five minutes while they are in custody, but there is no follow-on when they come out. Problem-solving courts would give agencies a duty to co-operate, because that is where justice social work sometimes struggles. For example, it can be very difficult to give someone access to a mental health practitioner, and then, if the person does not turn up for the appointment, we are back to square one. That comes back to the robust, aggressive outreach that Karyn McCluskey mentioned.

Amanda Bland: The public could be at risk as well.

Karyn McCluskey: I would say that 70 per cent of CPOs are effective, and the person finishes their order—

Amanda Bland: What is the definition of “effective”?

Karyn McCluskey: I was just going to come back to that. Someone being seen within seven days and completing their order is the definition of completion.

I said to Ms Chapman and Mr Kerr that the outcomes need to be different. However, the outcomes from people going in for short-term prison sentences are much worse. That actually makes people homeless and takes them away from any connections that they might have in local areas and from recovery services. Those are very poor outcomes.

Amanda Bland: I am conscious of the time, but I have one last question.

The Convener: You can have another minute or so.

Amanda Bland: Just to round this up, why should any members of the public who are watching this discussion and taking notes have

confidence in a system with silo working; staff shortages; rising breach rates; lack of transparency regarding the intensity of supervision and compliance with community justice programmes; pressures on social work, housing and addiction services; and cumbersome administration?

Karyn McCluskey: You could be talking about health, justice or any part of the system. The outcomes for those who go in for short-term sentences are very poor. Our approach has a success rate, but it also has people who breach their orders and might end up back in the system. This is a complicated area.

Amanda Bland: I understand that.

Karyn McCluskey: I understand that you were in policing previously, so you will know that the people whom the services see most frequently often have florid mental health conditions. Trying to get people into psychiatric treatment or a bed in an appropriate facility is enormously challenging. I try to do that weekly for people whom I am helping out, and it is enormously challenging.

However, the issue does not involve only social work. There are a range of third sector organisations out there that also support people, and they are sometimes more effective in supporting people in their accommodation. That is also part of the community justice services that we put out there. However, they are struggling. There is little doubt that the third sector is really squeezed.

Amanda Bland: Thank you for that. I am conscious of time, but would anybody else like to comment?

Councillor Chalmers: I would like to comment on the public confidence part. Some good work is being done, although there is definitely more to do in terms of the wider general public confidence in community disposals.

I will use an example from my area in South Lanarkshire, where community payback work is extremely active in our communities. Many of our community projects, such as community gardens, and various community organisations use that service to support their work. They understand it and value it. That creates a sense in the community that it is really helpful and people can see how it works, although we need to do more on that. There is also accountability, because the report on that service comes to our social work committee in the council, and an annual report is produced and shared. There are different ways of building community, but there needs to be much more of that.

Amanda Bland: Do you agree that there are some excellent community payback order situations and some that are inadequate?

Councillor Chalmers: Seventy-seven per cent of CPOs are not returned to court under breach. A lot of work was done recently under operation anchor, which is the prison population work. Colleagues have done a lot of work on this, and breaches that led to custody, which represent less than 5 per cent of CPOs, have been considered in that prison population work. The individuals who breached a CPO and were given custody were a particularly complex group with high levels of additional need, as has been explained.

The Convener: I still have Mr Macpherson and Mr Merrick to bring in and we are starting to get a bit tight for time, but I will hand over to the deputy convener now.

Ben Macpherson (Edinburgh North Eastern and Leith) (SNP): Good morning. Colleagues have probed and highlighted many of the challenges that we are facing collectively. I would like to shift into more of a solution-finding mindset for this set of questions.

Karyn McCluskey, I was just re-reading the evidence that I heard you give to our predecessor committee on 9 October 2024. It has stuck with me since then, and so much of what you said then is still true now. Some of the issues have been exacerbated, problematically, but there have been some improvements too. As the Parliament goes into the budget-setting period, given the impact of preventative work and the benefits of investment in community justice—I am thinking of that preventative spending return and the social prescribing that can be achieved—is there anything that you want to emphasise to the committee and to Parliament more widely? What can we press the Government on to help improve the situation for all our communities?

Karyn McCluskey: It is interesting—obviously, you are the Criminal Justice Committee, and all the questions have been about justice, but, as I mentioned earlier, the issue that we are dealing with is really about housing. I look at that as a public health issue, because that secondary preventative work needs to be done.

We have done quite a lot in Scotland around trying to keep children in school, and the number of young people who are entering the justice system has dramatically reduced. We do not have any under-18s in prison, and we have fewer 18 to 20-year-olds and 21 to 22-year-olds, so that number has gone down. I hate to use this phrase from the pandemic period, but we are almost flattening that curve. There is a long-term preventative journey.

The challenges that I see are around addiction and, as we know from the details that came out last week, we are still not providing services to people early enough to prevent the absolutely traumatic figures that we are seeing now, which are what we see in the courts on a daily basis. The trauma side of the issue has been mentioned, and I know that people think, “Oh, that’s quite a trite thing to talk about,” but we see people in our courts who have had the most traumatic experiences and their stories all start with, “See when I was seven”, “See when I was five” or “See when I was 11”. Those people end up in the court system, and, as soon as they turn from a child into an adult, we view them very differently.

The evidence base shows that there needs to be a holistic approach, so we absolutely need there to be preventative spend. I know that the Government is doing work on where to put our preventative spend to get the greatest effect. Of course, I am going to say that it should be put into things such as early years parenting, because we see generations of people in a family—grandfathers, fathers and sons—ending up in the justice system.

We absolutely need to keep kids in school and try to get them into jobs. When I started up the violence reduction unit, I always said that the best way to stop a gun or a gang or a knife is a job. We need to get people into employment. Although we are talking about the mechanics of justice here, I hope that we do not hit the target but miss the point about the wider preventative environment for the people who end up in the system in the first place.

10:45

Ben Macpherson: There is, rightly, a dialogue across the Parliament on implementing the recommendations of the Christie commission, and the progress that is being made towards that. You emphasised the fact that we are the Criminal Justice Committee. I appreciate that there are 32 different local authorities and that there are pressures on social work more widely, so the situation is challenging, but, with regard to throughcare in relation to both the homelessness system and improved support and rehabilitation for those with addictions, do you want to highlight any standout solutions that the committee can help probe and advance?

Karyn McCluskey: It is very early days, but, as I said earlier, we have been doing a bit of work on trying to provide access to rehab at the very earliest time that somebody hits the system, so the person might be diverted, but we have identified that they have an addiction issue. We have only got that system in four local authorities, and I think that we have almost bust the budget with those four, because people are saying, “Look, I want to

change; I don't want to be in this situation", and we need to give them that opportunity.

Rehab is not for everybody; some people need different methods to try to manage their substance use, but if we can get help for people earlier, we can prevent lots of reoffending. I am sure that Sheriff Pattison acknowledges that, because his court is replete with people who are addicted to alcohol and drugs.

On homelessness, I do not know how you stay out of trouble if you have an addiction and you are homeless. It is probably one of the biggest challenges that we face. Even when people have got themselves clean in rehab, I sometimes have to put them right back into the environment that they came out of, which are places that most of us would avoid. How can we expect someone to stay free of drugs and alcohol when everyone in their peer group is abusing those substances? That is a real challenge.

Housing is a massive issue for everybody just now, but it is one of the things that we struggle with the most—there is no getting away from it. We have housing first models—I sit on the board of Simon Community Scotland, which is now buying flats in Edinburgh, using social investment funding, to try to house people—but the situation is endlessly challenging. I am sorry—I wish that I had a solution for you. The housing first model is fantastic—Finland has shown us that—but we need to manufacture accommodation.

Ben Macpherson: Yes, and there is also an issue about where the accommodation is.

Karyn McCluskey: And where the accommodation comes from.

Jackie Hamilton: Reducing siloed working would be a huge move forward. We need a whole-family approach. We have started the process of addressing the issue, but we can have five different social workers and a couple of voluntary agencies going into the same house.

Ben Macpherson: How do we reduce that siloed approach?

Jackie Hamilton: We need an approach that looks at the family holistically, and we need a lead officer who takes responsibility for the situation.

Ben Macpherson: Should the lead officer be a council officer or someone else?

Jackie Hamilton: It should be the person who has the best relationship with whoever we are trying to assist. For one person, that might be a council officer; for a younger person, it might be someone in education; for another person, it could be someone in addiction services. We have peer mentors working right across justice social work in the addiction field, and they have been invaluable

in getting into houses to help the whole family. A whole-family holistic approach is certainly a way forward.

I would not be doing my job properly if I did not talk about the funding of justice social work. Aside from the issue of the amount of funding, the fact that that funding is provided year on year is problematic. I have been involved with justice social work since the very beginning, and, technically, I should have a temporary contract, because we have annual funding, which means that we cannot plan ahead. As Karyn McCluskey suggested, we commission third sector colleagues to do certain work, but that becomes really difficult by the end of the year, when we do not know what our funding will be for the next year. Across the country, we are having those conversations with the third sector, saying that we need to wait to see whether we will get funding for the next year, but that, if we have got enough funding, we can move forward. Again, justice social work cannot do this work on its own—we need involvement from people across the board.

Karyn McCluskey: I forgot to mention the advances that have been made in electronic monitoring, which I talked about the last time that I was before the committee. We have GPS technology, and there is also alcohol monitoring, whereby a tag around your ankle measures the ethanol in your sweat. We can say to the people who are being monitored, "Look, you're not allowed to drink for the next 120 days, but we're going to support you"—after all, these sorts of approaches need to come with support.

I know that the Scottish Government is looking at this just now, but there would be advantages in expanding our use of electronic monitoring in a much more thoughtful way. Countries such as Portugal and Belgium have a very effective electronic monitoring system, and we need to expand in that direction.

Ben Macpherson: Sheriff Pattison, did you want to say something?

Sheriff Pattison: I would just echo everything that Karyn McCluskey has said about what would be helpful, but I would re-emphasise that rolling out problem-solving courts in our society would also be helpful. Obviously, it would be resource intensive, but I am speaking as a sheriff at this point.

Moreover, as the committee will be aware, mental health is a significant issue, too. The range of unpaid work programmes for those suffering from some form of mental health issue is very limited, and that often creates an issue for sentencers. Therefore, we need to look at that more closely and see what programmes might be available.

Speaking personally, I think that the system is challenged, and there is room for improvement, but tremendous work is going on day to day across the criminal justice system. Whether it be from my colleagues on the bench, from social work or from Karyn McCluskey's organisation, some excellent and hard work is going on to treat people in a humane way. Sometimes that will mean treating them very robustly, by imposing a sentence of imprisonment, but that can be done in a humane way, and in a way that seeks to help and change them. That sort of thing is going on day and daily in our courts in Scotland. I know that the committee is in problem-solving mode at the moment, but I do not want members to lose sight of that.

I hope that it is okay that I said that.

Ben Macpherson: Absolutely.

The Convener: We are very tight for time now—I know that we were late starting, due to witnesses not being able to get here quite on time. I will now hand over to Mr Merrick for the final questions.

Colm Merrick: Good morning. We have already heard a wee bit about CPOs, and we know that the reconviction rate for those on such orders is far lower than that for those with a custodial sentence. What capacity is there to have more CPOs, and what barriers do we need to remove to see them being used more? That is a pretty open question.

Councillor Chalmers: The sentencing and penal policy commission developed some work with our professional advisers that resulted in an estimate that local government could support a much greater proportion of the prison population within the community. However, using a really high-level baseline, we concluded that approximately £18 million would be required to support an additional 1,000 people in the community over a 12-month period. That piece of work, which was published with a lot of detail attached, looked at what we could do, what we could do more of, and what it would cost, and that became part of the commission's work and its report.

Colm Merrick: So, it is pretty expensive.

Karyn McCluskey: I would say that it is not as expensive as dealing with the crimes, and the victims, at the end of the day.

CPOs are not the only thing that we should be using. Some sheriffs use structured deferred sentences, too, but please do not ask me for any detail on them, as I am sure that Sheriff Pattison will have to correct me. In any case, with such sentences, sheriffs can bring people back. We have seen some really fantastic work in that respect, and people have been able to have a sort of relationship with the court in which sheriffs can look at them over a period of time.

Therefore, we would advocate for the use of structured deferred sentences, because they can give the court a much better idea of someone's progress. In a lot of procedural justice, there is a sort of relationship with a sheriff—if you can have a relationship with a sheriff—and the person realises that the court is interested in their progression. We would like to see much more use of those kinds of sentences, but that is, of course, a sentencing decision.

Sheriff Pattison: Such sentences are effective. Generally, they involve a deferral of sentence with a potential view to admonition at the end. Usually, they are used for people who have addiction or some kind of vulnerability, and the person will work with a social worker over that initial period, which is usually three months but can be extended to six. I would echo the view that they represent a very useful sentencing alternative.

Your question was about more use of CPOs. I cannot speak to the resourcing issue—that is not something for the Sentencing Council. However, the piece of work that we are doing on short sentences will bring out the reasons for—and some data, finally, on—the use of such sentences. Our instinct is that they are being used in circumstances of breach to a significant extent. When you have someone who has breached an order two or three times, and they have had two or three chances, I can understand a sentencing decision that custody has to be imposed. Otherwise, there is no incentive to comply with the order.

However, if there were some alternative to custody at that point that was more robust than the CPO but less than full custodial detention—

Colm Merrick: What like?

Sheriff Pattison: That is a difficult question. What I will say—again, speaking as a sheriff—is that, when dealing in the sentencing process with breaches, sheriffs will, with someone who has breached an unpaid work requirement, often move to a restriction of liberty order before they will move to custody. Custody, at summary level, really is a sentence of last resort. I know that sheriffs up and down the country are imposing community payback orders day in, day out in summary work for every category of offence, for the reasons that you have mentioned. They are robust; they can be punitive; and they can be rehabilitative. As you have said, they seem, according to the research, to prevent reoffending more than short-term sentences anyway.

Karyn McCluskey: I would also highlight the work that is being done in Northern Ireland on enhanced combination orders, which last much longer and have, as a mandatory element, psychological support. A whole range of work goes

on around those orders, and I know that Scottish Government colleagues are looking at that work and some of the evidence base in that respect.

Those orders will require extra resource, because they are more expensive to deliver, but they are much more efficacious, particularly for women who end up in the justice system and then in prison, often for very low-level offending. Enhanced combination orders are much more effective for that type of client.

Jackie Hamilton: In the deep dive that we did into breaches, we found that less than 5 per cent of orders that were breached ended up with the person in custody. That is a very small amount, and we work with sentencers to look at why the person has committed the breach. Is it just wilful behaviour, or are there other reasons? I absolutely take what was said earlier about doing more with and changing breach reports—indeed, we are working on that at the moment—but we will say in a breach report that the person can come back and do X, Y and Z to try to get them through. Again, not a huge number of those who breach CPOs will end up in custody.

The Convener: I thank the witnesses for their evidence this morning and for allowing me to run the session on a little longer, because of the delayed start. Given that we had a four-person panel, there was quite a lot that we had to get through. I thank you all for attending.

I hope the others will forgive me, but I also want to thank Sheriff Pattison in particular. He was at great pains to make it clear today that he was wearing numerous hats in giving evidence, but I cannot overstate how helpful it is to the committee to hear somebody speaking from their experience on the bench. I realise that it is a very difficult line to walk when you are giving evidence, but it is important for us to put on the record our sincere thanks for your insight. I have certainly found it very helpful this morning.

I suspend the meeting to allow for a changeover of witnesses and a three-minute comfort break.

10:58

Meeting suspended.

11:03

On resuming—

Victims' Perspectives

The Convener: Welcome back. Our next item of business is an evidence session on victims' perspectives across the justice system. We have an excellent panel in front of us: Dr Marsha Scott, from Scottish Women's Aid; Carol Eden, head of communications and external affairs at Victim Support Scotland, who is also speaking for the victims organisations collaboration forum Scotland; and Jimmy Paul, head of the Scottish Violence Reduction Unit.

We are grateful for your attendance this morning. I will hand over to my colleague Ms Bland to kick us off with questions.

Amanda Bland: Good morning—it is still the morning; I just checked. Thank you for being with us today.

I will start with Dr Marsha Scott. Scottish Women's Aid warns that removing section 23D of the Criminal Procedure (Scotland) Act 1995 would increase harm. Do you agree that the proposal fundamentally misunderstands the nature of domestic abuse and violent offending against women and girls and that it would make victims less safe?

Dr Marsha Scott (Scottish Women's Aid): Can you remind me what that section says? I have not had time to pull up my notes.

Amanda Bland: It concerns bail.

The Convener: It is to do with the presumptions against someone being bailed.

Dr Scott: My concern is that even when the bail provisions are carried out robustly and with the best professionalism in the world, women and children are still not safe—there has been ample evidence about that in the news over the past few months.

There are two reasons for my concern. First, the system does not work in the way that it was designed to; and, secondly, the assessment of risk is really poor, as you suggest. It is not always poor, but it is not consistently good. Even though this country is held up as a paragon with regard to the criminalisation of coercive control, we still have a system that equates separation with safety and that equates serious harm with physical violence.

There are many ways in which the system could be better. I absolutely understand the pressures on the prisons, and I am not a fan of banging up a lot of folk in jail. However, the issue is that we should focus all of our decision making on the safety of victims or complainers first.

Amanda Bland: Yes. I asked about domestic violence in particular because of the complexities and nuances of the issue, as well as the levels of manipulation involved. Is it possible for a court to have all the information that it needs in order to make that decision and then grant someone bail so they can return to the community—or even to the address where the victim lives?

Dr Scott: Oh, yes, the stories we could tell you. We must have a system for deciding who is held in custody and who is bailed—human rights law requires that. From what I can gather, our Crown Office colleagues routinely oppose bail and routinely lose that argument.

The problem cannot be fixed so much by changing the processes as by raising the threshold for risk, so that whoever makes the decision to grant bail in the context of domestic abuse can clearly demonstrate how women and children will be kept safe. At the moment, that is clearly not happening.

Amanda Bland: Jimmy Paul, I read with interest the SVRU's state of the nation report 2026. Is that what it is called?

Jimmy Paul (Scottish Violence Reduction Unit): Yes, that report is called "Unfinished Business".

Amanda Bland: I saw it with a different front cover than the one I have before me, but I believe that that is its title. Will you talk me through the definition of a public health approach to violence and explain to me what that means?

Jimmy Paul: First, good morning; I am delighted to be here.

The public health approach has been spoken about a lot since the pandemic. When it is applied to violence, there are four parts to it. The first involves understanding the data. That data can be from Police Scotland or the Scottish Government, but it can also be qualitative data that concerns what communities, victims of violence and so on are telling us.

The second part involves understanding the root causes of violence. In Scotland today, they are the same as they were 21 years ago, when we were founded: poverty, growing up around hardship, adverse childhood experiences, a lack of role models, absent parents and so on.

The third part involves testing and innovating new ways to deliver change. Of course, things that are at the cutting edge of innovation often do not work, and you have to be honest about that and accept and understand failure in order to learn from it, build on it and do something different. However, given the financial pressures that we

face today, failure can be particularly challenging for partners when they are innovating.

The last part involves scaling up the things that work and making them available to as many young people and communities across Scotland as possible. That, in a nutshell, is the public health approach to violence.

Amanda Bland: In your report, you liken violence to a disease that creeps through communities and almost acts like a contagious virus. I was trying to link that with domestic abuse, which is a very hidden, behind-the-doors issue. It can occur across a range of classes, including middle class and working class. However, I could find only one piece of data relating to domestic abuse, on page 11. It shows that there was a steep rise when the Domestic Abuse (Scotland) Act 2018 came in, which is a different conversation.

Given that you liken violence to a disease, and that domestic abuse is often hidden behind closed doors, which is one reason why it is difficult to tackle, I am trying to understand how that fits with the public health definition of violence.

Jimmy Paul: There are a few parts to my answer. First, we are funded through the community safety budget, and lots of domestic violence falls under the equally safe remit. There are partners on this panel who are slightly better placed to answer why domestic abuse does not feature more prominently in this report, but domestic abuse is of great concern to us. The profile of violence is evolving, because that is what happens.

Amanda Bland: And escalating.

Jimmy Paul: Absolutely. At a rate—

Amanda Bland: It fits in with violence reduction.

Jimmy Paul: Yes. The issue is of deep concern to us. Lots of the root causes are the same: intergenerational cycles of trauma and the norms that people see as they grow up. They see domestic violence and violence against women and girls as normal, and those behaviours are perpetuated and repeated for generations.

Again, poverty is relevant. Not everybody who grows up in poverty gets involved in violence—in fact, the vast majority do not—but there is a link between growing up in hardship and a greater prevalence of violence, especially when you look at Scottish index of multiple deprivation data.

A lot of this is about norm-setting and about examples. We live in a time when manosphere messaging is creeping into young men's minds through social media. We live in a time when lots of that is being normalised and promoted, and I am deeply concerned about those things when it comes to domestic violence.

Amanda Bland: It is interesting that you talked about data. That links me to my next question, which is for Carol Eden. Victim Support Scotland's submission to the sentencing and penal policy commission's call for evidence is really interesting. It is from May 2025, but it was shared with the committee. It says that only 29 per cent of victims report violent crime. Does that skew our understanding of what is happening with crime in our communities?

Carol Eden (Victim Support Scotland): Like colleagues on the panel, we are here to support victims. It seems to be a really small number of people who report such crimes, which means that support is not available to those who do not report them. In terms of how those crimes are recorded and how we are able to address the issues and understand people's needs, that becomes really challenging.

Amanda Bland: Is the justice system currently too focused on the rights and needs of offenders at the expense of victims?

Carol Eden: Speaking on behalf of VOCFS, there is definitely a perception that that is the case. We look at the intended purpose of some of the legislation and fully endorse the prospect of achieving a sustainable prison population, but where do victims come into that agenda? What confidence and trust are they given that, if they report something, they will be believed and supported all through that process?

We are trying to understand where the focus on victims is and ensure that their needs are balanced with other considerations in a well-run, holistic and safe society. Where do victims sit in that agenda? We hear that question quite a lot from our members and also—

Amanda Bland: You used the term "perception". In your experience, how much of that is perception and how much is reality when it comes to serving the minority of victims who come forward and go through the system?

11:15

Carol Eden: The reality is that only 29 per cent of victims report crimes, and an even smaller percentage will go through the process and receive support. We report what victims tell us about their perceptions, their realities and how the system has impacted them.

The criminal justice system exists to find out who is responsible for committing crimes and taking offenders through the process, but much work has also been done through the victims task force, which takes a victim-centred approach.

It is important to have such initiatives so that victims know where to access information and what support is available at any given point. As a victim moves through the process, they might go from the police to COPFS and then to the SCTS and the Parole Board for Scotland. They may be called different things during that process. It is really important that information, support and knowledge of their rights are available and accessible.

The Convener: Ms Bland, I will bring you in briefly to ask a final wee question, because I must bring in other members.

Amanda Bland: When people are going through all those processes, there is a real risk of communication breakdown. Your submission says that victims wait seven to 10 days for letters about community orders. How is that trauma informed? What does that do to a victim?

Carol Eden: I would agree with you entirely. I understand that letters may still be necessary, despite today's modern ways of communicating. However, it is important to keep victims informed about what is happening. In addition, the terminology is often not accessible. When people read a citation letter, for example, they need to understand what it means, but it can be really complicated. Initiatives such as the task force and the justice digital front door are seeking to simplify the language and break things down for people. Organisations such as VOCFS and Victim Support Scotland can sit alongside people and say, "This is what it means". The person may be going through it for the first time, but we have experience because we have been through it with other victims. We know what to expect, we know what document means, and we can help the person to understand what it means for them and what the next steps might be.

Amanda Bland: Okay. Thank you.

The Convener: I will bring in Mr Kerr next. If we all stick to seven or eight minutes, I should be able to get everybody in.

Stephen Kerr: As not all of you heard the evidence from the first panel, I note that we heard from witnesses from Social Work Scotland, COSLA, Community Justice Scotland and the Scottish Sentencing Council. My conclusion from listening to their evidence is that the system is disjointed, fragmented, patchy and variable in how it works. Sometimes organisations work together and sometimes they do not. It all depends on the people on the ground, apparently.

How do victims perceive their experience in the justice system, particularly in relation to their confidence in community-based criminal justice?

Jimmy Paul: On your point about the system being disjointed and variable, we hear the same thing from those who have been victims of violence, as well as from charities, youth workers, medics, teachers and others. However, we also see fantastic examples of brilliant collective practice and data sharing where that is appropriate.

Stephen Kerr: Does the good practice depend on geography? Will you name somewhere that works really well, please?

Jimmy Paul: We have seen brilliant work in Glasgow city centre with the street guardians initiative that we helped to set up. It includes multiple charities, the councils and Police Scotland, and we share information in ways that enable young people to feel welcome and to act safely in the city centre. That has happened in the absence of egos and competition. It can sometimes be quite hard when different organisations, council areas or charities are fighting for resource or work, but we have seen an absence of that and a real focus on purpose.

Stephen Kerr: They see each other as rivals, do they?

Jimmy Paul: That happens sometimes. It is more about access to funding. It will be interesting to hear the reflections of others on the panel, but when charities are fighting for finite pots of money, there is often a bit of competition.

Stephen Kerr: That is a proactive violence reduction initiative. What about community justice? Do you have good examples of places where that is really working? Please share.

Jimmy Paul: I can only speak for the Violence Reduction Unit, I am afraid, and not across community justice activity.

Stephen Kerr: Perhaps I will ask Carol Eden or Marsha Scott to comment, then. You did not hear the evidence from the first panel. It was deeply worrying, particularly in light of the Government's intention to proceed with early release, the presumption against short sentences and so forth. How do victims perceive the landscape when it comes to how joined up or not joined up everything is? Confidence levels would have to be pretty high for a victim to feel secure if someone who has perpetrated an offence against them were released back into the community where they live.

Carol Eden: That is a daunting prospect. That leads us into questions about safety planning and risk assessment. There are definitely concerns about that, and there has been an erosion of trust and confidence in the system.

Stephen Kerr: An erosion?

Carol Eden: Yes.

Stephen Kerr: And it was not high to start with.

Carol Eden: Victims tell us about court delays and the trauma of putting their lives on hold while going through the court process. Statistics may suggest that things are moving on a certain trajectory but, when you consider matters at a human level, people are concerned about the impact on their lives, including their relationships, work and family, until they have the chance to bring that process to a conclusion.

Some victims tell us that they wish that they had not bothered because the process has taken so long. It is important that support is in place so that people understand the process and have their position explained to them, enabling them to be supported throughout. That is what makes the crucial difference to people.

It definitely feels like a disjointed system in some cases. As I said to Ms Bland, the task force is a crucial part in improving that communication and breaking down those barriers to make that information much more accessible.

Stephen Kerr: What are those barriers, and what are those silos that organisations are operating in? Why do they exist after all this time? We have been talking about this forever in Scotland. Why have we still got those?

Carol Eden: Sometimes it is to do with language. For example, in some legislation a person is a victim, but in other legislation they are a complainant.

Stephen Kerr: Oh, you mean the barriers that victims perceive exist?

Carol Eden: Absolutely.

Stephen Kerr: Okay, but there also seem to be barriers or walls that stop organisations on the ground from working together as effectively as they might. Is that your experience, or is it anecdotal?

Carol Eden: I definitely see a willingness to make things work better. Speaking from a Victim Support Scotland perspective, we meet regularly with our partners and criminal justice agencies, and there is a collective desire to make things better. We recognise from early conversations with the SCTS, for example, that increasing the number of High Court sittings available could help. We would welcome those efforts, but we want to see evidence that they are making a discernible difference, that more victims are being supported and that the system is improving. Those things are really important to victims.

Stephen Kerr: We saw the SCTS's projections for the next five years. It gave us a paper, or it had published a paper—you have probably seen it—and it did not hold out much promise that delays in

the delivery of justice will come down. In fact, it seemed to project that they will get worse over the next five years.

Marsha, what are your comments on the disjointed nature of the system, especially in relation to the confidence levels that we all need to have in community justice if the current trajectory of policy continues?

Dr Scott: To be honest, it is not a homogeneous thing. Joining the dots across the systems to defeat silo working is not rocket science. Partnership working happens well when people have a shared understanding of the problem.

I will speak from the perspective of violence against women and girls, which is not reflective of some of the analysis that we have heard here, because, as I said, violence is not a homogeneous thing. In the world of domestic abuse, it has been a principle for decades that, if you do not have joined-up working, you increase the risk to victims. There is lots of research out there about what helps people to join up the dots. Around Scotland, multi-agency risk assessment conferences—MARACs—are taking place. They are specifically designed to bring together the critical partners to discuss high-risk cases and respond quickly. In some areas of Scotland, they work very well.

Stephen Kerr: Where do they work really well? Just shout out an example.

Dr Scott: No, I am not going to do that. So—

Stephen Kerr: It is helpful to do that; otherwise, we will—

Dr Scott: No, it is not. It is not helpful to point out people—

Stephen Kerr: Well, it is to me, because, otherwise, I will not know.

Dr Scott: It is not helpful in the sense that there are not good guys and bad guys in this.

Stephen Kerr: No, but, if there is somewhere that is doing it really well—

Dr Scott: If I could just finish.

Stephen Kerr: Okay.

Dr Scott: It is so obvious when you are working at community level that partnership working is not free; it is a resource. We have multiple waiting lists across Scotland, with people waiting for us to provide support or advice. What is the first thing that goes when you have a waiting list? It is the meeting with somebody else.

It is all well and good to wring our hands and say that people need to get out of their silos. I agree that they should, but how do we make that possible when they are reporting that the demand for their services and the number of people who need their

support is going up, but the resources that they have to provide that support are going down?

Stephen Kerr: I completely get where you are coming from, but the reason why I was persistent about finding out where it is working well is that I want to celebrate that, learn from it and transplant those lessons to other places so that we level up across Scotland through a joined-up approach.

Dr Scott: One of the lessons will relate to those advocacy services that are well funded. My experience is that, where organisations have been working together well, additional funding is going in. Advocacy is the glue that stitches together the different elements of an organisation. Say that you have a women's aid support worker with a client in front of her who does not understand what will happen in court, needs a lawyer or is worried about her children. I will finish up, I promise, convener. It is a completely unreasonable expectation to assume that she can understand how all those things work.

Stephen Kerr: Sure.

Dr Scott: It is also a completely unreasonable expectation that all those people will want to deal with her or that they should deal with her—because she wants to tell her story once, right?

Stephen Kerr: Without an advocate acting on behalf of a victim, the victim is left dealing with multiple agencies that do not necessarily connect well and do not speak to one another.

Dr Scott: Bingo.

Dr Scott: That is a distressing picture, is not it? The fact that advocacy is not available as an equal access service for every victim.

Dr Scott: That is why we need to get rid of the postcode lottery on services in Scotland.

Stephen Kerr: That is exactly why I want to find out what the best practice is.

The Convener: Thank you, Mr Kerr. I will bring in Colm Merrick.

Colm Merrick: Good late morning, panel.

I will direct this question to Carol Eden. When I was last at the committee, I raised concerns about knife crime in my constituency of Glasgow Anniesland, including in Drumchapel. Victim Support Scotland has been vocal in recent days and weeks on how young people become involved in knife crime. What might a review look like, and when might that work start?

Carol Eden: Yes, we have been vocal about that. We have supported families who have been dealing with the most tragic losses: the loss of a family member. We made a video, which I think we shared with members last week. That also related

to the knife angel sculpture that was on display in Leith.

We talked to lots of people who have been impacted by knife crime, and they are united in wanting to do something so that no one ever experiences such losses again. It is crucial that we understand the root causes of people carrying knives. Do they do it out of fear that other people are carrying them? We are interested in understanding those factors so that we can find evidence-based solutions.

11:30

Lots of things can raise the profile of the issue, such as the knife angel sculpture, which is so imposing and evocative. I think that it has been really emotional for people to visit it. That is a great starting point for a conversation that challenges attitudes about carrying a knife. Do people carry knives because they are fearful? Do people do it to show masculinity and bravado in their local community?

We hear from victims' families that they are experts in their own lives, so they know how the issue has impacted their whole family set-up and how they approach things. They are also experts in what would and would not work in their communities. We are interested in speaking to families who have been impacted to learn from them and to hear what they would like to happen. Lived experience is vital to co-designing services.

We are particularly interested in exploring whether changing the lens through which we consider the carrying of knives would make a difference. We could make assumptions that various things would help, but we want there to be an evidence base before any resources are put into campaigns, so that they have the desired effects. As part of that, we would like to explore the possibility of using bleed kits. Would that have the desired effects? If somebody were stabbed or were bleeding for whatever reason, might such kits make the difference in whether they survived while waiting for emergency services to arrive?

Colm Merrick: Are there any timelines for the review?

Carol Eden: We are part way through it. We have just finished the work involving talking to bereaved families about how the issue has impacted them. We speak to people and collect such evidence regularly. It is very much about supporting them in what they want to achieve. They meet and chat together, and we are working through what a response might look like. We would be happy to present our work at a later stage, when it is more formulated.

The Convener: As the constituency MSP for Leith, Mr Macpherson will have some thoughts on the issue and will want to come in. However, before I bring him in, I will afford Mr Paul the opportunity to add to Mr Merrick's point about knife crime and young people.

Jimmy Paul: I will add a few things. Over the past 20 years, knife crime has come down significantly in Scotland, and young people have led the way in that. We live in a time when social media can amplify incidences; in the public eye, a viral video can outweigh 1,000 effective interventions. The vast majority of young people never get involved in violence, but we know that, when they do, it has the most devastating consequences. I, too, have spoken to lots of people who have lost children to violence, and it is heartbreaking—they experience unimaginable pain.

We need to do more to get to grips with the issue. We support limiting and restricting the sale of knives. However, even if we do that, there are more than 10 million knives in kitchens all over Scotland, so the Scottish Violence Reduction Unit accepts that, if someone is so minded, they could use a knife that they had accessed from a kitchen. We need to focus on prevention—stopping people thinking about picking up a knife in the first place. As well as doing all the work that Carol Eden has described, we must continue to double down on prevention.

The Convener: As the constituency MSP for Leith, Mr Macpherson will want to draw attention to the success of the knife angel project, so I hand over to him.

Ben Macpherson: I thank Carol Eden for the work that Victim Support Scotland has been doing. My constituency office and I have, for some time, been assisting two of the families that have been highlighted. Having the knife angel sculpture in Leith was very powerful and evocative, and it brought together families from all over central Scotland, including at the end of last week.

In spring 2025, I met the Violence Reduction Unit to discuss the rise of these issues. In no way am I associating the unit with what happened but, tragically and unjustly, John McNab was murdered approximately six months later in my constituency. Although knife crime is down from 20 years ago, it is rising now. A growing small minority of our young people are engaging in serious violent activity. As Victim Support Scotland highlighted, the victims of those crimes are dealing with devastating consequences and, understandably, they find it difficult to move past the extreme tragedies in their families' lives. We need to act collectively to reduce the growing trend. Youth work, education, information and the provision of

positive disincentives are all part of prevention work, but the criminal justice system also needs to be robust and provide a deterrent. Is there anything that you would like to say about that, given that we are having the discussion?

Carol Eden: There needs to be a deterrent. We need to start with open discussions to make it socially unacceptable to carry knives, and we need to restrict access to them. We need to tackle a lot of the online content and provide positive role models. The “Don’t be that guy” campaign focuses on violence against women and girls; there could be a similar campaign for knife crime. A lot of good work is being done. We need to invest in communities. Jimmy Paul spoke about the depth of poverty that some families are in across Scotland. We need to have open conversations so that people can see that there are alternatives and other paths that they can go down.

As distressing and uncomfortable as it might be to know that the problem exists in our communities, it is helpful to discuss it openly. Let us not be fearful about asking questions about people’s intentions. If a teenager or young person is going out, let us not be fearful about asking them what they come across and how they respond to it. We need to equip them to be the young people and adults who we want them to be.

Jimmy Paul: In recent years, changes to justice legislation have resulted in the incorporation of the United Nations Convention on the Rights of the Child and our not sending young people to prisons. I stand behind those changes, but an unintended consequence is a perception across Scotland that there is no deterrent and that there are no consequences for young people who get involved in such behaviour. If they commit serious acts of crime or violence, the children’s hearings system becomes involved, the reporter is notified and that process is followed. However, that perception causes problems in society.

In the past year, we and Police Scotland’s youth engagement team have spoken to more than 700 young people across Scotland. Young people have told us consistently that

“they see their friends or peers do bad things solely because they are bored”.

Many have told us that they feel that they or their peers might carry a knife or get involved in violence for a few key reasons. The first is fear, because of what they see on social media and what they hear. For example, they might hear that someone on their street is tooled up or carrying a knife in school, and they might feel that they need to do the same for their safety. That is a challenge, because you are much more likely to be a victim of your own knife or weapon if you carry one.

We are developing a programme to work with young people, as well as children in earlier age groups, including late primary school, to demystify the myth and help them to understand that there is no safe place to be stabbed. Out of the 700 young people whom we spoke to, many would say, “If someone stabs us, their DNA would be on the knife.” We would respond, “There is a strong chance that you might lose your life, which is not a gamble that you want to take.” Education is an important element.

Another reason is fashion. Young people, who might well come from homes where the parents are absent, or who have had adverse childhood experiences or really horrendous things happen to them in their early lives, find belonging and acceptance in peer groups—or adults willing to exploit them—as long as they can carry a knife or get involved in something serious.

Ben Macpherson: I know for a fact that that sort of exploitation is happening. I also know for a fact that the unintended consequence that you mentioned of a perception that there is no deterrent in the criminal justice system—an unintended consequence of very well-intended changes, I should say, the majority of which are having a positive impact—is not a myth. Young people are engaging in very concerning harmful activity, and the criminal justice system is not apprehending or deterring them.

This is a really serious question for us right now, because the more time that passes, the more the trend grows and the more harm it causes. We, as a committee, are determined to do our part to address it—many members are asking about it in the chamber, too—but having your assistance in making things better will be pivotal.

Jimmy Paul: With unease, I agree with you—and I say, “with unease”, because I would hate Scotland to end up punishing young people for ultimately being exploited by adults. We are hearing of that sort of thing happening more and more in societies across Scotland from different charities, and increasingly from police intelligence. Young people under a certain age are being identified, because they are carrying knives or drugs or are getting involved in violence. We must do something about that.

Ben Macpherson: Our time is limited, but it would be really helpful and interesting for us to hear more about what the Violence Reduction Unit thinks that we could do. If you wanted to put that in correspondence to us, we would receive it gladly.

Jimmy Paul: I think that that would be the best thing to do. We will do that.

Ben Macpherson: Thank you.

The Convener: We look forward to receiving that correspondence, Mr Paul. I call Maggie Chapman.

Maggie Chapman: Good morning to the witnesses, and thank you very much for your comments so far.

I will start with Jimmy Paul. In its state of the nation report, the violence reduction unit found that, although only 0.9 per cent of the population experienced repeated violent crime, they experienced 61 per cent of all crime. That is an astonishingly concentrated group, and there will, I suppose, be overlapping triggers of deprivation and the rest of the things outlined in your report. In the view of the VRU, what should we be doing? Should we be focusing on that 0.9 per cent in order to prevent repeat victimisation?

Jimmy Paul: You are right to point out that nearly two thirds of all the violence that happens in Scotland is concentrated on nearly 1 per cent of its population. I was listening to the evidence in the previous session and heard some of the issues mentioned—indeed, we have mentioned some of them already—but we are talking about those who are homeless, who are experiencing issues with addiction and who have a long history of adverse childhood experiences and different forms of abuse. We talk a lot about young people—after all, that is the issue that is in our face, and it is, of course, really striking—but most of the serious violence happens to the over-35s or over-45s, and the exit ramps from that way of life become steeper when you have been involved in it for so long. It is a real problem.

My answer, as you would probably expect, is that we continue to invest in all forms of prevention. What you have described is more downstream prevention; no matter whether someone has been involved in violence 101 or 501 times, we still need to act, to make sure that it is the last time. However, I would warn that it is more expensive to provide support around those people than it is to build healthy, happy small children who never even think about violence. We need to do all forms of violence prevention, both upstream and downstream.

Maggie Chapman: Building on that, I wonder whether another issue is what we are measuring and counting and how we are assessing success. In this case, we might be measuring police interventions and recidivism rates, but we are not measuring how many more people we are supporting into proper accommodation and so on. Do we need a shift in thinking in that respect, too?

Jimmy Paul: A hundred per cent—yes. However, I have not worked through my thinking on what, exactly, some of those measures might look like. When I was in a previous role at the

Wellbeing Economy Alliance, we often spoke about the need for a basket of measures to ensure that we were moving in the right direction. I think that we need to have a basket of measures for repeat offenders—we certainly need one for repeat victims of violence—to ensure that we are doing the right things and that we can see what progress is being made, year on year.

11:45

Maggie Chapman: You make an important point about the need to take a parallel track of prevention and tackling the current system. That has consequential budget and resourcing implications.

Let me turn to Carol Eden. As part of the work that Victim Support Scotland does with various groups, there is a lot of talk about how we can make our justice system genuinely survivor or victim centred. You spoke about the communication process and about people being informed and having the perception of safety. Will you unpick the distinction between what a survivor-centred or victim-centred justice system should look like, by which I mean what survivors tell you they need, and our focus on things such as custody rates and sentence lengths? There is a mismatch there.

Carol Eden: Sure. As I have said a couple of times, lots of people who have been impacted by crime tell us that the language itself is a barrier to understanding. The greatest positive impact comes from referral to support agencies such as Women's Aid, Victim Support Scotland and many of our members. It is important that a victim has someone alongside them throughout their journey, because the victim's journey is not a linear one. It might be long or it might be short. It might involve just a light touch or it might be much more intensive, depending on the different processes that they go through.

Victims also need to be given a good explanation of what will happen. If sentencing is part of the process, it can be complicated to understand what might require a custodial sentence and what might require a community sentence. There is a need for information about that, too.

Just as we have talked about the need not to be fearful of having conversations about such matters with young people, let us not be fearful about sharing information with victims. It might not be what they want to hear, but the process should never be worse than what they have gone through in the first place. Having someone alongside them who helps them to understand the process and who can explain things is absolutely crucial to their wellbeing and healing and to enabling a victim to

get beyond the impact that the crime has had on their life.

Maggie Chapman: Please push back if this is not a fair assessment, but if we are saying that it is the support structures around the system that are important, it is clear that there are things that, from the victim's point of view, the criminal justice system is not good at and maybe should not have to be good at, because it should not be doing those things. How do we ensure that we do not see the outcome of a criminal justice process as being the only form of justice when, in fact, what matters is all the softer, more human stuff that you have described and, ultimately, the harm reduction that comes from that?

Carol Eden: All of those things matter. Feeling that justice has been served is also a matter of being respected as a human and feeling that your rights as a victim have been respected. Many victims also want sufficient support to be provided for perpetrators. We need to have a balanced society into which people can reintegrate and be part of a community.

Members across the board—I include us in this, as well as victims—want there to be fewer victims in the future. If there must be victims, we want them to be provided with adequate support—in fact, we want them to be provided with proper support that helps them through the process.

Maggie Chapman: Thank you. I will turn to Marsha Scott. Following on from that point about wanting there to be fewer victims in the future and the need to take a holistic approach to harm reduction now and in the future, Scottish Women's Aid has been very clear that community disposals cannot guarantee safety. You said that earlier today, and you have said it previously as well. What do we need to do to ensure that a genuinely survivor-led community disposal is possible, given what we know about not only reoffending rates for people who get custodial sentences but the harm that is done by custodial sentences to the perpetrators and to future victims when they get out?

Dr Scott: My first plea would be to look at the evidence. One of my biggest concerns about sentencing at summary level is that there has never been a convincing evidence base that shows that community disposals are either a deterrent or rehabilitative. I am not saying that we should have no community disposals in domestic abuse cases, but I am saying that we should figure out how to use them in a way that does not further endanger women and children and that manages our system.

On the harm reduction part, my feeling is that the system is missing a clear statement on the type of perpetrators or accused who are such a danger to

victims or complainers that releasing them just cannot be safe. The same thing is lacking in relation to who should get custodial sentences. The first thing that would really help with harm reduction is clarity on who is too dangerous and on where we do not have the tools to protect women in the short term.

Obviously, everybody will get out of jail at some point, so, when they come out, there needs to be a mechanism that reduces the potential for harm. There are tools out there, and they are used in other jurisdictions. I am happy to hear about the roll-out of GPS, but we could use technology that we have now more effectively and invest in it so that it is readily available across all postcodes. We need intensive supervision by criminal justice social work, although we know that there is an investment issue around that.

If you put the safety of women and children first, you will reorganise where the ducks sit in the system. The first and most critical thing is to be clear about when releasing someone is just not safe. Then we need a commitment to not releasing anybody early or on bail when there is no availability of protective things such as tagging and monitoring. It is then about responding to breaches. It is about making the system do what it says on the tin—it is not rocket science.

We need to be clear that there is a difference between what we want to work and what does work. Frankly, community disposals are in place because the biggest area of work for police and courts in Scotland is domestic abuse—it is something like 25 to 30 per cent of their work. You cannot find anything else that they do more often and that requires more of their resources. If we saw any kind of investment in responding to domestic abuse that correlated to the sheer numbers and the burden that it places on the system, we would probably be a little bit better at this. It is important that we set up the system around that rather than around other forms of crime that are less likely to occur or to have such a high rate of recidivism.

The final thing that I would say is that domestic abuse and sexual assault—crimes of violence against women and girls—cannot be lumped in with other forms of violence. What actually acts as a deterrent and as a rehabilitation mechanism will be very specific to those crimes.

Maggie Chapman: Convener, do I have time for one tiny question?

The Convener: Yes, if it is very brief.

Maggie Chapman: Dr Scott, on your point about evidence, we heard earlier from Karyn McCluskey that, for people who have community

sentences, the reoffending rate is 23 or 24 per cent. For those who get custodial—

Dr Scott: I am sorry, but I could not hear. What rate?

Maggie Chapman: For community sentencing, it is roughly 23 or 24 per cent. For custodial sentences, it is 56 per cent.

Dr Scott: Are you talking about recidivism rates?

Maggie Chapman: Yes. Are we not stratifying that data well enough to understand which of those are related to domestic abuse?

Dr Scott: Exactly.

Maggie Chapman: The evidence that we heard earlier indicates that community sentences are better, but you are saying that there is not the evidence for domestic abuse cases specifically.

Dr Scott: I would be interested in seeing the data disaggregated in that way. However, we also need to talk to the survivors and find out what their experiences are, because they have been responsible for their safety for centuries, if you know what I mean. Unfortunately, with community sentences, because we do not have an evidence base that shows which kind of community sentence will increase the likelihood of harm and which kind will reduce it, people throw things at the wall to see what sticks.

Maggie Chapman: Thank you.

The Convener: I have two final questions. I need to bring the session to a close by noon, but I think that this question should have quite a short answer. Part 1 of the Domestic Abuse (Protection) (Scotland) Act 2021, which relates to domestic abuse protection orders and domestic abuse protection notices, has not yet been implemented. The Scottish Government has to get a move on with that, does it not?

Dr Scott: Sorry, but what was the end of that?

The Convener: The Scottish Government has to get a move on with that, does it not?

Dr Scott: I sat in a room that looked a lot like this—if it was not this room—when that bill was being debated. It just would not be true to say that that part of the bill was readily implementable when it was passed. It was too complex, with too many hoops, and it was too expensive a proposition—and I argued that at the time. I know that colleagues in Police Scotland are working hard to find a solution for its implementation, but I think that the conclusion that we are all reaching is that we are trying to fit a square peg into a round hole. The question is how we put emergency barring orders or emergency protection orders—which Scotland is far behind in implementing—on

a practical footing. It is not a matter of just getting on with it; it is a matter of figuring out a different solution, because the tools that we have are not going to work.

The Convener: That was not a one-word answer; it was a nuanced answer, which is what I expected.

Dr Scott: A one-word answer is impossible for me.

The Convener: I appreciate that, Dr Scott, and I appreciate your candour in that respect.

I will finish with a question for Ms Eden. How effective is the victim information and advice service? Does it work for victims? Give me your unvarnished view on the victim information and advice service.

Carol Eden: It is under incredible pressure, as a lot of volume is going through it, but victims' experiences are not homogeneous. How the service operates, and whether it operates, depends on which court you are in. It would be really welcome if, where improvement is needed, that could be resourced and implemented.

The Convener: It sounds to me like another postcode lottery. Is it?

Carol Eden: Yes, I would agree.

The Convener: I am sure that we will want to take that up as well.

I thank our witnesses for their evidence. I am sure that we could have gone on for many more hours, and the nature of the issue means that we will continue having conversations. The intention behind the evidence sessions that we have had today and in the previous weeks has been to set the scene for those of us who are new to the criminal justice sphere. I have certainly found it helpful.

All of that will culminate in a lengthy evidence session next week with the Cabinet Secretary for Justice and the Minister for Victims and Community Safety. You can take it as read that some of the points that you have made today will find their way into the questioning then.

I thank you for your attendance and for the work that all of you do to support victims and survivors.

That concludes the public part of our meeting. We will now move into private session to consider agenda items 5 and 6.

12:00

Meeting continued in private until 12:19.

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