



Official Report
Aithisg Oifigeil

DRAFT

Criminal Justice Committee

**Comataidh
a' Cheartais Eucoirich**

Wednesday 7 October 2026

Session 7



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CRIMINAL JUSTICE COMMITTEE

8th 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:

Catriona Dalrymple (Scottish Government)

Neil Gray (Cabinet Secretary for Justice)

Donald McGillivray (Scottish Government)

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

Kirsten Oswald (Minister for Victims and Community Safety)

LOCATION

The Robert Burns Room (CR1)

Scottish Parliament

Criminal Justice Committee

Wednesday 7 October 2026

[The Convener opened the meeting at 09:32]

Decision on Taking Business in Private

The Convener (David Linden): Good morning, and welcome to the eighth meeting in session 7 of the Criminal Justice Committee.

I have received apologies from Marie McNair, who is substituted by Colm Merrick this morning. Mr Merrick, you are very welcome.

Our first item of business is consideration of whether to take items 5 and 6 in private. Item 5 is a review of the evidence that we will hear this morning, and item 6 is consideration of a draft report on the draft instrument that we will consider today. Do members agree to take items 5 and 6 in private?

Members indicated agreement.

Criminal Justice Reform

09:33

The Convener: Our second agenda item is an evidence session with the Cabinet Secretary for Justice and the Minister for Victims and Community Safety, as well as accompanying officials. I very much welcome to the committee Neil Gray, Cabinet Secretary for Justice; Kirsten Oswald, Minister for Victims and Community Safety; and their supporting officials from the Scottish Government: Catriona Dalrymple, director for justice, and Donald MacGillivray, director for safer communities. You are all very welcome.

We have around two hours for questions, and I will kick us off. I direct my first question to the Minister for Victims and Community Safety. The Scottish Courts and Tribunals Service modelling shows that victims could wait up to four years from report to resolution. When giving evidence to this committee, Tony Lenehan KC, from the Faculty of Advocates, cited a projected 945 days from preliminary hearing to trial. He went on to tell us:

“We are not going to fix that by technology alone.”—
[*Official Report, Criminal Justice Committee*, 9 September 2026; c 10.]

Those delays to justice are deeply troubling for victims, so what further action will you, as victims minister, seek to speed that up?

The Minister for Victims and Community Safety (Kirsten Oswald): Thank you for having me attend the committee. That is a crucial question. Victims have to be at the heart of everything that we do in this space. That point in victims' lives is of significant stress and pressure to them, so we want to do all we can to make sure that their experience in that very pressured time is as untraumatising and straightforward as possible. The committee will be aware of the significant work that is under way to support victims through that journey. It is a priority for us.

A number of factors are worth considering in relation to timeframe. It is important to think about it in the round, as we are in a challenging situation. The increased number of cases in which we are prosecuting sexual offences, domestic abuse and organised crime has a significant impact on the courts system. In many ways, the increase is positive, but we cannot shy away from the challenge that it creates for victims, and we would not want to.

We recognise that there is an increase in the volume of serious cases. That is why there is increased investment in court capacity, which is important for victims. We also recognise the impact that the increase in complexity and volume has on the people who are going through the most

challenging times. It is important that we have the voices of people with lived experience in our minds as we work on this.

We are working significantly with partners across the justice sector and with those who have direct experience to look at reforms that could help to reduce delays and to consider ways in which we might better support victims and witnesses. Some of those ways might be technological, but some of the work is very victim focused. As I said, the committee will be aware of the significant work that is under way.

The Convener: I want to follow up on that with the cabinet secretary. The committee has seen significant progress in summary case management, but the lack of progress on solemn cases troubles us. When giving evidence, Tony Lenehan told us that the Crown does not fully embrace plea-based resolution in solemn cases. Where do you see room for progress on that?

The Cabinet Secretary for Justice (Neil Gray): Like the minister, I recognise what is driving some of the challenge that we are facing, particularly in relation to solemn cases. We are prosecuting a higher number of very serious cases that are linked to current and historical sexual offences, as well as cases linked to serious and organised crime. I will not apologise for the fact that that is what is driving much of the challenge for the High Court.

As the minister set out, we are trying to increase court capacity in order to resolve that. We are creating new High Court venues, and we are increasing the number of sittings in the High Court as of January next year. That is in order to ensure that we are doing everything—alongside technological advances.

The Convener: When we took evidence from the Scottish Courts and Tribunals Service, it said that moving to having 26 trial courts a day in January would not touch the sides, so that is still not going to be enough, is it?

Neil Gray: I recognise that, but we are also increasing the number of court sittings, so the capacity will increase and the ability of the courts to process the cases will improve.

Alongside that, we are working with Malcolm Graham of the Scottish Courts and Tribunals Service on some of the investments that can be made in technology and in information sharing. We are learning from the work that was done on summary case management improvement. It is not all transferrable into the solemn side, of course, but we are learning from that process, which was highly successful, and using it to speed up the process in the High Court.

The Convener: I will turn to deaths in custody on our prison estate. The remand population makes up around 26 per cent of our prison population, but it accounts for 46 per cent of suicides, and you will know that we have a record number of deaths in custody. The first 72 hours in custody is when inmates are at their most vulnerable. The Scottish Prison Service has told us that dedicated first-night provision can end up being pulled due to overcrowding and staffing pressures. What more can the Government do to ensure first-night provision as an absolute necessity in the prison system? Do you believe that the SPS has adequate resources, or does it need more? Has the SPS requested more resources from Government to bolster staffing?

Neil Gray: That is an incredibly important area. Colleagues might have heard Linda Pollock and others on Radio Scotland this morning, talking about the implications that we currently face of the unsustainable prison population, which is why we have additional capacity being built, in HMP Glasgow and HMP Highland.

The first 72 hours in prison are absolutely critical, and the pressures on the prison population and our prison staff mean that, on occasion, there are areas where staff cannot sustain some of that incredibly important intervention at the early stages. That also applies to the rehabilitative work that needs to be done in our prisons, which we will probably come on to talk about.

We are working with the SPS on capacity. I have spoken about the two new prisons, and I have spoken previously about the potential for modular capacity or new house blocks to come on stream. As colleagues will be aware, we have consulted on the potential for penal reform, both to improve the management of our sentenced prisoner cohort and to free up space to allow our prison officer staff to do the work that you are speaking about, as well as the longer-term rehabilitative work.

The Convener: On Monday, I was in HMP Barlinnie, which is in my constituency. In one hall, there were 250 remand prisoners, some of whom had been in there for up to two years, and 13 staff. Does the Scottish Prison Service have enough staff? Does it need more resource?

Neil Gray: We continue to work with the SPS on the staffing numbers that it needs. I recognise the challenges with the prisoner population, which mean that we need to ensure that there is sufficient recruitment. We have not had specific demands from the SPS for an increase, but we are approaching the budget process. I know that a process will be under way to understand what resource the SPS requires for the coming year. During that time, HMP Highland will come on

stream, which will obviously require additional prison officer staff recruitment.

The Convener: I turn to another issue of resourcing. At the Conveners Group meeting last week, I raised concerns with the First Minister about the reducing number of police custody suites. I rather get the impression, both from his answer and from some of your comments, that you understand the situation that many MSPs are in. It has been put to me that some officers are less likely to move to arrest someone and detain them in custody if they know that they have a massive road trip in front of them to do that. Do you accept that reality? What are you going to do to change it?

Neil Gray: No. Clearly, there are challenges with our custody suite capacity, and I have raised those challenges with the Scottish Police Authority and with the chief constable in my most recent meetings with them. The chief constable is bringing forward new custody workforce management processes to ensure that the capacity is there, including by bringing back on stream custody suites that are available but have been underutilised.

In my most recent meeting with the chief constable, I asked a very direct question about the headlines that were generated on that issue of officers implementing arrests, and she was absolutely clear about the expectation of continued arrest and use of custody to ensure that the public are kept safe.

The Convener: I regret to tell you that front-line officers are telling me that the reality is very different, so we are going to have to look at that.

Neil Gray: I understand that. I have met the Scottish Police Federation and I meet front-line officers repeatedly. I understand the different picture and perspectives that will be coming forward. I am clear that the chief constable has operational independence in ensuring the continued safety of our communities, which is of paramount importance.

I assure the committee, through you, convener, that I have been clear with the SPA about the need to ensure that the available custody suites across Scotland are used to the fullest, and that we have the capacity to allow officers to carry out their duties.

The Convener: I have one final question before I hand over to my colleague Ms Chapman. When you appeared before the committee previously, you accepted the premise of my point that action is urgently needed to tackle antisocial behaviour related to e-bikes and e-scooters. Last week, Police Scotland caught two 12-year-old boys riding e-scooters in the wrong direction on a slip road of

the M8 in Glasgow. When will we see action on that? By the time you are before the committee again, will youngsters have lost their lives? When will we get action on the issue? I am deeply concerned that kids will lose their lives.

09:45

Neil Gray: As am I. That is a serious and growing issue in communities. When I was at the committee previously, I said that, as a constituency MSP, I face the same situation. I am working with my local police on the issue, and I recently had meetings on it.

We are all aware of the operational challenges that our police face in being able to identify, trace and therefore seize and impound vehicles. We are working with the police on the devolved powers that the Scottish Government has to ensure that the police have the necessary powers to intervene where they can. The fundamental issue that we face—which I am raising with the United Kingdom Government, as is the Minister for Victims and Community Safety—concerns the licensing of such vehicles and our police being allowed to better and more easily investigate when tracing them.

We have good examples of work on the issue. Fife and other areas are using drones to trace off-road vehicles in particular—although that is happening less with e-bikes—and where people are going. I want to give the police the powers that allow them to better and more easily identify perpetrators and bikes. That will come through licensing.

I have pursued meetings with UK ministers to discuss the potential for a licensing regime. Unfortunately, that has not happened as yet. I had hoped to be able to do that at the national police memorial day event in Belfast on Sunday two weeks ago. However, I have a commitment from the Home Secretary that UK ministers will make themselves available in short order to discuss that issue and others, including in relation to security, information and intelligence sharing; wider issues around the security of the common travel area; and other matters that I desperately want to raise with them and on which they have a responsibility to act.

The Convener: I am keen to see action on the issue sooner rather than later, and I am putting down a marker, because I am worried that, at the current rate, the next time you appear before the committee, we will have seen situations in which young lads like that have been killed.

I will hand over to Ms Chapman.

Maggie Chapman (North East Scotland) (Green): Good morning. Thank you for joining us,

cabinet secretary. I will start with an issue that was not covered in the committee's evidence sessions over the past few weeks but falls within our remit and yours, cabinet secretary: the Scottish Fire and Rescue Service. What is your assessment of how the service delivery review changes have impacted and affected response times, safe staffing, appliance availability and so on? Are you confident that communities are not being put in greater jeopardy because of the SDR?

Neil Gray: Yes, I am. I understand the nervousness that colleagues have, particularly when changes that have been brought in by the service delivery review have an impact on their communities. I have had a number of conversations with the chief fire officer and the SFRS chair about the methodology that was used to assess risk and the demand requirements across the service. The review frees capacity to ensure that it is put into areas that face the highest level of risk, and it creates additional capacity, appliances and staffing that can go to some of the high-pressured areas. The impacts have been assessed against demand for the particular stations where the most substantive changes have been made and for the stations where there is the lowest demand.

I am confident in the methodology that the SFRS has followed. It is operationally independent, and the issue is for the service to take forward. I have tested the process and worked with the service on ensuring that we continue to have a Scottish Fire and Rescue Service that meets the demands that are placed on it and future needs. As Ms Chapman will be aware, there is a changing dynamic: a move away from the traditional domestic and dwelling fires and towards wildfires and other risks, such as flooding, that are a result of environmental change.

Maggie Chapman: I appreciate that, but I hope that the cabinet secretary recognises the concerns in communities, particularly more geographically dispersed ones, that feel left out, vulnerable and isolated, because they know that it will take hours—not minutes—for services to get to them. How can the Scottish Government and the SFRS support communities, particularly rural communities, to understand that they are not an afterthought?

Neil Gray: Ms Chapman will be aware that that aspect is particularly precious to me, as I am originally from Orkney. During the summer recess, I visited Kirkwall fire station. There is a particular challenge there with access to retained firefighters in some of the north isles in Orkney—the situation on Eday, in particular, was put to me. I recognise that, in communities such as the one that I come from, individuals are having to wear multiple hats in order to be able to sustain a community and for the community to continue to function.

In that example, I think that we would all agree that training requirements need to be of a high enough standard that we can maintain the necessary safety and the safe running of a shift. That is obviously coupled with the need to understand and appreciate that we are dealing with individuals who are wearing multiple hats—for which we are very grateful—and who have a number of pressures on their time, which might make being able to travel to training facilities, for instance, a challenge.

We are working with the Scottish Fire and Rescue Service to ensure that there is training capability in more rural and island communities to support those retained firefighters to be able to continue to do that work.

Maggie Chapman: You talked about training and support. What about facilities and equipment? We know that, with the changes in the types of incidents that firefighters face, they are facing different risks—for example, from the carcinogens to which they are exposed.

We also know that the decontamination facilities are not what they should be. What is your assessment of the resources that are available to ensure that all firefighters—not just those in the shiniest, newest fire stations—have decontamination facilities and do not have to take carcinogens and other toxins home to their families?

Neil Gray: I recognise that issue, and it is an improving picture. An investment of £1.6 million came through at the start of the year, off the back of the wildfire strategy. That has been invested in equipment, including in upgrades to wildfire personal protective equipment; I believe that 400,000 items of PPE were purchased through that.

Last month, I was able to see the upgrading of training facilities at Perth fire station, including facilities for firefighters who work with wildfire and come through the station to decontaminate. It is an improving picture, but I continue to work with the Scottish Fire and Rescue Service to ensure that it is taking the necessary steps to keep our firefighters safe. I have also met representative bodies for the fire service on that issue and heard clearly from them as to where they feel that things are at. I have used those discussions to challenge the fire chief and others on the purchase of equipment and necessary PPE to ensure that we are getting to the standards that Ms Chapman has said that we should—and that I think it is right to—expect.

Maggie Chapman: My final fire service-related question is on role expansion. Around four years ago, there was discussion and, I think, agreement about what role expansion could be and what it

would look like, but nothing has happened; it has not been implemented in the way that it was envisaged four years ago. What is the progress on that? Does the agreement need to be looked at again? Is there sufficient detail on what role expansion means, given what you have already said regarding the changing nature of the risks to which firefighters are exposed?

Neil Gray: The Scottish Government is committed to role expansion—it is a manifesto commitment, and it is also a programme for government commitment for the current parliamentary session. Ms Chapman will understand that there are interactions with UK Government colleagues on that, because fire service pay and also terms and conditions are negotiated and agreed on a four-nations basis. Again, I would want to interact with my UK colleagues in that area to ensure that we are getting the necessary progress that we would want to see.

Maggie Chapman: It would be useful to get regular updates on that.

Neil Gray: I would be delighted to provide them.

Maggie Chapman: I will change tack and come to you, minister. I am interested in the advocacy to which victims and survivors have access. Do you consider advocacy to be core justice infrastructure?

Kirsten Oswald: I am sorry, but could you say that again? I did not hear the final bit of your question.

Maggie Chapman: Do you consider advocacy to be core justice infrastructure?

Kirsten Oswald: Advocacy should be vital, and we can increasingly see that when we speak to people who are victims and are in the very challenging situation that I referred to in my first response.

The improvements that can be achieved through access to advocacy speak for themselves. People who are in that difficult situation will find the navigation of their personal circumstances improved by the availability of an advocacy service, as well as their knowledge and understanding of what their experience is likely to look like as they progress through the justice system.

Maggie Chapman: What does it mean, then, if we are shifting—and it will be a shift—towards understanding advocacy as core justice infrastructure? What does that mean for funding? Do you envisage national minimum standards?

We know that the picture is very patchy and that there are huge parts of the country where victims cannot access advocacy close to home, where

they need it, and certainly not when they need it. How do we ensure that provision does not continue to be a postcode lottery and that advocacy is genuinely available to everyone, regardless of where they live?

Kirsten Oswald: I will start where you finished off: with the good practice that exists in parts of the country. Some of that practice is specific to people's needs, and we need to retain that. The services that might be suitable for one person who is travelling through the justice system might not be what is required for a person who is travelling down a different path. It is important that we learn lessons from that and draw on information from the places where such practice is in place.

In terms of the bigger picture and how all that fits together, we are on a journey to ensure that people who are in the justice system have the most trauma-informed and supportive experience possible. I think that you will be aware of the trauma-informed pathways in the justice system. This is all part of the same picture in which tangible, constructive and helpful steps are being put in place to improve people's experience when they enter the justice system.

Advocacy is, and will continue to be, an important part of that. As the member alludes to, this is a developing area.

The Convener: I will allow you to ask one final brief question before I bring in other colleagues.

Maggie Chapman: My final question is about the trauma-informed approach. That has been talked about a lot, and there has been discussion about trauma-informed training. How are we measuring whether victims and survivors experience a trauma-informed process, as opposed to simply being told how many people are undertaking the training?

Kirsten Oswald: That is a fundamental point of the training. That is a really important question to pose, and, indeed, perhaps an even more important question for us to pose to ourselves. The purpose of the training is to improve the experience of people who are travelling through the justice system; it is not just an end in itself. It is designed specifically to ensure that people have the knowledge, the skills and the understanding to make a difference to those who are in the system.

It is really important to reflect on what we mean by a trauma-informed approach. There might be a really snappy description of that, but until people understand what it means—and that speaks to the training to which you referred—they will not be in a position to deliver a service that is trauma informed in a meaningful way for people who are travelling through the justice system.

On the metrics that sit within that, I would be happy to seek more detail and write to you. However, the principle of genuine trauma-informed practice is a very welcome development, and I am very encouraged by the fact that significant training is being provided and that there is a pivot towards trauma-informed practice across the justice system.

10:00

Amanda Bland (Central Scotland and Lothians West) (Reform): Good morning. My first question is for the cabinet secretary. Briefly, what is your definition of a successful justice system?

Neil Gray: One that reduces the number of victims and keeps the community safe.

Amanda Bland: How far away are we from that definition at the moment?

Neil Gray: I think that Scotland is a safe country and one where, mercifully, the vast majority of individuals will have no contact with the criminal justice system, but—as we have already touched on—there are areas where there are challenges and we need to see improvements. That is what I and the minister, and the Government, are focused on, working with our constitutionally independent partners to ensure that we are delivering a safe system that reduces the number of victims.

Amanda Bland: Over the past few weeks, the committee has heard about those challenges in detail. In summary, what barriers do you think are preventing change from happening?

Neil Gray: I do not think that there are necessarily any barriers. There are improvements that need to come through the system; we have legislation to be enacted and improvements that can come off the back of that. We are also wrestling with substantive social change and social challenges. That is why the guiding mission of this Government is to reduce child poverty and, further, to ensure that the social drivers of inequality and issues facing families that drive people further into the health service and the justice system are prevented.

We are all well aware of the fiscal position that public services across these isles are facing. The extent of our ability to invest presents a challenge across all areas. Introducing public sector reforms that can ensure that more resource goes to the front line is, therefore, another top-priority area. It is a thread that absolutely runs through our programme for government.

Amanda Bland: Thank you for that. When I visit prisons, one of the themes that comes up—it has also come up in evidence from our witnesses—is the fact that our prison population is ageing. This

question may be for both Catriona Dalrymple and you, cabinet secretary. Given the ageing prison population and the number of older people who are serving orders for lifelong restriction, do you think that age or deteriorating health in themselves should not be grounds for release where a person continues to pose a risk to the public? Should the focus instead be on ensuring that the prison and justice system adapts to provide the necessary facilities and healthcare for the population?

Neil Gray: That is what we are doing. The construction of HMP Glasgow, with which the convener will be familiar, has increased provision to ensure that accessible cells are available. I am sure the committee has seen what I have seen with regard to the conditions for our older prison population. Public safety has to come first, and it is critical that we ensure that we are able to accommodate those individuals, safely and in accordance with their rights, for the length of time that is deemed necessary by independent courts and the Scottish Prison Service.

That is why we are expanding the availability of accessible cells so that we can accommodate what is becoming an ageing cohort, largely due to the work of the police and the Crown Office in prosecuting what are mainly, in this case, serious historical sexual offences. That trend has meant that much older individuals are arriving into custody, and that there are individuals in custody who are serving longer sentences. There has been a sentencing escalation of 37 per cent over recent years, which means that we are seeing individuals in custody for longer.

I will not apologise for that fact—it is an important factor in ensuring that we keep our communities safe—but it has implications for our prisons estate, as Ms Bland set out. We need to ensure that we are meeting those needs, and it is currently a challenge for us to do so.

Amanda Bland: You are talking about the future, and the issues now. Can you give us reassurance that the facilities and the management are there to support, rather than release, prisoners?

Neil Gray: I do not think that it is as arbitrary or as black-and-white a decision as that. There are very strict rules on how compassionate release comes about. The process goes through a number of phases, from the Scottish Prison Service through governors to officials, before a decision comes to ministers for approval. That includes consideration of public safety and the individual's condition. That is not necessarily about their social care requirements; it is, for example, about their having a terminal illness. A prison's inability to house an individual due to their frailty is not, in itself, a ground for discussing their release. We

must ensure that we have accommodation available for those living with greater frailty in our prisons. The fact that we have that shows the success of the justice system.

Amanda Bland: Would you like to add anything, Catriona Dalrymple?

Catriona Dalrymple (Scottish Government): I just want to refer to orders for lifelong restrictions, or OLRs. The release provisions require a full, detailed risk management plan that is approved by the risk management authority, as far as I can recall. The Parole Board for Scotland's test must be met, too. There is a strict regime governing the release of individuals who are subject to OLRs.

Amanda Bland: Thank you very much.

Cabinet secretary, hundreds of prisoners were released early under the emergency arrangements, yet the prison population remains stubbornly high. What is your contingency plan if the prison population keeps exceeding capacity?

I would also like to have a greater understanding of something that you mentioned in the chamber. What progress have you made with the UK Government and the Home Office on the deportation of foreign nationals?

Neil Gray: Those are two very different and separate questions. On the early release programme, that focused on short-term prisoners, and there were exclusions for those convicted of domestic abuse or sexual offences as well as for those serving life sentences.

We are all well aware of the higher rate of reoffending among our short-term prisoner cohort. However, a much larger proportion of our prison population consists of long-term prisoners. Indeed, I think the majority of our prisoners are serving what are defined as long-term sentences.

There is a sustainability issue that we need to consider, and that was part of the consultation that took place over the summer. The consultation looked at how we use our prison estate to ensure that we keep communities safe, deliver the necessary rehabilitative work associated with long-term imprisonment, and provide a safe route for individuals to be released back into the community. That is what the consultation was about: ensuring that we have a sustainable prison population going forward. Decisions on that are still to be taken, as Ms Bland will be aware.

Decisions on extradition or deportation are for the UK Government to make. As the member will be aware, immigration is a reserved matter. We are therefore reliant on the UK Government to take those measures forward.

The officials of both Governments are in in constant dialogue. At the ministerial level, I have

had a brush-by exchange with both the Home Secretary and the Minister for Policing and Crime, and I want to have more substantive engagement and further discussions on this issue. However, there are other pressing issues that the convener raised, and wider reserved security matters, that I also wish to raise with UK ministers.

Amanda Bland: Thank you.

The Convener: We will hear from Pauline McNeill next.

Pauline McNeill (Glasgow) (Lab): Morning, everyone. I want to ask about policing. Cabinet secretary, you will be broadly familiar with the centralisation of the eight regional police forces. That resulted in many efficiencies, and £1 billion has been saved over the period since then and been returned to the Scottish budget, if you like. That is not an insignificant amount, and I will come back to that.

Prior to centralisation, the eight regional forces could carry reserves. However, for some reason, the ability to do that was not carried over into Police Scotland. I know that the current chief constable has raised the issue with you and previous justice secretaries. Perhaps Donald McGillivray might know more about the history of that. Have you explored that issue?

Neil Gray: I will bring in Mr McGillivray on the question of reserves. The reforms to the police and fire services have been a significant success and provide a model to build on when considering wider public service reform.

I do not accept the characterisation of the reform as a centralisation. We are seeing an increase in Police Scotland's capacity across the board to respond to critical incidents, whether that is—

Pauline McNeill: I said that the reform had resulted in many efficiencies, and that is one of them. However, there are also downsides to that, and I want to explore what I think those are.

Neil Gray: I will bring in Mr McGillivray on the potential for reserves to be carried forward and on the work that is being done with Police Scotland. The member will understand that legislation has been introduced over time.

The point that I am making, and on which I think there is agreement, is that the move to a single police force has had substantial benefits. I can see that in the operational deployment that has recently been possible across Scotland, including in relation to immigration protests and other disorder, where we have been able to—

Pauline McNeill: Sorry, but that is not my line of questioning. I agree with you on that; it has been really beneficial. However, do you acknowledge that the SPA has handed back £1 billion to the Government over the period since the reform?

Neil Gray: There have been savings, but I am not familiar with the figure to which Ms McNeill is referring. I would have to come back to the committee on that. Undoubtedly, there have been efficiency savings. That was the point that I was making in response to Ms Bland in terms of where we need to see public service reform, so that we can see simplification and efficiency to allow for front-line investment—

Pauline McNeill: I am sorry for cutting across you, but I have only a few minutes to question you.

Neil Gray: Understood.

Pauline McNeill: I will cut to the chase. There will be discussions about public service reform. I want to know whether you can share with the committee what your view on the issue will be when you speak to Ivan McKee.

I can assure you that that is the figure: about £1 billion has been saved. You can correct me if I am wrong. It is good that there have been savings. However, some would argue that there is not much left to scrape from the barrel if you are looking to make further savings from Police Scotland. Will you acknowledge that?

I then want to ask about some of the things that you said in relation to modernisation and investment.

Neil Gray: I understand the point that you are making. I recognise that public service reform in this portfolio is an example for others to follow. As you rightly acknowledge, we have carried out a substantial programme of public service reform that has achieved substantial savings. I recognise the challenge that you have set regarding our ability to achieve further savings. That is not impossible, and we are working with the chief constable and the SPA on that. I recognise your point.

Pauline McNeill: Can someone get back to me on whether you will explore allowing Police Scotland to carry forward reserves? All eight of the previous forces could do that; it was not a big deal. I do not know whether an error was made at the time in not allowing the single police force to carry forward reserves.

Neil Gray: I will bring in Mr McGillivray.

Donald McGillivray (Scottish Government): The issue relates to local versus national classification of public bodies. Local bodies can carry reserves, whereas national bodies cannot. When the SPA and Police Scotland were created

as national bodies, the ability to carry reserves was lost.

We have corresponded with your predecessor committee on the issue on a number of occasions, as you are probably aware. The key point is that, if Police Scotland were to borrow money, it would count against Scottish Government borrowing, so—

Pauline McNeill: No, I did not asking about borrowing money; I asked about reserves. Borrowing is a different matter altogether.

Donald McGillivray: My understanding is that it relates to local versus national classification of bodies. My memory of it is that it is based on His Majesty's Treasury's rules in that regard.

Pauline McNeill: I would just like to have an answer on that at some point, if not today.

Three issues have been raised with you and your predecessor justice secretaries: borrowing, reserves and multiyear funding. I would like clarification on the issue of reserves at some point.

Neil Gray: I am more than happy to write directly to Ms McNeill or to the committee to provide an update on that position.

10:15

Pauline McNeill: I think that the committee in general would be interested in that. I appreciate that—thank you.

The convener asked about custody suites, and I can confirm that what he said is the case. A good example is the Stewart Street police station in Glasgow. I was out with the police in Glasgow on Thursday afternoon, and I thank Police Scotland for hosting me. Following the closure of 300 cells, it now takes an inordinate amount of time to process a prisoner, so it seems like a no-brainer to consider an investment programme that would incorporate the opening up of more custody cells or the modernisation of existing ones.

From the answer that you gave to the convener, it sounded as though you were saying that we can ignore what is being said, because the chief constable has given you an assurance that people will continue to be arrested when that is needed. However, it seems obvious that that cannot be done unless more custody cells are provided.

Neil Gray: With respect, that is not what I said. I said that I had raised the issue with the chief constable and that she had given an assurance that, from an operational perspective, officers continue to be able to carry out arrests and to take people into custody. I have also pressed the SPA and the chief constable on latent custody suite capacity, and they have assured me that they will

introduce a new custody workforce management process to ensure that additional custody suite capacity is provided.

Pauline McNeill: So, additional custody capacity will be available.

Neil Gray: That is the assurance that I have been given.

Pauline McNeill: My next question is about an issue that I am sure that you will know well from your previous role—that of mental health-related deployments. I will remind you of the figures. In 2025-26, 18 per cent of calls to the police related to mental health incidents, and the average time taken for officers to deal with such an incident was 5.34 hours. For that year alone, that equates to a cost of £34 million and 481 full-time equivalent officers being taken out of the system.

I do not know whether you listened to it, but the committee had an evidence session on the subject. I am not satisfied that enough progress has been made, and I hope that you are not satisfied, either. To be perfectly honest, I think that it is a scandal that, in 2026, given the figures that I have cited and all the pressures on policing, which we are all aware of as MSPs and in our individual roles, the health service can sit back and let the police get on with it, because no one seems to have any authority to push for progress to be made on the issue.

Neil Gray: That is certainly not the position of ministers or of health board chief executives. However, I agree with Ms McNeill that the current situation is not what we want it to be. We are talking about uniformed officers responding to people in distress. That is not what the individuals affected want, and it is not the correct use of police officers' time.

For certain calls, there will always be a need for officers to be present, and I know that Ms McNeill and the rest of the committee will be aware of those circumstances. However, Ms McNeill is right to say that officers are being called to attend too many such incidents and are being detained in accident and emergency for too long.

In recent years, the situation has improved—76,000 hours of police officer time has been saved as a result of work that has been done by Police Scotland and the health service. However, there is more to do. Capacity needs to be improved and new support needs to be made available through the health service. Support is being provided through Scottish Action for Mental Health's nooks—I look forward to visiting the service in Aberdeen next week. Having available somewhere that an individual or their family can turn to in a moment of distress or when a mental health intervention is required, or to which the

police, who are sometimes the first responders to such incidents, can take an individual without having to use accident and emergency services, is obviously the best outcome for everybody.

Ms Constance, Ms Todd and I are focused on improvement in that area. We had a meeting on the issue last month, and further work is being done with the health service with a view to continued improvement being made.

Pauline McNeill: I am not saying that no progress has been made, but surely you are not satisfied that enough is being done. Do you honestly feel that a proper push has been made on the issue? Do you have a timescale for progress? In five years' time, will we still be seeing the same figures?

Neil Gray: I have already set out that I am not satisfied with the position that we are in, nor is the health secretary. We are working with Police Scotland and the health service to ensure that the services are available so that our police officers can do the things that they need to do.

Pauline McNeill: Can you give a timescale for that?

Neil Gray: That is work in progress. I cannot give a commitment in relation to areas that are outwith my direct responsibility. However, given that, as Ms McNeill mentioned, Ms Constance and I swapped jobs, we both have a very clear understanding of the issues that pertain here, and of the need to ensure that they are resolved. Work is ongoing with the health service and other partners to ensure that the position is improved.

The Convener: We will come back to that issue.

Stephen Kerr (Mid Scotland and Fife) (Con): Cabinet secretary, I was astonished to hear you say that you feel that your portfolio exemplifies, or is a role model for, public service reform. Do you not appreciate that the criminal justice system in Scotland is hanging by a thread?

Neil Gray: I do not accept that. I—

Stephen Kerr: The evidence that the committee has had in what has been presented to us suggests that the system is highly fragile.

Neil Gray: There are challenges. I do not accept the characterisation that Mr Kerr sets out, but I can understand why he has that position.

Stephen Kerr: People working in the system think that.

Neil Gray: I can understand that position. In response to Ms McNeill, I was alluding to the point that the creation of the single police and fire services is an example to follow on public service reform. We have seen significant—

Stephen Kerr: No, it is not. Based on the evidence—

Neil Gray: We are going to have to agree to disagree on that.

Stephen Kerr: I am only going on the evidence that the committee has heard. The evidence that the committee has received and that individual members of the committee have collected suggests that the centralisation of Police Scotland is far from being a success. I would be astonished if you really believed what you just told Pauline McNeill about progress on mental health calls to the police. There is no progress whatsoever. There is less than 2 per cent improvement.

Neil Gray: Those two things do not match. There has been progress.

Stephen Kerr: Yes, but it is minuscule.

Neil Gray: Well, that is a different definition. There has been progress: 76,000 hours have been saved through the new management processes that have been put in place with the health service. We are not where I want us to be. I want to see more mental health cases in which uniformed officers do not have to respond and sit in accident and emergency units so that people can receive support. The investments of Government are directed towards ensuring that greater interventions are available so that people can receive the mental health support that they need and we can prevent the escalation of their poor mental health.

Stephen Kerr: Would you support the chief constable if she introduced a much higher standard for the contact, command and control division, and for officers on duty on the front line, in relation to their ability to say, “No—that is not a call for the police”? Would you support the enforcement of a higher standard? To be frank, on 90 per cent of such calls no criminality is involved. The police are entitled to say, “No—that is not for this department.”

Neil Gray: The chief constable and I have had conversations about that. I do not want to follow the lead of England and Wales, where lives are being put at risk, and I think that we could accept and agree—

Stephen Kerr: That is creating pressure on Police Scotland to answer every call, as you have just said.

Neil Gray: Forgive me, but that is not what I said. I said that discussions are ongoing on where the police can take operational decisions that ensure that the public are kept safe, which is part of the duty and responsibility of the police, and that we have more appropriate deployment. That is not to say that the police must attend every call, but

we have to be sensitive to the situation as we find it, and I do not support the position that has been taken elsewhere.

Stephen Kerr: But the police cannot become other services’ dogsbodies. They cannot be left behind to clean up what other people will not do between the hours of 5 pm in the evening—

Neil Gray: I accept that.

Stephen Kerr: Do you accept that?

Neil Gray: I accept it. I do not know whether Mr Kerr is looking to put words into my mouth, but I have never said that the opposite is true.

Stephen Kerr: I would never dare to try to put words into your mouth—I think that you know that. However, the reality is that most shifts are operating below operational base levels, or OBLs. Do you accept that?

Neil Gray: The chief constable takes operational decisions on the deployment of—

Stephen Kerr: Does it cause you concern that, in most shifts in most parts of Scotland—

Neil Gray: I have not seen evidence to suggest that. I understand why Mr Kerr is asking the question, but operational decisions on the deployment of officers to shifts or incidents are rightly the prerogative of the chief constable. It is not for ministers to interfere in such decisions.

Stephen Kerr: Sure, but you are responsible for public safety in this country. If public safety is being compromised because there are not enough police officers on the front line, that is your responsibility, so surely you must have a view on that.

Neil Gray: I can hold the SPA to account for how it holds the chief constable to account. There are clear lines of responsibility in relation to the operation of the legislation. That is exactly what I do in my meetings with the SPA, and I am building a strong relationship with the chief constable, so I am also able to have frank and open discussions with her.

Stephen Kerr: I have a final question on the issue of front-line policing, which greatly exercises me, as you know. I was very disappointed by the minister’s response to a debate in the chamber a couple of Thursdays ago. I think that, incredibly, everyone in the chamber agreed on what needed to be done, but the minister’s response was incredibly disappointing. *[Interruption.]* Well, I do not think that the problem was properly acknowledged by the Government. A Government minister is allowed to express a view about what they can see is happening and what they hear from front-line police officers about officers’ ability to

carry out their duties when they are being used as first responders for mental health crises.

Neil Gray: I have put on the record my position on mental health—

Stephen Kerr: Okay, so let me move on to a different subject, which is the amount of time that police officers spend in court. Ninety per cent of that time is spent waiting, not presenting evidence. What will be done about that?

Neil Gray: I have received representation on that point from bodies that represent Police Scotland. Mr Kerr will understand that the Scottish Courts and Tribunals Service has responsibility for the operation of courts in Scotland, so I cannot direct it, but I understand the point that has been raised. I have committed to taking that point to the SCTS to ensure that we have a more efficient way of working.

The issue involves not only the courts service but the judiciary. I have a meeting with the Lord President coming up shortly. Given the challenge with High Court business and the very good work that has improved the process of summary case management, both of which we have touched on, I want to see whether more can be done to improve efficiency. I want to ensure that appropriate notice is given not only to police officers but to victims and witnesses going through the system, so that there is a better process for them.

Stephen Kerr: That is why I said that the justice system is not a model for how we all hope public service reform will work, because the different parts of the system should be working together. Police officers are being held up waiting in court all day, for an entire shift or in a way that means that they cannot go on to work the shift that they were scheduled to, for example, if they were working nights. That is not the sort of public service reform that we would all like to see.

Given the plague of domestic abuse in our country, why have ministers not properly commenced provisions of the Domestic Abuse (Protection) (Scotland) Act 2021?

Kirsten Oswald: I appreciate Mr Kerr's focus on domestic abuse, which is an issue of significant concern to us all. I know that the committee, as well as MSPs across the chamber, are exercised by it in the wider context of tackling violence against women and girls.

As Mr Kerr will recognise, the domestic abuse orders involve complex regulations that need to be dealt with one by one—

Stephen Kerr: We are five years on, and the provisions have still not been enacted.

Kirsten Oswald: It is not straightforward in the way that Mr Kerr and I would perhaps like it to be. It is very important that we deal with the realities of the situation, so that we can appropriately—

Stephen Kerr: When will the provisions be commenced?

Kirsten Oswald: If I can continue, it is important for us to go down the road of dealing with the issues one by one. It is more complex than any of us would like it to be. It is important that we deal with the realities that are in front of us, because then we are best placed to support people.

10:30

Stephen Kerr: With the greatest respect, minister, those are great words. We can all sign up to the great words, but when will the provisions of the act, which is now five years on the statute book, be commenced?

Kirsten Oswald: That work is under way, Mr Kerr.

Stephen Kerr: Will they ever be commenced?

Kirsten Oswald: Obviously, we are dealing with the provisions that are there.

Stephen Kerr: You must understand the frustration of victims groups and women's rights groups when it comes to this issue. At the time, the act was supposed to be a solution. Now, five years later, you are saying that it is very complex. It was very complex then, yet we put it on the statute book.

How often does the Parliament pass legislation in this portfolio area, put something on the statute book and then never commence it? It happens to be a very important act, with very important provisions, and yet we are here, five years later—is that not extraordinary to you? You do not have to defend what is indefensible.

The Convener: To bring Mr Kerr's point to a close, I invite the minister to write to the committee in fairly short order about why section 1 of the 2021 act has not been implemented. You have said that there are complexities, and we have heard that before, but can you write to the committee and explain what the complexities are and what the Government's timescale is for working through them? We are tight for time, and I want to bring in Mr Merrick.

Kirsten Oswald: Okay. I am happy to do so.

The Convener: I appreciate that.

Colm Merrick (Glasgow Anniesland) (SNP): I would like to address the cabinet secretary. The committee has heard testimony about legal aid deserts. I am glad that the Government is

committed to introducing a legal aid reform bill in year 1 of the programme for government. Can you give us a rough timescale for when that will be introduced? Will the 13 per cent rise reach schedule 2 fees? What is the plan more broadly for ending legal aid deserts?

Neil Gray: We are committed to introducing a legal aid reform bill. It is the minister's direct responsibility. It is a year 1 bill, so it will be published before the end of the first year of the parliamentary session. The issues that Mr Merrick raises will be included in our consideration of what we have consulted on and what could form part of the legislation.

I do not know whether the minister wishes to add anything.

Kirsten Oswald: I will add detail on the ongoing work. The consultation on legal aid reform is ongoing. It closes on 13 October. Various pieces of significant work are under way with groups with an interest in the area, from practitioners to those who provide support services to victims groups. It is profoundly important that people contribute to that consultation.

The current system was conceived a long time ago. The requirements today and in future will be very different. On the specifics of what Mr Merrick is asking about, I hope that it is helpful to say that there is a recognition that there are challenges that cause concern to those who are looking to access legal aid. It is a comparatively generous system, and it does what it is meant to do, but there are pinch points.

Some of the action that the Government has undertaken includes funding legal aid trainees, which I hope will have a positive impact on areas where there is a lack of provision. It is important to recognise that you do not have to be in the same area as your solicitor. However, I acknowledge that there is a challenge there, and I hope that the trainees will be of assistance with that. There is also agreement on fees for those who work in the system, which should take some pressure off in relation to continued availability and capacity.

The final thing to say is that different models are possible. We have an opportunity to develop a framework that will allow us to do what people need, both now and in the future. I am sure that the committee will contribute to the consultation, and we very much welcome people doing so.

Colm Merrick: Do we have a rough timescale for when the bill will be introduced?

Kirsten Oswald: The consultation concludes on 13 October, which is very soon. This is a year 1 bill and a manifesto commitment. We committed to starting the consultation within our first 100 days of office, which we have done, and we are moving at

pace. Some aspects will be for the Parliament to decide and will therefore be outwith our control. It is being delivered as a priority because it has the scope to make a system that has been in operation for some years fit for the present and the future.

The Convener: You refer to a year 1 bill. This may be a daft laddie question, but what does the Government define as a year 1 bill?

Kirsten Oswald: Year 1 simply refers to the first year of the parliamentary session, which is when the bill will be introduced.

The Convener: What is the latest date that the legal aid reform bill can be introduced?

Kirsten Oswald: I will need to check my calendar, but it will be before we break for the summer recess.

Colm Merrick: My next question is for the Minister for Victims and Community Safety. Every time I have been lucky enough to appear at the committee, I have been unapologetic in raising the impact that knife crime has on communities in Glasgow Anniesland, the wider Glasgow area and, indeed, the country. Although we have made enormous progress on knife crime in the past 20 years, it seems that young people are starting to pick up blades again, which is deeply concerning for communities. What more can the Government do to ensure that it is resourcing initiatives such as no knives, better lives? What are victims telling you is needed to deal with the issue?

Kirsten Oswald: I welcome the question, as knife crime is concerning, and the issue is important for everyone in the space as well as the population at large. Mr Merrick is right to point out the significant improvement on past statistics. However, that should not make us think that everything is absolutely fine. Plainly, there are concerns and there have been some serious and concerning cases.

Some useful and constructive preventative work is under way to divert young people from paths that we do not want them to go down. I have been fortunate enough to see some of it, as has the cabinet secretary. It is important that we get in front of the problem wherever possible. The opportunities that are available to young people as a result of those programmes are significant for diversion and prevention. Education programmes, such as no knives, better lives, try to ensure that, as well as dealing with the problems when they occur and the terrible damage that those incidents cause, we also focus on trying to stop those things from happening in the first place. Mr Merrick's community—and, I am sure, the communities of everyone else in the room—will be focused on ensuring that we deal with such incidents as a societal issue and that we try to get in front of that.

Neil Gray: Everything that the minister said is absolutely accurate. I will add two points. I took part in a round-table session in Glasgow on youth offending and the wider concerns that are driving violence in society, such as misogyny and racial aggravators, to inform the revised violence reduction strategy that we are working on. Mr Merrick and the minister are absolutely correct that the use of bladed weapons and hospitalisation as a result of their use have fallen substantially—thanks to the work of the Scottish Violence Reduction Unit. However, more young people are carrying bladed weapons, which is of grave concern. The revised violence reduction strategy and further education programmes will need to address that.

Ben Macpherson (Edinburgh North Eastern and Leith) (SNP): I will try to bring some of the discussion together. I share the cabinet secretary's view that Scotland is generally safe and secure, and I think that it is important that we emphasise that. In many experiences with the criminal justice system, people feel that justice has been done and exercised for the common good and that their interests have been taken on board.

However—this statement is true across the UK, and a lot of the issue stems from decisions that were made by the UK Government in 2010—there is clearly a lot of pressure on the area. That is what the committee has heard in recent weeks, and I know that you will regularly hear that issue raised in relation to front-line policing, the challenges in our prison system, the waiting times in courts, the challenge of ensuring that the Scottish Fire and Rescue Service has the appropriate coverage, and so on.

Does the whole Parliament need to get to a place where it acknowledges the pressure, so that we can help to move the necessary resources into this and maintain the perception that the rule of law is exercised well and that we are moving towards having a safer country, rather than letting people become more worried about the challenges that they see in their communities?

Neil Gray: Ben Macpherson raises an interesting question for all of us. First, we need to recognise that Scotland is a safe place, but we also need to recognise where the pressure is, which I readily do. As I sit before the committee today, I recognise in an upfront way—as I do when I sit in the chamber and in front of the media—where there are challenges and where more needs to be done. I will not pretend that there are no challenges, because people demonstrably feel them, whether they work on the front line or experience the justice system in another way.

Some of those pressures, such as those around our prison population or court backlogs, are down to the success of elements of the justice system in ensuring that where there is criminality, there are successful prosecutions. We see significantly increased sentences coming through for the most serious crimes—a 37 per cent increase.

The member is absolutely right that there are some elements of fiscal pressure and social issues that we need to address. That is part of the reason why, alongside the priorities that I have set out, I want to move us on to a much more preventative basis. We are shifting as much of our investment as possible into prevention. That is where the First Minister's focus is with regard to violence against women and girls, for example; it is on prevention, protection and prosecution.

Similarly, to go back to Colm Merrick's question about knife crime, we need young people to recognise that carrying a knife puts them at significant risk; far from being a protective instrument, it puts them at greater risk of harm.

Ben Macpherson's question will be a fundamental one to address over this parliamentary session, as it concerns what we see as being the purposes of our justice system and our prisons, and where our investment is best prioritised to ensure the continued safety of the public and the continued provision of capacity to address the consequences of criminality.

Ben Macpherson: I agree. I recognise strong examples of good work, such as operation portaledge, which demonstrated the strength of the state with regard to its ability to tackle organised crime, which is behind a number of the issues that colleagues have raised today. However, I am concerned that much of the evidence that we have heard in past weeks suggests quite low morale in a number of aspects of the criminal justice system, because of the pressure and the demand on it—I acknowledge that some of that demand is because of the success of various initiatives.

The rule of law is fundamental in itself, but the perception of it in communities is also important, whether that involves knife crime, antisocial behaviour or early release. It is clear to me that, as part of the upcoming budget process, there must be a real-terms increase in the budget for justice and the fire service. I recognise the many pressures across Government and the need to invest in prevention in various policy areas, but it seems to me that the case for greater investment in your portfolio is very strong, and I look forward

to that discussion in the pre-budget scrutiny to come. I do not know whether you want to say anything about that just now.

10:45

Neil Gray: I do. On the first point, the assurance of the rule of law is a responsibility that sits heavily on my shoulders. I recognise that it is a fundamental tenet of the democratic, law-abiding and rights-based society that we all want to see. The responsibility to ensure the efficient process of the justice system and the ability to implement the rule of law, as per the Lord President's statement to the First Minister upon his confirmation as First Minister at the start of this session, is one that I take incredibly seriously. As I said, it weighs heavily on my shoulders.

On the pre-budget scrutiny and the discussions around that, I am clear that the programme for government has set out areas that we will need to expand in order to move to a more preventative system, such as capacity in social work and Police Scotland in relation to the prevention and protection element of our work on the issue of violence against women and girls. There must also be an expansion of the capacity of our justice partners, including in the community and voluntary sector, who often provide services to support those who have been involved in the criminal justice system or to prevent people from having experience of the criminal justice system.

I go back to the point that I made in response to Ms Bland's question: a successful justice system is one that protects and ensures the safety of individuals and reduces the number of victims. That is what I am determined to continue to see happening in Scotland.

Ben Macpherson: Building on that, you will be aware of the concerns that the communities that we represent have about the challenge relating to the involvement of people under the age of criminal responsibility in extremely serious antisocial and violent behaviour. Can you say anything more about the Government's work on and attention to those issues more generally, as well as on the specific issues of knife crime, e-scooters and so on?

As well as talking about prevention, you spoke earlier about action to tackle child poverty and how that helps with reducing the number of people coming into the criminal justice system, and I very much agree with what you said. Can you say anything more about that, especially in relation to those who are being released from short-term sentences? What work is the Government doing to reduce the reoffending of those who have already been in the prison estate? Are you working with both third sector partners and local authorities

when it comes to issues such as housing and all the other challenges that people face on release?

Neil Gray: That question is multifaceted. There are a number of areas that I will seek to cover, but they are fundamentally important questions.

The Convener: I would appreciate a brief answer, cabinet secretary.

Neil Gray: I must recognise Ben Macpherson's representation of Lisa Petrie and the work that he has done to advocate for her. As he knows, I was incredibly moved by the meeting that I had with her, as well as by my visit to the knife angel statue in Leith and by having the opportunity to speak to officers at Leith police station about the issues on youth disorder that Mr Macpherson has raised.

We are seeing fewer young people involved in criminality or antisocial behaviour, but those who are involved are perpetrating more serious offences and behaviours. We have work to do through education, with a rights-based approach that also recognises responsibility, as well as through addressing some of the social factors that Mr Macpherson has referenced in relation to child poverty and so on, which will involve ensuring that we introduce diversionary activity.

We have a conversation to have about what prison is there for and whether it is the right place for all the individuals who are caught up in the criminal justice system. I can speak about the success of community disposals in reducing reoffending and the contribution that can be made to communities. We will have to debate and discuss that at a later date, but the whole system is responding to changing dynamics in our society, particularly post-Covid. My job is to ensure that we are responding to the societal, demographic and other challenges that are coming through in order to ensure that our justice system—as I said with regard to the SFRS in my response to Ms Chapman—is properly resourced and has the capacity in the right place to respond to the needs of our current time, which are different from the traditional needs that we have seen in the past.

The Convener: I will start off on another round of questions. One of the big concerns that we hear from police officers is that policing public protests is taking up far more time than it did previously. You have alluded to that, particularly in respect of immigration protests. The Scottish Police Federation, which represents the front-line officers who deal with protests, is clear that the current legislation on balaclavas and face coverings is not sufficient in that regard. Will you change that?

Neil Gray: I have had discussions with the chief constable. The police here have powers to compel the removal of face coverings in certain instances. We are also monitoring the work that is being done

on that in Nottingham, to consider whether more needs to be done.

The convener will understand that we are talking about very sensitive areas around people's rights of expression and liberty. However, I share the concerns about the police resources that are currently being deployed in those areas and the increased prevalence of mask wearing to obscure criminality. There is an ongoing and active discussion with Police Scotland about the resources that it needs.

The Convener: I will press you on a timescale for when we might come to a decision on that.

Neil Gray: I recognise the desire for a timescale. We are responding partly to events and what we are seeing on our streets. We are also looking at areas that have sought to go further on restrictions of liberty and compelling the removal of masks, and we are having discussions with Police Scotland about whether more needs to be done on that. That is a live discussion. I do not want to put a timescale on it, given the sensitivities, which I know you will understand.

The Convener: Given that many of the issues around protests and public order tie into community safety, I invite the minister to comment on that, too, as she might have thoughts on it.

Kirsten Oswald: Thank you—it is a timely question. There are significant community concerns about protests and their consequences, whether those are experienced directly—we have seen terrible examples of people being attacked on our streets for the colour of their skin, which is outrageous and wholly unacceptable—or whether they involve communities feeling under threat because the situation, understandably, causes them concern.

I am thinking particularly of people in the Jewish community—I represent a large Jewish population, but this is a nationwide issue—who are worried about being visibly Jewish when they walk down the street. Similarly, many members of the Muslim community have concerns relating to the visible manifestation of their religious faith. As a minister, I have frequently met members of both communities, as well as members of the Sikh and Hindu communities. Those engagements are important, because of the tension that unfortunately exists, which is often inflamed in ways that it never should be. Because that tension manifests in protests, it has a profound impact on people's ability to feel safe when going about their daily business.

A key element of what we are doing is engaging in regular conversation and dialogue to understand communities' concerns. Also, vitally, we are doing significant work on community

cohesion, whether directly with the communities such as the ones that I have spoken about or, in that bigger public protest space, with organisations such as the Centre for Good Relations. We are taking every possible step to ensure that people are safe and also feel safe in their communities.

The Convener: I have one final question, which I will direct to the minister. At the Conveners Group meeting last week, the First Minister agreed with me that organisations that support survivors of violence against women and girls are not getting the resource that they need to respond to the demands that are placed on their services. The First Minister was very candid and said that he is not confident that the current resourcing is adequate to meet that demand. Having accepted that point, as we heard loud and clear at the committee, what will the Government do to properly resource organisations that are responding to the scourge of violence against women and girls?

Kirsten Oswald: From your question, I can see your focus on the area; it is obviously also a significant focus for the First Minister and the Government. Looking at the area in general, I reflect on the sheer breadth of work that is under way. The very significant—potentially generational—shift in how we are dealing with this is not to be downplayed. That is because we are dealing with a significant issue and, as the cabinet secretary has alluded to, there are social changes that amplify the concerns. There is a need for practical action to enable us to move forward.

The Convener: That is what I am asking about; it is about funding those organisations. I know that Katy Clark asked you about that in the chamber yesterday. We acknowledge that there is an emergency. How much funding will come forward, and when?

Kirsten Oswald: That is one of the tangible elements. The Deputy First Minister has written to the service that we talked about in the chamber yesterday—advocacy, support, safety, information and services together, or ASSIST—to ensure that we have that dialogue. There is a commitment to emergency funding in the programme for government and, where that is deemed necessary, it can be put in place. It would not be appropriate for me to speculate on the outcome of that particular discussion in financial terms, but the fact that we have acknowledged the issue in a proactive way is really impressive.

The Convener: I will press you a little. You and I both served as Opposition MPs, and we would know when we were not getting an answer.

We have acknowledged that there is an emergency. With every day that passes, waiting lists are building up. I will press you a bit further, at

least on when we will have a timescale for when the organisations will hear about the funding. This is a real live issue for those organisations.

Kirsten Oswald: It is absolutely a real live conversation as well. I recognise the focus that you are putting on the issue. Those conversations are under way. I referenced the Deputy First Minister being engaged in that conversation, which speaks to the importance that the Government places on the issue. These are pressing matters, and it is important that we get this right.

To push back on that, the Government has acknowledged that we will take action where it is necessary to put in place resources, to ensure that support is there at the key point when people are in the most difficult of situations.

The Convener: That is now, minister.

Kirsten Oswald: It is now, which is why the conversations are happening now. I do not want to push back unhelpfully, but that is exactly why the conversations are happening now.

I do not think that we are disagreeing about the importance of timing in this situation. That is why the engagement is under way, and it is why we committed in advance to being ready in the event of a pressing need for more funding. That discussion is live, and it might be that, the next time I am in front of you, we will have a different discussion.

The Convener: I very much hope so.

Kirsten Oswald: I think that we are in the same place on the issue. I point to the large spectrum of work that is under way on victims. It is important to acknowledge that this is a road that we are travelling down, and a broad range of actions are under way. Obviously, they are not all concluded yet—that would be impossible. That is happening because of the dialogue with people who have personal knowledge in all kinds of areas, but also because of the Government's focus on the issue. I think that there will be an ongoing discussion on the issue, and I would welcome that.

The Convener: You are right that it is a road that we are travelling down. I want us to go much further along that road.

Maggie Chapman: Cabinet secretary, I will pick up on the conversation that you had with Ben Macpherson about prevention. A month ago, when I asked you about where you see prevention strategies, you talked—as you have done today—about housing, mental health support and interventions in social security and elsewhere. What specific measures in the justice portfolio involve that shift from tackling the outcomes of crime to preventing it in the first place?

Neil Gray: Some organisations that deal with the consequences of criminality also support us with prevention. I am thinking of the interventions of Rape Crisis Scotland in our schools and of other organisations, such as Scottish Women's Aid, that provide us with tangible support to shift ideas. In those cases, the interventions are about tackling misogyny, to ensure that violence against women and girls is reduced.

In response to Colm Merrick's point, we spoke about the investments in YouthLink Scotland to deliver the no knives, better lives programme. We are taking preventative approaches, in addition to the work that happens in our prisons and custody settings, to reduce reoffending. Work is being done to deal with the consequences of offending and to reduce reoffending.

11:00

Maggie Chapman: Some of the challenges are due to the way in which the system is set up at the moment. For example, people serving short-term prison sentences do not have time to access rehabilitation or reoffending reduction programmes or support. It seems that there is a contradiction or, at best, a tension, because if we do not focus on genuine prevention or give people who find themselves in the criminal justice system access to the tools they need, we do not deliver on the overall objective.

Neil Gray: I do not disagree with what Ms Chapman has put on the record. The sustainability of the prison population is fundamental to our being able to have a rehabilitative system. Linda Pollock and Phil Fairlie from the Prison Officers Association Scotland were on Radio Scotland this morning, explaining the challenges of delivering rehabilitative programmes in an overcrowded prison system.

I will not shy away from those challenges. That is why the consultation that we carried out during the summer is so important in helping people understand what prison is for, how we should manage people on their release into the community and why we are taking steps to increase the capacity of our prisons.

Maggie Chapman: That is the rub. If we increase the capacity of prisons, the old adage "build it and they will come" will apply. The more spaces that we create in prisons, the more will be filled. What are we actually trying to achieve?

That comes back to Amanda Bland's question about what our criminal justice system is for. If we are genuinely hoping for prevention, we need to see system change. We should not just be doing more of the same thing but moving people through the system more quickly, because that does not deliver harm reduction or safer communities, nor

does it make people feel safe or build trust in the criminal justice system in communities. The challenge is that addressing issues with capacity by creating more capacity is not prevention.

Neil Gray: I disagree with the first point and agree with the second. I disagree with the first point because the judiciary is independent and makes decisions on sentencing without any knowledge of the prison population or the capacity that is available. It makes decisions and it is the responsibility of ministers, through the Scottish Prison Service, to provide the capacity that allows the sentence to be carried out. The decisions of the judiciary are independent, and the judiciary has no cognisance of the issues with prison capacity, regardless of whether prisons are half empty or even more full than they are currently.

However, I agree with the second point: we need to move to having a more preventative system. It is much more difficult for us to work with someone who has ended up with a long-term sentence than it is to prevent criminality from occurring in the first place. It is better for us to prevent victims from having criminality perpetrated against them in the first place, and it is also demonstrably better for individuals and for society. I agree on the need for system change.

Evidence shows that community disposals are much better. Ensuring that we keep people away from custody produces better outcomes for individuals, families and society, as it reduces reoffending. Those with short-term sentences have the highest rate of reoffending, but there are questions to be asked about our management of long-term prisoners. Some of the work on that is incredibly sensitive and challenging, given the horrific crimes that we are talking about. However, we also have to discuss and debate how we can accommodate long-term prisoners, how we can manage them in prison in a rehabilitative way and how we can be in a better position to manage them back into the community.

Maggie Chapman: I will end with an ask: will you publish a prevention framework with measurable outcomes rather than just describe what we need to do in other portfolios? Will it have clear and coherent measurements that matter and that tell us the story of real progress rather than just measuring things that are easy to measure? We hear clearly from Community Justice Scotland that we measure the wrong things. For instance, we are not measuring wellbeing.

Neil Gray: I was going to mention the importance of Community Justice Scotland's work. I will take away that direct ask, because I am committed to ensuring that we move towards a more preventative approach, not only for the justice system—that is a priority across

Government. That is why the focus is on eradicating child poverty, and it is why we are investing in ensuring that the widest possible treatment and support are available for drug and alcohol services. We want to invest across areas that we know have a direct correlation with the criminal justice system and ensure that there is greater capacity in the preventative, community-based approach in order to prevent people from becoming victims or from involving themselves in the criminal justice system in the first place, so that we can have a better, fairer society.

Amanda Bland: Cabinet secretary, the Government has confirmed the GPS pilot. It will be rolled out in the Tayside, Central and Fife sheriffdom. Does it include exclusion zones?

Neil Gray: GPS technology can be used to provide exclusion zones. It depends on what form of monitoring the courts decide is required.

The reason that we are piloting it is to ensure the safe delivery of GPS technology. You will be aware that there have been significant challenges with its roll-out in England and Wales. We need to ensure that it is delivered safely so that there are additional tools available to our courts and, potentially, our prison service for the safe management of individuals in the community. I strongly support the premise, but we have more work to do to ensure that it can be delivered safely—hence the pilot.

Amanda Bland: Let us break it down. Will it start in January 2027?

Neil Gray: That is for the sheriffdom to take forward.

Amanda Bland: Say that there was an exclusion zone. What would happen if someone breached it?

Neil Gray: Monitoring would be required. The conditions would be the same as any other bail or licence conditions. A breach would be monitored and responded to proportionately by a social worker or the police, depending on the circumstances or the provider.

Amanda Bland: Would that response be immediate?

Neil Gray: That would be the intention. It would depend on the circumstance that we are talking about.

Amanda Bland: In what way? Give us an example.

Neil Gray: We would all expect that there would be an immediate response if an exclusion zone around a vulnerable individual was breached by someone who posed a significant risk to that individual. I would look to ensure that.

Amanda Bland: The committee has heard that the response is sometimes not immediate on electronic tagging. That is why I ask. We have heard that the response is sometimes quite delayed. Let us get a better understanding of how it works in relation to domestic abuse.

Neil Gray: They are different technologies. Some work is being done on using GPS for tags, but they currently use radio frequency, which is a different technology. However, I agree; although some people are pushing for us to move faster on GPS technology because it has been significantly rolled out in England and Wales, we are seeing significant challenges with the technology and some of the response times in that jurisdiction. We need to ensure that it can be implemented safely and that we have the capacity for monitoring and response. We are carrying out a pilot first, to ensure that the operational questions that Ms Bland has posed can be answered. It is not necessarily about alternatives to custody; it is about ensuring the safe management of individuals.

Amanda Bland: Has the Government thought about the threshold that would trigger a return to custody?

Neil Gray: That would depend on the conditions in place for an individual, which would be based on their circumstances. Assessments would be made on that basis.

Amanda Bland: Has the Government thought about how many people the pilot should cover?

Neil Gray: No. That will be for the sheriffdom to determine. The sheriff or the judge will decide whether they feel that it is appropriate for the measure to be taken in ensuring the safe management of an individual.

Amanda Bland: The committee has heard that electronic tags can be removed. Can the GPS tags be removed?

Neil Gray: Yes. I receive updates when radiofrequency tags being removed or tampered with results in someone being recalled to custody. If an individual tampers with their GPS tag or fails to charge it, or if they act outwith the terms of their bail or licence conditions, there is the potential for recall to be considered. As I said, that will depend on the circumstances, and it is for the courts to determine the balance of risk and safety, as Ms Bland will understand.

Amanda Bland: We know the risks and weaknesses of the system, so is the Government now saying that such tags are not suitable for perpetrators of domestic abuse?

Neil Gray: No. We are saying that we want to explore whether this is an additional option that

can be offered to the judiciary when it is assessing the risk of individuals who are being managed in the community. That is what we are currently exploring.

Pauline McNeill: I want to explore policy and practice on youth crime. It would be good to have an ongoing exchange with you on that issue, because it is causing public concern. As a regional member for Glasgow, I get a lot of calls about Garnethill, which is an area of high crime these days. On 5 September, there was a 999 call about a 15-year-old or 16-year-old smashing the windows of a car and a local club and stubbing out a cigarette on a male of ethnic origin. Those are very serious crimes.

Jimmy Paul of the Scottish Violence Reduction Unit said on the record that he stands by the legislation that has been passed to help to lock up fewer children, but he said that the public perception is that there are now no consequences for teenagers and young people who commit violent crimes.

I am unclear about who the decision maker is when it comes to reporting such crimes to the children's reporter or the fiscal. No one can answer that question for me. Do you have concerns about the issue? Will you revisit that whole area?

Neil Gray: I have had extensive dialogue with Mr Macpherson on that issue in relation to his community. I recognise the points that Ms McNeill has put on the record. There might be a perception of a lack of consequences for young people, but that is not the reality. In correspondence after my previous appearance at the committee, I set out the detailed process for how young people are managed through the criminal justice system. Cases can be covered by the children's hearings system, or the Lord Advocate and the Crown can intervene if there is the potential of a criminal disposal. Those avenues are open, and the Lord Advocate can intervene in such cases.

The behaviour that Ms McNeill has set out on the record is horrific and inexcusable, so we obviously want to ensure that it is addressed.

Last week, I was at the University of Strathclyde to speak at the Children and Young People's Centre for Justice, where I addressed the aim of ensuring that we are incarcerating fewer children—we know the lifelong consequences of doing that—and that we show clearly the balance between responsibility and consequence. We are continuing to monitor that.

11:15

Pauline McNeill: Are you open to the idea that things might be out of balance? People with machetes terrorising shop workers on Sauchiehall

Street on Saturday nights is a regular occurrence. I am not picking a random case—that happens regularly. The local police cannot tell me whether a case has gone to the reporter or the fiscal. There seems to be a lack of transparency, so it is no wonder that the public have the perception that there are no consequences.

I am told that, as a matter of public policy—do not quote me, because I am not saying that this is correct, but when I have asked about it, I am told that this is the policy—a case where a machete was used would go to the fiscal, but if it was not used and, although the offender was terrorising people, they did not do anything with it, the case would not go to the fiscal. You do not need to respond to that—I am just saying that there is something wrong about that. Jimmy Paul of the Violence Reduction Unit said that there have been unintended consequences.

Neil Gray: I have answered questions about what more we can do to reduce, in this case, youth violence, and to refresh the violence reduction strategy. Jimmy Paul was at the round-table discussion last month in Glasgow that I mentioned.

Ensuring that we have better support earlier in a young person's life is a defining feature of the issue, and I have spoken about that to Ms Chapman, the convener and Mr Macpherson, and I think that Ms McNeill would agree with that.

Pauline McNeill: In some cases, there should be consequences.

Neil Gray: I was coming to exactly that point, about ensuring that there are consequences.

I have set out that, between the Crown and the children's hearings system, there is already opportunity for such offences to go down the path of referral to the Crown.

The point that Ms McNeill raises about transparency and public perception is one that I take seriously. I will take it away and consider whether more can be done, particularly if the police do not know what ends up happening in a given case.

Pauline McNeill: That would be really helpful.

Neil Gray: I will look to provide the committee with detail on the further work that is being done to improve transparency in such cases. It is very clear that there is a process that can be gone through and there are consequences that can be meted out to individuals in those circumstances. However, it is up to independent organisations to make those determinations.

The point that Ms McNeill raises about transparency and public confidence is one that I take seriously, and I will take it away.

Pauline McNeill: This morning, Radio Scotland did a piece about remand prisoners. I asked the chief executive about their separation from other prisoners, and I was told that they are supposed to be separated because they are remand prisoners. However, you know and I know that around 200 such prisoners are not.

We could go into the rights and wrongs of that, and it is clearly a disgrace that remand prisoners are held in cells with convicted prisoners. Do we have to revisit how we deal with prisoners on remand, who get little opportunity to leave their cells simply because they are remand prisoners? It is worth revisiting that question. If we cannot resolve separating remand prisoners from convicted prisoners and giving them a court date in line with the law, perhaps we need to look at how we treat them.

Neil Gray: That goes back to the questions that Ms Chapman posed about our prison capacity issues. We would not have an issue with remand prisoners being mixed with sentenced prisoners if we had a sustainable prison population. That all comes back to the points that I raised about why we are creating additional capacity through HMP Glasgow and HMP Highland, and why, over the summer, we established the consultation on penal reform.

Those are serious questions, because the consequences of having an unsustainable prison population are there for us all to see. We have already spoken about that in today's meeting, and this morning we heard on BBC Scotland about what that means in reality. I am happy to look at what more can be done in that space, but, ultimately—

Pauline McNeill: Sorry, but that is not what I asked about. In the short term, until the issue is resolved, do you not think that you should look at the conditions that these prisoners are being held in?

Neil Gray: I am very aware of the conditions that they are held in, and that they are not acceptable, which is why—

Pauline McNeill: So, can we change the law, on the basis of human rights, for example?

Neil Gray: A rights-based system already exists. The issue is that the capacity is unsustainable at present. That is the fundamental—

Pauline McNeill: The right of a remand prisoner to get out of their cell is surely a human right. You could do something about that.

I will leave it there, convener.

Neil Gray: I am not disagreeing with Ms McNeill, convener, but the point that I want to come back to—

The Convener: Nor am I, by the way, but I think that we will want to come back to this issue, cabinet secretary.

Neil Gray: —is that the response to it is to resolve the issue about the sustainability of the prison population.

The Convener: Great. I will bring in Stephen Kerr.

Stephen Kerr: Do you acknowledge that your approach to early release, which is to get the prison population to the right size to meet the capacity of the estate, and the idea of GPS monitoring and the ways in which we will respond to people violating the terms of their release, bail or whatever, will simply increase the pressure on front-line policing?

Neil Gray: I recognise that we will have to increase capacity if we are to introduce increased monitoring and licensing conditions. I am aware of the fact that there is a higher level of reoffending in our short-term prisoner cohort, regardless of when they are released, so I accept those points. That is why we must address the issue of the prison population: so we have the capacity to deal with those consequences.

Stephen Kerr: Did I just hear you acknowledge that there must be an improvement in the capacity of front-line policing, and, indeed, justice social work?

Neil Gray: The programme for government commits to having more community-based justice services available to ensure the effective monitoring and management of individuals.

Stephen Kerr: And that will be reflected in the budget.

Neil Gray: Those discussions will be ongoing. The budget process is still to be concluded. As I say, the policing side of the issue depends on some of the decisions that are taken on elements such as GPS monitoring. Increased capacity will be required if that approach is rolled out further, because it will have implications for monitoring.

Stephen Kerr: In your discussions with the Police Federation and so on, have you accepted the concerns that have been expressed about the true level of front-line policing in this country, due to the number of officers who are either on modified or restricted duties or on leave of absence because of sickness? Do you accept what you have been told about the level of the thin blue line?

Neil Gray: Absolutely. That issue has been raised with me not only by the Police Federation but by the Association of Scottish Police Superintendents. I have taken away those representations—

Stephen Kerr: Do you accept them?

Neil Gray: I am not operationally responsible for what the police do, and I do not have a human resources responsibility for Police Scotland, so there is a difference between accepting them and—

Stephen Kerr: No, but you—

Neil Gray: Please let me finish. I have heard the concerns that have been expressed, I have taken them on board, and I have made representations to the Scottish Police Authority, which reports to me, and to the chief constable. I am confident that they also acknowledge and understand those concerns around modifications, and that they are seeking to take action to ensure that the necessary support is there to ensure that people can return—

Stephen Kerr: And there is action beyond—

Neil Gray: Of course, and that is what I want to see, because, clearly, the numbers of police who are available to us will be diminished if there are officers on restricted duties. I totally understand and accept that, and I have taken that point to the chief constable, who also—

Stephen Kerr: And we have a duty of care to the officers who are performing their shift duties.

Neil Gray: Exactly, and we also have a duty of care to ensure that those who are on modified duties are getting the support that they need to return to the front line, whether that concerns their physical health, their mental health or whatever.

Stephen Kerr: Okay, we will watch that space.

In relation to the Bail and Release from Custody (Scotland) Act 2023, we know what is happening on breaches of bail, as the statistics are there to be read: in 2023, there were 8,325 convictions resulting from bail-related offences, which was up on the previous year, and everything suggests that that rate will rise this year.

On reflection, was it a mistake to repeal section 23D of the Criminal Procedure (Scotland) Act 1995? Before you answer, bear in mind Samantha Lee and Stacy Hunter.

Neil Gray: Those were tragic cases. The First Minister and I have met many of the individuals who have lost loved ones because of offending by people who have been out on bail. Such decisions are taken according to risk, based on information that is available to the judiciary at the time of the first hearing. It is right that those decisions are taken independently by the courts.

Although the bail test that is in place simplifies the process, it includes a direct obligation in relation to public and victim safety. It is for the courts to determine the relative risk that an individual poses. I completely acknowledge that the cases that Mr Kerr has cited were tragic and horrific cases. Alongside Mr Macpherson and others, I have met people who have been affected. Mr Kerr has made representations on behalf of his constituents. I recognise that there is concern, and I am due to meet the Lord President on these issues. It is an incredibly sensitive matter. Because the judiciary is constitutionally independent, I cannot and will not interfere—[*Inaudible.*]

I ask Mr Kerr to let me finish, because this is a really important point. [*Inaudible.*]

I understand that. We are talking about the rule of law. Because the judiciary is constitutionally independent, I cannot and will not interfere in individual decisions. However, I believe that the bail test is adequate in giving the necessary powers to the judiciary to take risk-based decisions in such cases.

Stephen Kerr: But section 23D of the 1995 act established a higher—

The Convener: This must be your final question, Mr Kerr, because we need to move on.

Stephen Kerr: Section 23D of the 1995 act set a higher threshold for certain categories of case. It was a mistake to remove that.

Neil Gray: The power still exists.

Stephen Kerr: Front-line police officers and victims groups are united in their view.

Neil Gray: The power still exists through the bail test as it stands. As I said, I am having discussions with the Lord President and others on the issue. Given the incredible testimony that has emerged, and the First Minister's appearance on Connie McLaughlin's programme on BBC Scotland last week, we are discussing the issue with our partners.

Stephen Kerr: Are you reviewing the position?

Neil Gray: I am considering it, because we have all heard the clear testimony that has emerged. I agree with the position that the First Minister set out. The bail test is very robust. It has been simplified, but it includes a very clear obligation to give consideration to victim and public safety, regardless of the offence. That has the potential to ensure that decisions can be taken to ensure public safety.

Stephen Kerr: But, on the programme that you mentioned, the First Minister gave a commitment to Stacy Hunter's brother that the removal of

section 23D of the 1995 act would be looked at again.

Neil Gray: He said that we would look at the bail test in general, and that is what we are doing. That is what the discussion with the Lord President is about.

Stephen Kerr: We want to hear more about that.

Neil Gray: Mr Kerr will understand that this is an incredibly sensitive issue. I think that the bail test, as it stands, is robust and does what it needs to do. There have been horrific cases in which the risk assessment that has been carried out has had tragic consequences. I need to consider whether those consequences could have been prevented, but we need to understand the circumstances in some of those cases. That is the purpose of the discussions.

Stephen Kerr: But you are not—

The Convener: The committee acknowledges that you have said that you are considering the issue. A number of committee members will be encouraged by that statement. You can rest assured that we will come back to the issue.

Two more colleagues want to come in on the same subject before I bring in Mr Merrick to ask the final question.

Ben Macpherson: I know that, following the meeting with Lisa Petrie, and given that, in the case of her son's stabbing, the offender had been involved in a violent attempted murder—or, certainly, a serious assault with a weapon—not long beforehand, you are giving consideration in your dialogue with the courts to what the bail situation should be when an offender has been involved in instances of severe violence.

I want to return to the theme of the perception of the rule of law and the points that were made about that. Is the Government giving consideration to that issue, in the context of the rise in incidents involving e-bikes and e-scooters, knife crime, shoplifting—which is a challenge across the UK—and youth crime in general?

I talked about the strong signal that operation portaledge has sent—not just to those engaged in organised crime, but to the public at large—that the state is acting and things are being done. I am concerned that we need some of that in the space of youth crime, minor crime, e-bikes and e-scooters, which are the subjects of too much of the casework that I am getting and too much of what we have heard in evidence. It worries me that there is a sense in some parts of our community, and among some people, that the system is creaking. We need to send a strong message that it is there and it is being effective.

11:30

Neil Gray: You have raised two points there. First, the implications of operation portaledge are ongoing and we have seen significant continued disruption of organised criminal gang activity by the police and the Prison Service. I recognise that there is a significant additional risk to our prison officer staff, and we are working with the Prison Service to monitor that and support them as best we can.

I believe that that very serious area of orchestrated activity is linked to the second point that Mr Macpherson raises, which is about the prevalence of the exploitation of young people by criminal gangs, which press them to be involved in drugs or other forms of criminality. In that area, we are working with the police, refreshing the violence reduction strategy and working in other areas to prevent that activity from occurring in the first place. That involves positive diversion from antisocial behaviour, and it is also linked to what we are seeking to do in addressing violence against women and girls and providing positive role models. However, I absolutely accept that that area is a major challenge for us in the justice system.

Ben Macpherson: Although we face challenges in this country, an observer could say, as a statement of fact as well as perception, that those issues are much worse in certain other parts of the UK. In Scotland, we are in a position or at a juncture where, if we take the action that is needed now, we can really push back against some of those forces, which are being driven by factors that are beyond the borders of Scotland and are perhaps in the digital sphere. From my experience in my constituency and the information that the committee has received, it feels like we are at a key point to make an impact, and we want to support you on that, cabinet secretary.

The Convener: Will you make this your final question, please?

Ben Macpherson: Sure. I have a specific question that is based on the evidence that we heard on 9 September. In relation to helping to improve processes in the court system, Malcolm Graham advised us that a submission had been made for £2.5 million from the Scottish Government's £30 million invest to save fund for public service reform programmes, and that an answer had not been received on that. Has that been actioned in the month since then?

Neil Gray: I am happy to go back and respond directly to the previous point that Mr Macpherson raised as well, because there is a lot in that.

The invest to save fund is the responsibility of my colleague Mr McKee. A decision has been taken on that submission, and it was not

successful as part of that programme. However, I feel—and I think that Mr McKee feels—that a compelling case has been made for improved sharing of digital information across the justice system. We have had a further discussion with Mr Graham and the Crown Agent on what we could do to support the proposition's development, because, in terms of prevention, intervention and the more efficient running of our system, it is a helpful one and we want to support that.

On Mr Macpherson's previous point, I completely agree that there are multifaceted drivers. Going back to Ms McNeill's point about the single force, I note that we have an opportunity to respond consistently because Scotland has a single force, whereas other parts of the country do not.

The issue takes us into another area—online harm, exploitation and influence—which is beyond our direct responsibility, but we still need to address its consequences. In relation to tackling violence against women and girls, work is being done on prevention, protection and prosecution to ensure that we acknowledge the online dimension in influencing behaviours. That applies to normalised behaviour for our girls to understand in relation to healthy relationships and normalised behaviour for our young boys to understand, too. I assure the committee that that is all part of our work, and I very much appreciate the fact that the committee will support us in our endeavours in that regard.

Colm Merrick: My question is for the Minister for Victims and Community Safety. When the Crown Office and Procurator Fiscal Service appeared before the committee recently, the convener challenged it on legitimate concerns that there is still a lack of regular communication with victims and witnesses, with His Majesty's Inspectorate of Prosecution in Scotland having decided to reopen its inquiries into the matter. What is your assessment of the victim notification scheme? How do you appraise the victim information and advice service's approach to keeping victims notified?

Kirsten Oswald: The work on victim notification is a key part of our work, because we want to be in the best place with the people at the centre of the criminal justice system being aware of the progress of their case. That is why work is continuing on pursuing the best path in that policy area.

It is important to recognise that the issue is complex and that the system must work for the individuals concerned. The issue is not just with the system but with the communication that victims need and want. Giving victims the opportunity to receive communication in the way that they need

and want is central to our work. I welcome the fact that discussions are continuing, which will help us to get to the most useful place for victims. I acknowledge that the matter is of real importance and concern, as Colm Merrick said.

Colm Merrick: How do we ensure that victims are notified?

Kirsten Oswald: The system is in place. We are developing our processes to ensure that appropriate measures are in place to give victims assurance that they will be notified and that they will receive the support and information that they need at the appropriate time. We hear the point about timeliness. It is important that all those elements are taken forward, and that work is under way. Colm Merrick has hit on a really important topic, because victim notification is critical to how we deal with people who find themselves in the justice system.

The Convener: I have a final question for the cabinet secretary. Last week, when we were discussing community payback orders and whatnot, we heard evidence suggesting that alcohol and drug treatment orders are not being used as often as they should be. Someone on the bench described the legislation surrounding such orders as a bit “cumbersome”. I appreciate that you might not have an answer right now, but I invite you to go away and have a look at why drug and alcohol treatment orders are not being used more and whether the legislation is cumbersome.

Neil Gray: I am more than happy to do that, because I want to ensure the effective use of such orders. Given everything that I have said about the correlation that, sadly, exists between drug and alcohol dependency and the criminal justice system, we need to have the most supportive landscape possible to ensure that people can access the services that they need for recovery and to prevent their involvement in that system. We all want that, so I am more than happy to take away that point and provide correspondence to the committee.

The Convener: That is appreciated. I realise that we have had quite a lengthy evidence session and that we still have secondary legislation to deal with shortly. I thank those who have given evidence. We have covered a lot of ground, although we would probably have liked to cover a lot more. This has not been our first dance with you, and we look forward to having you back.

I suspend the meeting for a short comfort break, after which we will move to agenda item 3.

11:40

Meeting suspended.

11:45

On resuming—

Subordinate Legislation

First-tier Tribunal for Scotland (Transfer of Functions and Members of the Police Appeals Tribunal) Amendment Regulations 2026 [Draft]

The Convener: Our next item of business is consideration of an instrument subject to the affirmative procedure. The First-tier Tribunal for Scotland (Transfer of Functions and Members of the Police Appeals Tribunal) Amendment Regulations 2026 make a consequential amendment to ensure that a new right of appeal for senior police officers, as introduced by the Police (Ethics, Conduct and Scrutiny) (Scotland) Act 2025, operates as intended following the transfer of the police appeals tribunal’s functions to the First-tier Tribunal for Scotland and the subsequent abolition of the police appeals tribunal. The Delegated Powers and Law Reform Committee considered the instrument on 29 September 2026 and made no recommendations.

I welcome back to the meeting the Cabinet Secretary for Justice, Neil Gray. His supporting officials for this item are: Steven Bunch, who is the team leader of the police conduct policy team, and Amanda Dunlop, who is a lawyer, both from the Scottish Government.

I invite the cabinet secretary to make a brief opening statement, before we proceed to the formal debate on the motion.

Neil Gray: The regulations are narrow in scope and technical in nature. They are required to support the commencement of section 10 of the Police (Ethics, Conduct and Scrutiny) (Scotland) Act 2025, which the Parliament has already agreed to. The instrument does not make new policy, nor does it change appeal rights or tribunal procedures. It simply updates the legislation to reflect the transfer of police appeal functions to the First-tier Tribunal for Scotland, which will ensure that the statute book remains accurate and that the Parliament’s intentions can be given full effect.

I hope that that is helpful, convener, and I will be pleased to answer any questions from the committee.

The Convener: Do members have any questions on the instrument?

Mr Kerr, are you indicating that you wish to come in?

Stephen Kerr: I do not have a question.

The Convener: That is fine. As no one else wants to ask a question, we will proceed. We

understand that the instrument would make a fairly consequential amendment.

We move to agenda item 4, which is the formal debate on the instrument. I remind members that the officials may not speak in the debate. I invite the cabinet secretary to move motion S7M-01279.

Motion moved,

That the Criminal Justice Committee recommends that The First-tier Tribunal for Scotland (Transfer of Functions and Members of the Police Appeals Tribunal) Amendment Regulations 2026 [draft] be approved.—[*Neil Gray*]

The Convener: Do any other members wish to comment?

Stephen Kerr: I support the regulation, which is a consequential amendment with the aim of ensuring that the appeal right operates correctly. However, my support should not be interpreted by anyone who is observing our proceedings as my approval of the wider police conduct arrangements, which we will consider in due course, and which I and others continue to have substantial concerns about.

The Convener: I appreciate that. If no other members wish to speak in relation to the instrument, does the cabinet secretary wish to sum up in response to Mr Kerr?

Neil Gray: I have already corresponded with Mr Kerr about some of his concerns. I have set out the Government's position and I am sure that we will return to those concerns in due course.

The Convener: I am sure that we will.

The question is, that motion S7M-01279, in the name of Neil Gray, be agreed to. Are we agreed?

Members indicated agreement.

The Convener: That concludes consideration of the instrument and also ends the public part of our meeting.

Our next meeting will take place on Wednesday, 28 October 2026. I wish the cabinet secretary and his officials a peaceful and enjoyable recess.

11:49

Meeting continued in private until 12:24.

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