

# **JUSTICE 1 COMMITTEE**

Tuesday 14 May 2002  
(*Afternoon*)

Session 1

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## JUSTICE 1 COMMITTEE

† 19<sup>th</sup> Meeting 2002, Session 1

### CONVENER

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

### DEPUTY CONVENER

\*Maureen Macmillan (Highlands and Islands) (Lab)

### COMMITTEE MEMBERS

\*Ms Wendy Alexander (Paisley North) (Lab)

\*Lord James Douglas-Hamilton (Lothians) (Con)

\*Donald Gorrie (Central Scotland) (LD)

\*Paul Martin (Glasgow Springburn) (Lab)

\*Michael Matheson (Central Scotland) (SNP)

\*attended

### THE FOLLOWING ALSO ATTENDED :

Brian Fitzpatrick (Strathkelvin and Bearsden) (Lab)

Stewart Stevenson (Banff and Buchan) (SNP)

### WITNESSES

Michael Crossan (Her Majesty's Inspectorate of Prisons for Scotland)

Clive Fairweather (Her Majesty's Chief Inspector of Prisons for Scotland)

David McAllister (Her Majesty's Inspectorate of Prisons for Scotland)

Malcolm McLennan (Her Majesty's Inspectorate of Prisons for Scotland)

Susan Matheson (Safeguarding Communities Reducing Offending)

Bernadette Monaghan (Apex Trust Scotland)

Stephen Nathan (Prison Privatisation Report International)

Dr Jacqueline Tombs (Scottish Consortium on Crime and Criminal Justice)

### ACTING CLERK TO THE COMMITTEE

Alison Taylor

### SENIOR ASSISTANT CLERK

Claire Menzies

### ASSISTANT CLERK

Jenny Goldsmith

### LOCATION

Committee Room 1

† 18<sup>th</sup> Meeting 2002, Session 1—joint meeting with Justice 2 Committee held in private.



# Scottish Parliament

## Justice 1 Committee

Tuesday 14 May 2002

(Afternoon)

[THE CONVENER opened the meeting at 14:17]

**The Convener (Christine Grahame):** I convene the 19<sup>th</sup> meeting in 2002 of the Justice 1 Committee. I remind members to turn off mobile phones and pagers. No apologies have been received; other committee members might join us later.

We will deal first with item 2 on the agenda, which is consideration of the lines of questioning on the prison estates review. I remind members that we agreed last week to take the item in private.

14:18

*Meeting continued in private.*

14:29

*Meeting continued in public.*

## Interests

**The Convener:** I welcome Wendy Alexander to the committee. We have our moments, but we are a fairly happy committee. At this point, everyone should say yes.

**Members indicated agreement.**

**The Convener:** Do you have any relevant interests to declare to the committee?

**Ms Wendy Alexander (Paisley North) (Lab):** I have two registered interests. First, I am a member of Amnesty International, whose members write to prisons occasionally. Secondly, I am a member of the Transport and General Workers Union, which I believe has members who work in the Scottish Prison Service—as store clerks, for example. There are probably also some members who are inmates—that was what the general secretary said when I met him outside. I think that those are my only relevant interests.

**The Convener:** Those are enough relevant interests. You have more than the rest of us.

## Prison Estates Review

14:30

**The Convener:** I welcome to the committee Clive Fairweather, Her Majesty's chief inspector of prisons for Scotland; Dr David McAllister, who is HM assistant chief inspector of prisons for Scotland; Malcolm McLennan, who is an inspector; and Michael Crossan, who is also an inspector. I am sorry, gentlemen, but I am going to rattle on. I hope that our session with you will last until about 3.10 pm. We have a lot to get through.

**Maureen Macmillan (Highlands and Islands) (Lab):** Will you comment on statements that other bodies have made about the prison service, including the Prison Officers Association of Scotland and the Scottish Prison Service. In written evidence to the committee, the POAS said:

"a comparison between Public and Private sector is very difficult to make due to the fact that KPI's for the public sector are far higher than contractual obligations of the private sector."

Do you feel able to comment on that?

**Clive Fairweather (Her Majesty's Chief Inspector of Prisons for Scotland):** I took the view when I inspected HMP Kilmarnock—as I would with any prison that I inspect—that I would inspect it to exactly the same standards that I apply across the board. I never found any difficulty with that. I inspect prisons from the point of view of safety, decency and crime prevention. I have not seen the difficulty that the POAS mentioned and have not allowed it to get in the way.

**Maureen Macmillan:** The POAS was saying that more is expected in a public prison than is expected in a private prison. Do you agree that contracts for the private sector are not as rigorous and do not deliver as well as those for the public sector do?

**Clive Fairweather:** I cannot really answer that, because I do not see the matter from the POAS point of view or from the SPS management point of view. I look at outcomes and I must admit that I did not hear all the background noise about not comparing like with like. We try to go in and imagine that we are comparing like with like.

**Maureen Macmillan:** Do you find that you can do that?

**Clive Fairweather:** Yes.

**Maureen Macmillan:** The prison estates review states that the private sector could provide two places, of equivalent quality to those in the public sector, at the same cost at which the public sector could provide one place. There is a two-to-one imbalance there. Do you agree with that?

**Clive Fairweather:** I cannot really agree or disagree, because I have not examined all the moneys involved. From what I have read on England and Wales and other places, I would be surprised if that were the case. I have the feeling that that might be a bold statement.

**Maureen Macmillan:** Do you think that the situation might be overstated?

**Clive Fairweather:** Yes, it might be.

**Maureen Macmillan:** The SPS operational view is that around 700 places is the optimum size for a new prison for security, stability, performance and cost efficiency. Do you agree with that?

**Clive Fairweather:** I will ask some members of my team, who have experience of running prisons, to comment. The figure is new; I did not see it until the publication of the estates review. I do not feel strongly about it either way. Certainly one would have problems of command if numbers were 800 or 900, which I remember from the Army. Somewhere in the region of 500, 600 or 700 is probably the optimum. I have a feeling that those figures are to do with profits. Profits go up in the private sector once numbers get over 500.

**The Convener:** You said that someone else in the team would deputise.

**Clive Fairweather:** Yes. I will ask Malcolm McLennan. I do not have a deputy, by the way.

**Maureen Macmillan:** He could perhaps comment on the 700 places and on what you said about profits.

**Malcolm McLennan (Her Majesty's Inspectorate of Prisons for Scotland):** It is difficult to know where the figure of 700 came from. A number of prisons have around 500 places, which we thought was a reasonable level. The optimum size depends on the facilities and the staffing levels. I agree with Clive Fairweather that the question has more to do with economies of scale than with the control of a prison.

**Maureen Macmillan:** Is a prison that has more than 700 places too big?

**Malcolm McLennan:** Yes—from my experience of working in Barlinnie.

**Clive Fairweather:** I think that a prison of 700 to 800 places represents the upper limit. The optimum size is probably between 500 and 800 places, so we do not disagree with the figure of 700.

**Maureen Macmillan:** The parameters are 500 and 800.

**The Convener:** You were asked about security, stability, performance and cost. You were not asked about rehabilitation. I presume that if a

prison has a different kind of prisoner—Peterhead is an example of such a prison—a different size is required. Is it your opinion that the optimum size of a prison depends on what the prison is for? I do not want to put words into your mouth.

**Clive Fairweather:** There would be a difference in the optimum size. The main aim of a prison is rehabilitation and the staffing levels vary considerably, depending on which end of the rehabilitation scale one is tackling. The situation in an open prison is different from that in an establishment in which people are prepared for a long sentence—the staffing level at the national induction centre is different from the level in an open prison.

**The Convener:** I was talking not only about the staffing level, but about the overall size of a prison. The figure of 700 seems to be a one-size-fits-all figure. I presume that prisons are different.

**Clive Fairweather:** They are all different. All prisons will not suddenly become 700-place prisons—we will still have smaller prisons, such as Cornton Vale, Aberdeen and Inverness. We are discussing a figure to aim at for any future prisons. I repeat that the optimum size estimate that has been given has much to do with considerations of what would be financially better for a private company running a prison—although I cannot prove that.

**Maureen Macmillan:** The prison estates review considered the public-private partnership option, albeit briefly. Under that option, the private sector would deliver the building to a required specification and would provide facilities management, but the core operational work would be retained by the public sector. In the review, the Executive claimed that the PPP model

“may well not translate well into the prisons sector where the private sector role in successful PPP contracts has covered not only the delivery of ancillary services but also the delivery of core operations.”

In other words, such contracts have included the insurance element of the project as well. Do you agree that it would be impossible to have a system in which the private sector provided the building and management and the public sector ran the prison?

**Clive Fairweather:** I neither agree nor disagree—I honestly do not know. Such a system operates in France and I hear that it is perhaps not a good model to follow. I am not sure one way or the other. I have not gone into the issue in great detail. In broad terms, I am interested not just in buildings, but in staffing levels and in staff in general. We should not get too mesmerised. The key issue is who delivers programmes and the like. As a simple layman, I cannot quite understand why one cannot have a prison that someone builds and public sector workers run. I

gather that the issue is much more detailed than that—there are all sorts of complications—and I have not studied it at any great length. Most of the time, we tend to look at what we see in front of us in the particular prison that we are inspecting.

**Maureen Macmillan:** Should we be looking at the prison service more in the round, rather than just at the buildings that might be provided?

**Clive Fairweather:** Yes, the issue is much wider than that.

**Maureen Macmillan:** Will you develop your views on that?

**Clive Fairweather:** Over the past few years, as safety has begun to improve and we have seen signs that decency in prisons is getting better, we have been looking much more at the crime prevention aspect. Security in keeping people in is part of crime prevention and the SPS's record on that is generally good.

The second aspect that we have been examining includes rehabilitation and correction programmes. That could be divided into several areas, which cover everything from education to work. A key element in the success of correction programmes is staff experience, including the ability of the staff not only to deliver programmes but, outwith that time, to offer themselves as role models for individual prisoners in the evenings and at weekends. The ability to do that is as important as the programmes that are delivered by psychologists or groups of prison officers.

I have become more interested in examining the broader aspects of what a prison does. I do not want to get into the realms of dogma, but it so happens that Peterhead, which some committee members have visited, is an example of a prison in which an holistic approach is taken. Notwithstanding the fact that a prison is public or private, in future we need to aim for that holistic approach.

**Maureen Macmillan:** Could that approach be used in any prison?

**Clive Fairweather:** Yes.

**The Convener:** I have a short question on the subject of staff, who you meet as you go around prisons. What was the effect on staff over the years while we waited for the prison estates review? What is the effect on staff now that the review has been published?

**Clive Fairweather:** I have appeared before the committee on a number of occasions and described morale as close to rock bottom. However, morale has begun to shift. We were at Barlinnie last August on an unannounced visit. Prior to the visit, morale had been pretty low, but we found that it had improved quite a bit. That was

because B hall was to be refurbished and there was talk of C hall being refurbished.

I could describe each establishment in turn, but suffice it to say that morale varies from establishment to establishment. In March, when we carried out an intermediate inspection in Glenochil, we thought that morale was quite good. There was good staff-prisoner interaction but, more important, the staff felt that they had an assured future. I am aware that some committee members visited Glenochil yesterday.

A year and a half ago, we saw terrible morale in Dumfries. I suspect that it is a little bit better today. Surprisingly, I detected quite a fighting spirit at Peterhead among the staff, despite the fact that the prison has the threat of closure hanging over it. In a prison such as Shotts, morale is pretty good.

We have got to the point where staff morale will not simply settle back down because the prison estates review is published. I have said to the committee on other occasions that it would take a long time for morale to be put right, whatever the results of the review. In future, morale will depend on the balance of the review and what the future holds.

**The Convener:** Thank you. I welcome Brian Fitzpatrick and Stewart Stevenson to the committee. Perhaps they will indicate when they want to ask a question.

**Stewart Stevenson (Banff and Buchan) (SNP):** I have a question about—

**The Convener:** I see that Stewart Stevenson has taken me at my word. Is your question on the subject of morale, Stewart? We have a section of questioning about Peterhead.

**Stewart Stevenson:** I will confine my questions to Peterhead. Mr Fairweather referred to the total culture at Peterhead. How long will it take to recreate that sort of culture elsewhere?

**Clive Fairweather:** I first inspected Peterhead in 1995. At that time, the total culture was not in place. That was for a variety of reasons, not least of which was that the STOP programme was thought to be confidential. In 1997, the regime was still not holistic but, by 1998 or 1999, we began to notice that the staff had bought into the overall concept.

By 2002, irrespective of the proposals for Peterhead in the estates review, the regime had got round the complete prison. All staff consider how they can help the individual offender to change, whether the prisoner is at work, on an offending behaviour programme or in the gallery in the evening. The staff also consider how they can help to prevent there being further victims of crime.

The answer is that that has taken from about 1996 until now—four or six years. That does not mean to say that it would take four to six years elsewhere. It would depend on the quality of leadership and on local factors, for example. It would depend on a raft of things, but it would take no less than three years and possibly four or five.

It would be wrong to imagine that the regime would be totally replicated, because it would be replicated in a different way. Some aspects might not transfer. However, it would be equally wrong to say that it could not be transferred, because it could, with a plan. I am sure that that is being examined elsewhere. However, it would take time.

14:45

**Donald Gorrie (Central Scotland) (LD):** I have questions on Kilmarnock prison, which relate to our comparison of Kilmarnock and other prisons. How do you compare the wages and conditions of the staff in the two cultures?

**Clive Fairweather:** We were disappointed with the conditions for staff in Kilmarnock. The conditions for prisoners are extremely good, but the design of the buildings is such that conditions for staff are extremely cramped. You could almost say that the staff are overcrowded in the areas in which they work in Kilmarnock. From that point of view most, but not all, other prisons have better conditions for staff. Do you want me to develop that point?

**Donald Gorrie:** No, that is helpful. What about staff pay and pensions?

**Clive Fairweather:** We do not get into that in any great detail. When we talk to staff, we ask them how they are in relation to their job. In the public sector, we do not normally ask how many staff are on income support, although that issue came up at Kilmarnock. On every occasion, staff have said that they are not paid as much as staff seem to be paid elsewhere. No one has raised the issue of pensions with us, either in the public sector or in the private sector, but I got the impression at Kilmarnock that some of the staff were struggling. Some of them said that they required support in order to carry out the job. I felt that the problem was more acute at Kilmarnock than elsewhere.

**Donald Gorrie:** You have commented that some of the staffing levels may be dangerously low. Given that Kilmarnock prison has a modern design, with cameras and all that, are the staff numbers adequate for what they are asked to do, including providing the reformatory aspect that you mentioned?

**Clive Fairweather:** I must make the point that I have never said that staffing levels are



dangerously low; the staff have. When we first inspected Kilmarnock prison, we took the position that we would wait to see whether there were changes in shift patterns, for example. The issue is not just the level of staffing; it is how the officers are rostered and so on. The majority of staff said that they felt that staffing levels were dangerously low at times.

There are certainly much fewer staff about. As we said in our last report, we are worried that, when there are few members of staff about, it is difficult for them to interact with the prisoners. I am not sure that officers at Kilmarnock can keep on top of the drug problem—which they said they would like to do—because of the shortage of staff. I do not think that their training or their numbers allow them to interact in the same way as happens in some, although not all, public sector prisons.

**The Convener:** May I clarify for Donald Gorrie that there is a fault in our note? The report said:

“Custody officers claimed that staffing levels could at times be dangerously low, especially in ‘A’ wing”.

**Donald Gorrie:** Mr Fairweather corrected me on that point. Thank you for correcting me twice, convener.

**The Convener:** Sorry, Donald. I was too busy looking for the right quotation.

**Clive Fairweather:** We are not manpower experts.

**Donald Gorrie:** I understand that.

We all share a common concern. We want to turn prisoners around. Given the lack of staff that you mentioned, does the programme at Kilmarnock do enough to rehabilitate the prisoners?

**Clive Fairweather:** It could do more. In the same inspection, we felt that more could be done in the offending behaviour programmes and on the crime prevention side. We also felt that the contract might be too work orientated. That said, we said the same about Shotts in January. Shotts is a working prison that must also consider a shift towards timetabling offending behaviour programmes and the like. We made similar comments about the programmes at Glenochil, which we felt could be more focused. We do not make those comments solely about Kilmarnock, but, overall, it still has some way to go.

The difference between Kilmarnock and a public sector prison is that the public sector prison can change its timetabling quite quickly, whereas the contract at Kilmarnock would have to be changed. I honestly do not know what mechanism exists for such changes to be made.

**Michael Matheson (Central Scotland) (SNP):** I will stick with Kilmarnock. Can you explain why

prisoner-on-prisoner violence appears to have almost doubled over the past 12 months?

**Clive Fairweather:** We picked that up in our observations on the health centre. Dr Mike Ryan looked at both serious assaults and the overall number of assaults. It is important to note the difference between serious assaults—that is, assaults that are recorded under the key performance indicator—and minor assaults. Some of the increase may be due to better reporting of minor assaults.

Overall, it would be wrong to get the picture that Kilmarnock is the most violent prison, as it is not. It is at the top end of the scale as far as the number of serious assaults is concerned, but Edinburgh and possibly one other prison are ahead of Kilmarnock. I ask Malcolm McLennan to comment on that issue in more detail.

**Malcolm McLennan:** One of the problems at Kilmarnock arises because of the way in which the contract and the measures were designed. If two prisoners decide to have a fight, that is counted as two assaults. In order to unravel the figures and compare them equitably with the other prisons that we visit, we had to find out how many incidents occurred. There was some—not a lot, but some—evidence of the total number of assaults including those cases in which two people were fighting. Does that help to answer your question?

**Michael Matheson:** Yes. You are saying that two factors may be involved: the contract requires the prison to record one assault as two, because two individuals are involved, and there may be a general improvement in the recording of incidents.

**Malcolm McLennan** *indicated agreement.*

**Michael Matheson:** There is increasing concern about the lack of flexibility in the contract. Can that problem be resolved or eliminated through changes being made to the contract or—

**Clive Fairweather:** I certainly hope so. In a footnote in our introduction to the Kilmarnock report, we said that we hoped that more flexibility would be taken into account in the future for Kilmarnock, or for other privately built prisons.

We express in the report the difficulty that arises because the contract was drawn up five or six years ago and is frozen—it represents what SPS headquarters was looking for as far as the future of prisons was concerned. Five or six years on, sentence management, offending behaviour programmes and a lot of other policies have changed. Generally, it is quite difficult to shift the main thrust of the Kilmarnock contract, which is about getting prisoners into the work sheds, irrespective of whether there is enough work for them to do. Even when they do not have enough work, there is not quite enough flexibility in the

contract to allow the prison to switch them on to offending behaviour programmes.

**Michael Matheson:** I return to your point about picking up information from the doctor in the health centre and gathering your own intelligence. Is that particularly significant? How do you normally find out about the number of assaults that have taken place in an establishment?

**Clive Fairweather:** We have what we have been told before we even go to the prison, but we always try to examine the situation in a little more detail once we get there. In all prisons, the health centre gives us a much better idea of the reality behind the figures. I have learnt a great deal from the health centre records of what has happened in all prisons, because the health centre bears the brunt of the assaults. Health centre records on the individuals that are brought there give us a much better picture than the stark figures do.

**Michael Matheson:** Much has been written about the availability of drugs in Kilmarnock prison. You stated that the prison's drug policy was "somewhat superficial and uncoordinated". Could you expand on what you meant by that?

**Clive Fairweather:** There is a whole raft of things in the report and we have said what you quoted about the drug policy for two years running now. This time, we took an addictions worker with us to examine the situation in some detail. Somehow or other, Kilmarnock has not picked up on the more co-ordinated approach that seems to be taken in public sector prisons. That is not to say that it cannot be done, but Kilmarnock is slow in getting there. All the prison staff said that they felt that there was a lot more that they could do about drugs, but they had neither the training nor the time to deal with the problem.

Our biggest recommendation from the report was for a more cohesive approach. We felt that there ought to be an addictions nurse in the health centre. We also commented on the fact that many Cranstoun drug workers are now coming into all the prisons. I have still not got to the bottom of this, but Kilmarnock seems to be getting slightly fewer such workers than other prisons are. However, I have also heard conflicting information that indicates that Kilmarnock will be getting more Cranstoun drug workers. I am not honestly sure what the position is.

**Malcolm McLennan:** There is a problem with co-ordination. For example, when we looked at the searching procedures for visits, we saw that the contract stipulates that visitors must be taken from the visit centre to the visits within 20 minutes. The staff therefore do not have the flexibility to increase their searching procedures. That is the type of thing that the contract restricts. The staff would love to do more and to copy some of the

things that happen in other places. However, because the speed at which visitors are conducted from the visit centre is one of the criteria on which the prison is measured, staff are restricted and the flexibility that is required is not provided.

**Michael Matheson:** You said that staff feel that they do not have adequate skills to deal with some of the drug problems. Is Premier Prison Services Ltd dealing with that by ensuring that staff have adequate skills?

**Clive Fairweather:** I understand that, after our making that comment twice, the company is going some way towards that. However, whether the staff will actually have the time to train is another matter. When staff spoke to us in groups, they all said that, although the situation in Kilmarnock was perhaps no worse than in any other prison, a lot of drug use was going on and they felt frustrated because they did not have the time or interaction to do anything about it.

**The Convener:** Before I invite questions from Brian Fitzpatrick, who has a constituency interest, I have one more thing to ask. In your report, you said:

"We judge the pressure on nursing services at Kilmarnock to be serious in the light of what we have seen and heard during this inspection."

I take it that you do not use the word "serious" lightly. How serious is the situation?

**Clive Fairweather:** I do not intend to return to Kilmarnock at the moment to inspect the health centre, but a year ago we found a similar situation in Edinburgh prison and we returned until we saw some improvement.

Health centres are very dependent on staffing levels, not just on agency nurses. The health centres in some prisons can get close to collapse fairly quickly. Kilmarnock prison is not yet at that stage, but we had concerns and, depending on what we see occurring in the next few months, we might have to go back to the prison. However, I am not so seriously concerned that I would want to do a follow-up inspection, which is what we did at Edinburgh prison and four years ago at Perth prison.

15:00

**The Convener:** I am trying to tie that in with the evidence that we heard from Phil Hornsby of the Prison Service Union, who told us that supplies of paracetamol had been slid under doors on bits of paper. I asked him whether the situation had changed and he said:

"I am talking about something that has happened in the past two to three weeks. I am not aware of steps having been taken to rectify that matter."—[*Official Report, Justice 1 Committee*, 30 April 2002; c 3485.]

Are you aware of that situation?

**Clive Fairweather:** No. I cannot verify that statement or comment on it.

**The Convener:** That would link into the difficulties that are experienced by Kilmarnock prison health centre and the pressure that it is under.

**Clive Fairweather:** Let us put it this way. The health centre is not able to do much of the work that it has done in the past—preventive work, for example—and many clinics have had to be stopped. The centre is managing to give a basic service to prisoners—the situation is not life threatening—but not much more than that. That was the case in March. We hope that changes in staffing will lead the situation to improve.

**Brian Fitzpatrick (Strathkelvin and Bearsden) (Lab):** I have a general interest in the prison estates review and a particular interest in Low Moss. I visited the prison last week and was struck, again, by the extraordinarily poor nature of the accommodation, the limited education facilities for a challenged group of prisoners and the absence of work opportunities for a young prison population. As far as I could tell, large numbers of young men were cooped up in dormitories with nothing to do apart from watch television. There is an emerging consensus in relation to Low Moss that, regardless of what is going on elsewhere in the prison estates review, Low Moss cannot be supported and should not be maintained in its current format. What are your views on that?

**Clive Fairweather:** Since 1998, we have said that the future of Low Moss is a major issue. We have been critical, not only of the accommodation, but of the limited regime. At one stage, Low Moss was a very violent prison; steps have been taken to improve that.

Something has to be done about Low Moss and relatively soon. I imagine that it boils down to three options, all of which relate to that site, which is close to Glasgow and now has better road access. One option would be to carry out additional build to one side of the prison, another option would be to carry out a sequential build and the final option would be to build an entirely new prison on the site. If we did that, we would have to find space to accommodate the prison's occupants elsewhere while building was being done.

We have borrowed Mike Crossan from Low Moss, where he was acting deputy for some time. He is now helping out with the inspectorate and perhaps he can comment further on Low Moss.

**Michael Crossan (Her Majesty's Inspectorate of Prisons for Scotland):** For the past two decades at least, Low Moss has had a "temporary" label attached to it. As a result, there has been no

significant investment in the prison. Planning for Low Moss has tended to be reactive, rather than proactive.

The estates review gave an indication that Low Moss was no longer viable in its present form. There have been several recommendations on how the site at Low Moss could be developed. In spring 2000, the governor, Eric Murch, made a proposal for the site's development. That proposal was put to the Scottish Prison Service board and was to form or inform the estates review.

**The Convener:** We have that report—although Brian Fitzpatrick might not—but the committee is still establishing its status. We do not yet know whether it is a private or public paper. We have written to Tony Cameron, the chief executive of SPS, to get the status of the report confirmed because we want to make it public. We have received a holding reply, but we will continue to press Mr Cameron as we usually do.

**Brian Fitzpatrick:** I am interested in the status of the document. Am I right in thinking that the proposal underwent a financial review by the SPS as part of the current review?

**Michael Crossan:** I cannot comment on that. I can state with certainty only that it was submitted. I was not aware of there being any official response to the document while I was deputy governor.

**Brian Fitzpatrick:** Is it your understanding that the report was prepared by Mr Murch in conjunction with the rest of the management team at Low Moss and that it was submitted to the SPS at some stage?

**Michael Crossan:** Yes. As part of the estates review, Low Moss, Barlinnie and Peterhead were asked to submit such documents. We were asked to consider the possibility of developing the site, predominantly in the vacant ground to the south of the prison. We were to consider three options. The first was a 500-place B-category prison—we had security categories at that time. The second option was a 500-place remand establishment. The third option was a 500-place short-term C-category prison. We submitted business cases for each of those options.

**Brian Fitzpatrick:** When you were involved with the prison, were you aware of the stage at which the idea of having a prisoner population of 750 at Low Moss emerged and of whose idea it was?

**Michael Crossan:** I cannot speak for Eric Murch, but, when I was there, no one informed me that 750 prisoners was the preferred option.

I heard suggestions that the ground down the back was insufficiently large. We could never find out why that was suggested, because the architects who designed the model for us told us

that it was suitable for a 500-place prison. That made us think that there was a feeling that the prison should be larger. If the prison capacity were to be larger than 500, the vacant ground would not be large enough and the ground that the prison currently sits on would have to be used.

**Brian Fitzpatrick:** In the current review, there seems to be some doubt about who owns the site to the south of the prison. Do you know who owns it?

**Michael Crossan:** You would have to clarify that with the SPS, but it is my understanding that the site is owned by the SPS.

**The Convener:** We will move on to Peterhead prison. I warn the committee that we will be sitting here a lot longer than we might want if we deal with all the questions to the extent that members might want.

After the inspectorate visited Peterhead, comments were made to the effect that the buildings had passed their sell-by date and were no use. However, an inspector came to the conclusion that it would be worth while to produce

“a detailed cost/benefit analysis before writing Peterhead off”.

Given what was said after the visit, how did the inspector come to that conclusion?

**Clive Fairweather:** Those are the words of Sandy Ratcliffe, who was our buildings adviser for Peterhead. We used him previously to inspect the buildings in Kilmarnock prison, because I thought that it would be appropriate to see that we were getting good value for money and whether there were any health and safety difficulties in relation to Kilmarnock, which there were.

In January, I decided to take Mr Ratcliffe to Peterhead as we were puzzled by the fact that some statements seemed to say that some buildings were exhausted, or beyond their adequate life, when, in all the reports that I had written since 1995, I could not recall any major recommendations about the state of the buildings. Mr Ratcliffe was tasked, in the day and a half that he was there, to inspect the condition of the buildings and give us some idea of their status. He concluded that they were generally in good condition and he could not understand why it should have been said that they were exhausted. He felt that further analysis was needed, including a proper survey, before the prison was written off. He was also hinting at the cost—or loss—benefits not only of using those buildings, but of using the large amount of ground that there is at Peterhead. He felt that that had been brushed over in the estates review, but he had looked at the review only quickly before we had mounted the inspection. He had about two hours with it.

**The Convener:** Should a proper survey of Peterhead be done?

**Clive Fairweather:** We could find only a conditions and use survey from 1979. That was the last one that we found. We have not yet heard from the SPS headquarters whether any survey has been done since then.

If phrases such as “the buildings are exhausted” are being used, the situation needs to be examined once and for all by a proper survey team. Mr Ratcliffe, who came with us, has visited every prison in England and Wales at least two or three times; I make that 400-odd inspections. He is very experienced. However, I could neither pay him nor get the time to do a detailed survey that would hold water and stand up in a court of law. It would be well worth building on his inspection of the outside and the roofs. I went with him. A more detailed survey should be done. I would not think that that would be too expensive.

**The Convener:** The committee might want to write to the minister about that to ask whether a survey could be commissioned and implemented shortly.

**Clive Fairweather:** That might be useful.

**Maureen Macmillan:** I feel confused about the status of Peterhead’s buildings. The governor and the former governor both said that the buildings were in poor condition—for example, that there was water penetration. I have heard other people say that the foundations are crumbling. However, on the surface and from the visual inspection that Mr Ratcliffe did, the buildings seem to be in good order. The best plan would probably be to get another survey done.

**Clive Fairweather:** Water penetration is certainly not a problem.

**Maureen Macmillan:** Will you say something about the facilities and the difficulty of getting power, light and sanitation in the cells? Are those facilities necessary?

**Clive Fairweather:** On access to night sanitation, portapotties are unsatisfactory. We must get away from using them. While we were at Peterhead, and subsequently, the staff suggested that a possible way round using portapotties would be an increase in the number of staff at night to allow prisoners to get out and go to the lavatories. With the nature of the prisoners in Peterhead, that might well work, but it would not necessarily work in other prisons. It is a novel suggestion.

However, the suggestion was predicated on the prison being at full complement. At the moment, the prison is something like 29 staff under complement. The staff could not implement the suggestion now, but if the prison was brought up to complement, they could. Some risk analysis

would have to be done on each of the groups of prisoners and certain prisoners would have to be grouped in certain areas. However, it seemed to us that the suggestion was well worth further investigation.

There is hope on night sanitation, but the prison would need to be brought up to complement. For that to happen, the prison would have to have a future. Staff will not move there for only a few years. The prison would have to have a much longer shelf life.

On electric power in cells, at the moment a conduit for electric light exists. We are not buildings experts, but, looking at the size of the conduits, we felt that it might be possible to introduce cables for television into the same conduits. We considered that when we were at Glenochil last year. We could get into a detailed discussion on the matter. Perhaps Malcolm McLennan will want to enlighten us a bit more. We are not too sure about the antennae for the television aerials.

15:15

**Malcolm McLennan:** There was concern that the thickness of the walls might make drilling difficult and expensive, but the staff said that such work has been done in quite a few of the cells, which have been fitted with an internal light switch through a conduit. It is not a problem to drill through the walls—a conduit exists in many cells. A coaxial cable and another socket could be put through those conduits.

**Clive Fairweather:** I should say that the inspectorate does not have expert electricians, although Malky worked as an electrician some time ago.

**The Convener:** We must check with Mrs McLennan and Mrs Fairweather about that.

**Lord James Douglas-Hamilton (Lothians) (Con):** I have two questions for the chief inspector. The first is about the comparative condition of the buildings. Is it his impression that the condition of Peterhead is much the same as the condition of Inverness, Aberdeen, Barlinnie and Saughton, or is it worse? Secondly, the Scottish Prison Service owns ground next door to the prison at Peterhead. Has the chief inspector formed a view on the viability of establishing a prison for about 500 prisoners on that site?

**Clive Fairweather:** I was surprised by the comments about the buildings being exhausted, although I began to get it into my mind that Peterhead's position up in the north and all the water perhaps affected the buildings. That is not the case. Some of the buildings at Edinburgh prison, which was built much later—in 1914 or thereabouts—were not as viable as the Peterhead

buildings. I do not want to go over the top, but Sandy Ratcliffe felt that the buildings at Peterhead, which were among the first examples of a particular form of concrete, will stand the test of time, because the engineers who built them took no risks and built things to last. Perth prison, which was built around 1848, is Scotland's oldest prison building. I have had a look around Perth and Peterhead and I am less reassured by some of the buildings at Perth than I am by those at Peterhead.

There is a massive piece of ground to the right of Peterhead. I examined it in great detail with Mr Ratcliffe to consider the possibility of building on it. There is certainly room for another 250-place block. A survey would be required to discover whether there is room for a 500-place block. My feeling as a layman is that quite a large number of prisoners could be fitted into the site. We did not see any problem with the foundations. It is also worth noting that Mr Ratcliffe commented favourably on the condition of the work sheds. They are old but very solid. There is a lot of potential in the grounds of Peterhead.

**Stewart Stevenson:** You referred to the local officers' proposal for access to night sanitation outwith cells. If the proposal were adopted, would it be compliant with the European convention on human rights?

**Clive Fairweather:** I would have thought so.

**The Convener:** I do not know whether Clive can determine that, but his opinion is of interest.

**Paul Martin (Glasgow Springburn) (Lab):** How can we clarify the exact condition of the building? Clive Fairweather made it clear that he is not an electrician. There is concern about the information in the estates review. Many buildings—including some in Glasgow—look pretty solid cosmetically, but they have concrete cancer and are falling apart.

**Clive Fairweather:** Demolishing the buildings in Peterhead would involve a lot of money. One way or another, a lot of money is tied up in the issue. It would be appropriate to ask prison headquarters to do another survey, if one is not already being done. To be honest, I do not know whether one is being done. The 1979 survey was the only one that we came across. A more detailed survey would be well worth a small spend—and soon.

**The Convener:** I see. The committee could write to the minister and say that we recommend a structural report to clarify the position given the conflicting reports. Not only the fabric of the Peterhead buildings, but their substance and structure could be assessed to discover whether they are, as evidence has suggested, on their last legs, or whether they are sound. One way or the other, we will find out.

**Paul Martin:** That is okay, but I want to clarify that Clive Fairweather is not an expert in that area.

**Clive Fairweather:** I am not. A new survey could well uncover things.

**Paul Martin:** I am trying to clarify that the buildings seem cosmetically sound, but that a detailed survey of them has not been carried out.

**Clive Fairweather:** It has not.

**The Convener:** In fairness to Mr Fairweather, the survey was done by Sandy Ratcliffe. What is his background?

**Clive Fairweather:** He has been a buildings adviser for Her Majesty's inspectorate of prisons for England and Wales for 15 years.

**The Convener:** He came to you with a report on Peterhead, which the committee needs to follow up. It is Sandy Ratcliffe's view that the Peterhead buildings are sound. We can follow that up by asking the SPS whether it has instructed a survey to be done. If it has not, we will state that we want one to be done. That would be sensible for the committee to do.

**Stewart Stevenson:** Can Clive Fairweather confirm that his building expert examined cores that were drilled from the Peterhead buildings at various points and that those cores showed no sign of deterioration of the concrete and so on?

**Clive Fairweather:** I confirm that that is the case. I was with Sandy Ratcliffe when he did that.

**The Convener:** Peterhead is an important issue. Having dealt with its fabric, we will now deal with the substance of the prison's programmes, to which Mr Fairweather has alluded.

**Michael Matheson:** I return to Peterhead's STOP 2000 programme. Barlinnie also operates a rehabilitation programme for sex offenders. From your experience, can you tell us what is the difference between the programmes at Peterhead and Barlinnie?

**Clive Fairweather:** First, they are both based on the same model, which came from England. As I understand it, delivery of the Barlinnie programme is relatively new—though not as new as the Polmont programme. The Barlinnie programme is shorter than Peterhead's—it lasts something like seven months—but it is more intense. The Barlinnie programme is delivered to short-term prisoners, whereas the Peterhead programme is delivered to long-term prisoners.

I will ask one of the inspectors to comment on the STOP programme in a bit more detail in a moment. It is easy to be mesmerised by the STOP programme but, at any one time, not many people are on the STOP programmes at Barlinnie and Peterhead. The big difference between Barlinnie

and Peterhead is that the Peterhead regime can devote its entire time to rehabilitation, whether in the work sheds or elsewhere. Peterhead can do that because prisoners are not segregated. In addition, the staff have had the time to buy into the programme.

The situation is not necessarily the same in Barlinnie, where the programme is delivered in—I think—the top flat of Letham hall. It is much more difficult to deliver the programme in prisons such as Barlinnie or Saughton, because of problems with arranging the feeding of prisoners on the programme and with their interaction with the rest of the prisoners. Barlinnie is perhaps the only prison we have seen that has a separate facility, which includes a visits facility, which gives a chance of the programme operating reasonably well. We said to the committee a couple of years ago that the atmosphere in Saughton's B hall was not appropriate for trying to deliver the programme. We have not been able to inspect the STOP programme at Polmont. Mike Crossan might want to add something.

**Michael Crossan:** To the best of my knowledge, Barlinnie prison is the only prison that runs a programme similar to the Peterhead one. Trying to evaluate Peterhead against Barlinnie is extremely difficult, as the context is completely different. Barlinnie is a local prison and has the range of different types of prisoners that are found in penal establishments. It is also massively overcrowded. That causes tensions, as different groups are vying for opportunities.

Barlinnie has made a serious attempt to deal with short-term sex offenders. The average number of such offenders at Barlinnie is 50. There are considerable difficulties in getting sufficient prisoners to participate in one course, which is the number of courses that are run over a year at Barlinnie. Barlinnie did not achieve its key performance indicator on that last year; this year, the number has been reduced to six. Much of that is to do with the design of the programme, which, in the view of those who practise there, is not suitable for short-term prisoners. Alternative programmes are being run in England. It has been suggested that Barlinnie should look to England for alternative programmes.

The only other place that runs an adapted version of STOP 2000 is Polmont. Unfortunately, to date I have not been able to get sufficient information on the progress of the programme there. What differs between Barlinnie and Peterhead is that in Peterhead the criminogenic needs of the prison population are similar, whereas in Barlinnie sex offenders constitute only 4 per cent of the overall population, so it is difficult to make direct comparisons.

It is evident that at Peterhead there is an holistic

approach and everyone buys into the programme, not only those who deliver it but the staff who supervise prisoners during the day, both in the work sheds and in their halls. I think that the committee appreciates that it is difficult to make direct comparisons or evaluations.

**Clive Fairweather:** I will make one further comment on the matter. I will quote from a letter that was published in one of the local papers. It sums the situation up. It states that at Peterhead the

“programme runs not just in the group room, as in other establishments, but throughout the prison.”

That is the key difference.

**The Convener:** Who wrote that letter?

**Clive Fairweather:** A lady called Mrs A V Cunningham; her address is withheld. I suspect that she is probably married to a prison officer.

**Michael Matheson:** At Barlinnie, Letham hall is on its own. Some of the problems that prisoners at Peterhead complained about experiencing in other prisons in the central belt, such as verbal and physical abuse of themselves and their families, do not appear to occur in a prison such as Barlinnie, because Letham hall is on its own. Could the same culture and holistic approach that were developed at Peterhead be as readily developed in a prison that is, in effect, a prison within a prison? For example, could a new Letham hall be built at Barlinnie to deal with long-term sex offenders and the same programme delivered?

**Clive Fairweather:** There is that possibility. That might solve some of the problems that long-term sex offenders face when they need to get in touch with social work services towards release. That could be done at a prison such as Barlinnie, as you suggest; they could be alongside short-term sex offenders.

The construction of some prisons means that it would not be possible to mix the two types of offenders and have reasonable regimes for both. If we look way back in the sands of time, we see that one of the reasons why prisoners were first moved to Peterhead was to lower the temperature because, way back, there used to be an incredible amount of violence between prisoners in the normal parts of the regime and sex offenders, particularly serious sex offenders. I have no reason to believe that that is likely to change in the future. Both the governors who are sitting on my right will remember that problem.

**Michael Matheson:** I want to follow up the issue about offenders linking with social work and other services. One of the concerns about Peterhead is its distance from the central belt, which raises concerns about prisoners being able to obtain visits.

From your experience of visiting Peterhead, how big a problem do you think linking with external agencies in the central belt is for prisoners who are leaving? How big a problem is the location in relation to prisoners gaining adequate visits?

15:30

**Clive Fairweather:** I am not very up to date on access to social work and the like. We last commented on that in the mid-1990s, when we suggested that whatever the links were, they could be improved for those who return to the central belt by adopting the idea that you mention. For example, individuals who needed to establish links again could go to Barlinnie towards the end of their sentences, for release. That is still one way of dealing with the issue. There is no doubt that distance is a factor.

In the original formal inspection, we said that distance was an issue. It remains an issue, but most of the Peterhead prisoners to whom we spoke said that they were more than prepared to trade distance for better visits and security, so they do not consider distance to be a major problem. I have not formed the impression on any of my visits in the past six years that visits are a problem because of distance. We have pushed for better visit facilities, because they are not very good, but that has been delayed time and again because of doubts about the prison's future.

The prison needs proper visit facilities, but all the individuals to whom we spoke felt that, in many other ways, they have secure, quality visits—those who receive visits. I am not trying to score points, but a large number of individuals do not have visits, for a variety of reasons.

**The Convener:** I do not know whether you are aware of the Peterhead prisoners survey, which states that 85 per cent of prisoners want to stay there. The survey gives examples of incidents: visitors shouted “beast” at the wife of a prisoner in the visit hall; visitors get abuse outside prisons; and a member of a Glenochil prisoner's family was told that she would be waited on in the car park and “done in” for being a beast lover. Does that reflect in more gritty terms what happens to Peterhead visitors?

**Clive Fairweather:** Yes.

**The Convener:** We will move on swiftly to Barlinnie. I ask for shorter questions.

**Maureen Macmillan:** At the start of the meeting, Clive Fairweather said that the optimum number of prisoners for a new prison would be between 500 and 800. The estates review's proposal for Barlinnie is to reduce capacity to about 500. Some prison officers have said that that is too small and that the figure should be about 800. Do you have any views on those figures?

**Clive Fairweather:** First, we cannot consider Barlinnie without considering Low Moss. Both are connected to the court requirements in Glasgow and Strathclyde, which must be the first driver. The site is very large and a large number of options is available. For what it is worth, my feeling is that 500 is at the lower end of the scale. We should bear in mind the fact that the experience from Barlinnie is not wholly negative; much that is positive can be used and there are perhaps more ways of skinning the cat. I thought that 500 was on the low side and that there were other ways of using some of the buildings.

Equally, the current number at Barlinnie—I think that it is 1,200—is too high for anyone to handle properly. It is certain that when quite a few halls do not have integral sanitation—which is also unacceptable—1,200 is too high.

**Paul Martin:** My questions have mainly been covered. The only issue that I want to raise relates to the Justice 1 Committee's visit to Peterhead. The prison staff there expressed concerns about the quality of the STOP 2000 programme that was being delivered at Barlinnie and said that Barlinnie staff were not receiving sufficiently high standards of education to run the programme. How well established is the STOP 2000 programme at Barlinnie? You have touched on it, but what are your views on those comments?

**Clive Fairweather:** Clearly, the programme is not as well established at Barlinnie as it is at Peterhead. We have had a very quick look at it and it would be invidious to make comparisons. However, I do not share the concerns that have been expressed by officers at Peterhead. I wonder whether there is not an element of "Well, they would say that, wouldn't they?"

**The Convener:** Please stop me if I summarise you incorrectly, but you are saying that it is not only the delivery of the programme that is important but the fact that even officers who have absolutely nothing to do with the programme are part of the same culture. That is what makes the difference.

It may seem an odd thing to say but a visit to Peterhead is refreshing. The atmosphere there is different from that at any other prison that we have visited—except perhaps Cornton Vale. I recommend it to those who have not seen it.

Time is galloping on, but Donald Gorrie has a question on alternatives to custody.

**Donald Gorrie:** I wonder whether Mr Fairweather has any further words of wisdom on what we regard to be the nitty-gritty of the whole issue: are the forecasts for prison numbers correct? Are there alternatives to custody? What about the revolving door, throughcare and aftercare?

**Clive Fairweather:** On the revolving door, throughcare and all the rest, I would say this: it is hard to predict the size of the prison population, but we have to have faith that the correctional agenda will lead to there being fewer serious criminals. I would not necessarily say the same for minor offenders—they are in prison for such a short time that it is much more difficult to do anything with them.

We must also have faith in throughcare centres. I do not know how many I have seen, but the throughcare system at Edinburgh re-establishes a lot of links with the community. The effect of that may not be immediate but it will be noticed in the longer term.

I remember, about five years ago, arguing with the chief executive of the Scottish Prison Service about the number of addiction workers that were needed in prisons. Now we have about three times the number that I suggested and, over the next three years, £10 million more will be invested in Cranston Drug Services Scotland. If it is handled in the right way, Cranston could have a tremendous effect. We have to have faith in all those things, before we even begin to talk about Scotland-wide alternatives to custody, such as drug treatment orders. I do not think that the latter will affect the numbers greatly but they will help, as will measures such as electronic tagging. All such things can be put into the equation.

One conclusion that can be drawn from the overall figures—and I have felt this ever since I started this job—is that numbers will continue to rise. Whether that rise is gradual or steep depends on the part of the prison population that is being considered.

I will try to give committee members some ideas, but there are many ways of looking at the issue. In the SPS corporate plan for 1995, the forecast—looking not very far ahead—was for a population of 6,100. In fact, it has taken us to this year to get to 6,000—the average will be around 6,180.

I then looked at the figures in February of this year, because comments were being made about soaring numbers in Scottish and English jails. I discovered that the difference between the prison population in Scotland in February this year compared with last year is 88. There had been a surge of 88, which I would not say is a soaring increase. In England and Wales, the difference was something like 3,000.

However, last week the figure in Scottish jails rose to 6,580, or thereabouts. There is always a peak at this time of the year. It used to take place in March but it is now moving into April. There was a similar rise in the figures last year.

It is difficult not to say, "Gosh. We had better be alarmed." I am alarmed by a figure of 6,580 and all



prison officers will be as well. It is hard to predict a future norm. In March five years ago, the figure was 6,360, so the increase in the number of inmates over five years is only 200.

It is an inescapable fact that the numbers are rising, but they are rising gradually. One of the main reasons for that is that there are more long-term prisoners because longer sentences are being handed out—the public does not often pick up on that. Because of those longer sentences, the prison system must be geared towards dealing with more long-term prisoners.

I have an example that is two years out of date. Since the previous inspection, there has been a 50 per cent increase in the number of lifers at HMP Shotts. That is where I see the increase. We should be considering whether the prisons match that increase.

**Michael Matheson:** Approximately two and a half years ago, the committee was told to expect that the rate of increase in the number of prisoners in Scottish prisons would start to slow down. Now, the same people seem to be telling us that the numbers will continue to increase at a greater rate. How much faith should the committee place in the projected increase in prisoner numbers that is contained in the prison estates review?

**Clive Fairweather:** From what I have seen, I would have faith in the statistics for the next year; perhaps even in those for the next two years. As time goes by, I would be less certain. I do not think that anyone can be certain. How far forward you can predict the trends depends on how far back in time you look.

I do not want it to appear as if I am saying that this is all crystal ball stuff, but I remember 1995 and 1996, when a large number of prisons were going to be built under the previous Administration. I remember talk of there being 7,000 or 8,000 prisoners by the end of the 20<sup>th</sup> century, but that was not the case when we reached the end of the century.

When the prison estate was rationalised, there were approximately three years during which time the prison population steadied. That was fortuitous and I said so at the time. However, there is no doubt in my mind that the numbers are edging upwards. That is what we must consider. We will need more prison spaces in the future. We have been saying that in all our reports for the past four or five years.

How much faith should the committee have? A large number of statisticians in the Scottish Executive who draw a large amount of pay are doing a thorough job for that pay.

**The Convener:** I want to move on from the cold facts and figures about how much the prison

population will go up; we all know that it will go up. You and your team have experience of the revolving-door syndrome, whereby a high percentage of people who have been in prison reoffend as soon as they are released. Is not it essential that the prison estates review considers alternatives to custody and diversion programmes so that we do not just put up the numbers by putting more people in prison?

Mr Crossan has been in charge of a prison. You have years of experience. Are we going about it the wrong way? We say that we are going to put more people away so we must build more prisons. Should we be saying that we should not put so many people away but should do something else with them?

**Clive Fairweather:** I will give each of the team members a quick blast at the question. All I will say is that the thrust should be aimed at having fewer short-sentence prisoners and alternatives for them. It is difficult to do anything with them, although some things can be done. They suffer damage through being cut off from their family and work, so there is the maximum amount of damage for the minimum amount of return. There needs to be a greater thrust to reduce their number. That would reduce the prison population quite considerably.

15:45

**The Convener:** You say that their number should be reduced quite considerably, but what number are we talking about? That is perhaps a question for someone else, but is it possible to give us an idea?

**Clive Fairweather:** I would not like to put a figure on that, but I invite the members of my team to contribute. They have a range of experiences.

**Michael Crossan:** We talk a lot about prisoner programmes, but we should be mindful that only a relatively small number of prisoners are affected by programmes. Prisons are full of people who are depressed and who lead broken lives. They have poor coping skills and they tend to be marginalised. Imprisonment increases that marginalisation. We should explore alternatives that reintegrate them into a more inclusive society.

**Malcolm McLennan:** I agree. From my experience at Barlinnie, I think that not much can be done to give someone the chance to rehabilitate in six or nine months. It is a revolving door. In some cases, more harm than good is done by taking such people into prison. Alternatives to custody have to be explored, especially for drug users.

**The Convener:** Dr McAllister has not had a chance to say anything yet. This is your moment.

**David McAllister (Her Majesty's Inspectorate of Prisons for Scotland):** I agree with those points. A package of measures needs to be considered when we talk about reducing the prison population: alternatives to custody; the rehabilitation agenda, which is now on-going within the Prison Service; and a range of Executive policies. At the end of the day, the Prison Service has to take who the courts send to it, so our general sentencing practices also have to be examined.

**The Convener:** Is it your collective advice to the committee that, in considering the prison estates review, we cannot just consider numbers and buildings and whether Peterhead is in good fettle structurally, but should examine the whole way in which we deal with criminals and criminal behaviour, whether in the courts or in prison?

**Clive Fairweather:** The issue is very much about crime reduction and reducing the future number of victims of crime.

**The Convener:** So that is where you would point us. We will stop. Thank you. It has been a long session. I suspend the meeting for five minutes for coffee.

15:47

*Meeting suspended.*

15:58

*On resuming—*

**The Convener:** I reconvene the meeting and welcome Stephen Nathan, who is the editor of "Prison Privatisation Report International". Thank you for coming before the committee. I will launch straight into questions. For the assistance of committee members, Mr Nathan will give us some information about his background and areas of expertise.

**Stephen Nathan (Prison Privatisation Report International):** Good afternoon and thank you for inviting me. I have been monitoring, writing about and researching the growth of prison privatisation around the world since it emerged in the United States in the early 1980s. I do that full time.

**The Convener:** We have a helpful list of your publications, which is in the public domain and is available with the committee's agenda on the Parliament's website. To start off the discussion, will you summarise the general benefits and problems that are associated with private prisons?

16:00

**Stephen Nathan:** The experience from around the world is that the only benefit of private prisons is that they get built fairly swiftly. Overall, the

evidence to date is that the claimed benefits or advantages of prison privatisation have not been proven. That is true in Australia, in the United States in particular, and in England and Wales. The two private prisons that operate in South Africa are too new to be judged. There is mounting empirical evidence that the only real benefit is that, under private auspices, buildings are put up more quickly.

**The Convener:** Are they not cheaper to run?

**Stephen Nathan:** One of the myths that surrounds privatisation of prisons and of criminal justice services generally is that everything is cheaper, more efficient and more beneficial in the private sector. However, the cost of private prisons is surrounded by commercial confidentiality, which means that independent evaluation is difficult. There is also the difficulty of comparing like with like.

One of the main criticisms that can be levelled at the PricewaterhouseCoopers work for the Scottish Executive is that it uses a hypothetical public sector comparator as the benchmark for comparing public sector prisons with privately financed, designed, built and run prisons. However, the methodology in that work is flawed. That work repeats work that was done elsewhere, but from which the lessons have not been learned. The cost difference of about £700 million that the Parliament is being presented with is not a figure to be taken seriously. Far more work needs to be done to find out how those figures were arrived at.

**The Convener:** You will be delighted to know that, because none of us here is an economist or analyst, we have an adviser to take us through that.

**Michael Matheson:** You said that the public sector comparator that PricewaterhouseCoopers used is flawed. In what way is it flawed?

**Stephen Nathan:** What tends to happen—*[Interruption.]* Excuse me, but I must cough.

**The Convener:** There is water on the table.

**Stephen Nathan:** That is what made me choke, actually.

**The Convener:** Is it not good Scottish water?

**Stephen Nathan:** What tends to happen is that the figures do not include all known and potentially hidden costs.

Sorry, I have lost my train of thought. Will Michael Matheson repeat the question?

**Michael Matheson:** I will if I can remember—

**Stephen Nathan:** I beg your pardon but I have been thrown by my coughing.

**Michael Matheson:** You said that the public

sector comparator that was used in the PricewaterhouseCoopers report is flawed and that lessons have not been learned from previous experience. How is that comparator flawed?

**Stephen Nathan:** The report is flawed in so far as it uses a definition of value for money that is a very narrow financial definition that excludes all kinds of social and economic costs, which have not been brought into the equation. When we ask, "What does it cost to run prison X or prison Y?" we must take into account all kinds of issues. For example, I know that the committee has heard that some staff at Kilmarnock prison receive state benefits because their wages are so low. Such costs are never brought into the equation when the public sector comparator or the figures for privately operated prisons are used. For example, there might be knock-on health care costs to the taxpayer because staff in an understaffed private prison must work harder with no breaks, longer working hours, fewer holidays and no pension. Those costs are not included in the figures that PricewaterhouseCoopers presented.

**Lord James Douglas-Hamilton:** Why did private prisons come into existence in England and Wales?

**Stephen Nathan:** They stem from developments in the US in the early 1980s. As you know, we tend to import a lot of American social and economic policies into the UK for all kinds of historical reasons. The company that was at the forefront of operating the handful of contracts that existed in the early 1980s came to Australia and England first to try to sell the concept to those Governments. When the concept was first proposed in England and Wales, the Government of the day laughed it out of court but, after lobbying from the company concerned, think-tanks that were promoting privatisation not just of prisons but of all kinds of public services used their influence. As a result, three prisons that were going to be run publicly in the English prison service were handed over to the private sector because it was deemed that it would be more efficient to do so.

**Lord James Douglas-Hamilton:** I want to ask you about Premier Custodial Group Ltd, which operates Kilmarnock prison and a number of other prisons south of the border. Will you give us your assessment of the group's operation of its institutions in England and Wales? We are interested in issues such as health and safety, suicides, escapes, prisoner-on-prisoner violence, violence toward staff and staff turnover and morale.

**Stephen Nathan:** The experience of Premier Custodial Group and the other companies that are involved in what is called the marketplace has been patchy at best. When the prisons open, they

experience high staff turnover and high levels of violence—indeed, they experience all the problems that I have heard talk of in relation to Kilmarnock. Such problems go on for two years and are called "teething troubles". Part of the mythology that has grown up around private prisons is that all new prisons have teething troubles. As time has gone on—after all, we are 10 years into the programme in England and Wales—people have tended to forget what it was like when publicly run prisons opened. However, the two kinds of prison are not comparable. The prisons that opened in the late 1980s and early 1990s in England did not have the kinds of problems that the private prisons have had, precisely because of the issues that the committee has heard about. For example, private companies take on staff—except for those at management level—who have no previous experience of working in a prison. That tends to lead to a very steep learning curve for the staff in those prisons and for the prisoners who are in their care.

**Lord James Douglas-Hamilton:** Mr Phil Hornsby, the general secretary of the Prison Service Union gave evidence to the committee on 30 April. We asked about the performance of private prisons in England and Wales and he said:

"A few of them had tremendous difficulties in the early days of the experiment—which is what it was when it started—but those prisons are now without exception very successful."—[*Official Report, Justice 1 Committee*, 30 April; c 3480.]

Does not that give a rather different view?

**Stephen Nathan:** That depends on how one defines the outcomes. The problem with private prisons is that there is no independent academic research on their recidivism rates. In March 2000, the UK minister who was responsible for prisons—I believe that it was Mr Paul Boateng—was asked about recidivism rates from private prisons. He said that such work could not be done. Some people spend time in a publicly run prison and then spend time in a private prison and the net result is hard to assess if that person reoffends within a certain time.

There is no question that, in theory, when we build a brand new facility, what is on offer in terms of the physical design of the building is better than what is on offer in an old Victorian prison. However, the way in which we define the outcomes—whether that is through the key performance indicators set in the contract, recidivism rates or whatever—is the test of whether prison works. One of the issues about the debate between public and private prisons is that the argument tends to hijack the issue of whether a prison per se works.

The committee has talked previously to witnesses about prisoner numbers, alternatives to

custody and so on. It struck me when reading the estates review that the task was the wrong way round. The Executive is considering building three facilities for X thousand prisoners over the next 10 or 25 years, but should not it be considering why those people are in prison in the first place? The Executive should consider the sentencing policies that are putting people in prison and the causes of crime, rather than discuss whether there should be three private prisons or three public prisons. The real issue is why so many people are being put in prison. After that has been considered, the Executive can decide what the future prison population will be and whether it needs prisons for 3,000 people or 10,000 people.

At the moment, if the Government decides to build three new prisons in the private sector—that seems to be the trend—and 10 years down the road prison populations decline, we will be left with a scenario in which publicly run prisons will have to close because the Government will be locked into contracts with private operators. That situation is familiar in some states in America where private prisons cannot be closed down without a substantial injection of money. Potentially, the Executive is locking itself into a long-term, perhaps 100 per cent privatised prison population.

**The Convener:** You seem to be saying that if we took that route, we would have to keep the private prisons full.

**Stephen Nathan:** Absolutely.

**The Convener:** That would directly interfere and contaminate any programmes that were designed to divert offenders from jail or prevent reoffending, because it would not be in the interests of the operators to sustain such programmes.

**Stephen Nathan:** That is true, unless the operators had an interest in providing the alternative programmes.

**The Convener:** We are trying to prevent recidivism and reduce prisoner numbers, but that is not in the interests of private operators. Does your research show that?

16:15

**Stephen Nathan:** It certainly shows that that is the case in the United States, where there have been well documented cases of companies extending prisoners' sentences by several days, weeks or months because the companies are paid per diem.

The other issue of concern, which has arisen in the United States—it is well documented because its history of privatisation is much longer—is that the industry is involved in promoting legislation that calls not only for longer sentences, but for more prisons to be built. As a result, the prisons

tend to be privately built and run. The companies are involved in the American Legislative Exchange Council, which seeks to promote the interests of its members.

The pattern that has arisen is being partly rescinded at the moment because of budget cuts but, with privatisation, vested interests build up in shaping criminal justice policy. That has happened to a degree in England and Wales where, for example, in 1996 the industry gave evidence to the Home Affairs Committee, which was investigating the future of the prison estate. In 2001, Patrick Carter completed a report on the future of market testing, with which I think the committee is familiar. It was published last February. There is incredible similarity between the evidence that was given to the Home Affairs Committee in 1996—the wish list—and the recommendations of the Carter report on the future of private provision in England and Wales. We can put two and two together and make five if we wish, but such issues need to be considered.

**Lord James Douglas-Hamilton:** Do you accept that in both public and private prisons there is a constant process of updating programmes, procedures and facilities? Do you agree that in that context there will in years to come be a legitimate place for private prisons, provided that they are subject to extremely strict specifications, contracts, standards and controls?

**Stephen Nathan:** That is an ethical question with which the Government must deal. It is not for me to answer it directly.

**Paul Martin:** I have two questions. The first is in relation to the public-private partnership issue. How do public-private partnerships in prisons compare with those in schools? It is not unknown for the roll in a secondary school that is involved in a public-private partnership to decrease over a certain period. Is it still the case that the state would have to provide the school with pupils, under the terms of the contract that had been negotiated?

**Stephen Nathan:** I am not an expert on schools.

**Paul Martin:** Yes, but there are important comparisons. Have you compared the public-private partnership or private finance initiative model for prisons, which I know is different from that for schools, with other public sector models?

**Stephen Nathan:** I am not quite sure what you are asking. Are you asking whether there are issues relating to PFI about which you should be concerned? A simple example of such an issue is that private finance is more expensive than public procurement. Nobody on the planet will argue that that is not the case. Once someone goes down that route, they are already spending more on

borrowing the money.

**Paul Martin:** You raised an interesting point about the fact that there is a continuing requirement to provide prisoners to the private sector to ensure that the contract is complete for 25 years. The position would be similar in respect of a public-private partnership at a secondary school, for example. There is a public-private partnership secondary school in Glasgow. Is this a regular theme in public-private partnerships?

**Stephen Nathan:** I cannot answer the part of the question that relates to schools. One would have to see a contract to know what was specified. However, a mere mortal like myself would not get to see the financial detail of a contract.

**Paul Martin:** I have another separate point to make on rehabilitation, which we have considered and are now examining in detail. I have put on record my concern about the estates review being a bricks-and-mortar review that does not include issues such as rehabilitation. Many witnesses have made the point that you made. What research have you undertaken that might lead you to suggest how we might solve the problem of prisoners going through a revolving door?

**Stephen Nathan:** I am no miracle worker. The causes of crime must be examined in order to discover why people come before the courts. The ways in which the courts deal with people and why people end up with custodial sentences must also be examined. Unless something is done about the communities or situations that generate crime, there will always be a revolving door. It is possible to argue that to throw money at new institutions is not the best way to deal with the problem. If public money is to be spent, we should examine the issues that produce crime in the first place. I am sorry that I cannot be more specific than that.

**Paul Martin:** I appreciate that and I agree with you that creating new institutions does not deal with the fact that we want to prevent people from going to prison in the first place. How do we solve that problem? The difficulty is that everyone, including politicians, makes general statements in respect of rehabilitation, but we need examples of programmes that are working.

**Stephen Nathan:** That is not in my gift to give.

**The Convener:** That is not in Mr Nathan's remit.

**Stephen Nathan:** I can tell the committee about the private prison in Victoria in Australia that had to be brought back into public ownership because of four years of persistent problems. However, I cannot tell the committee about—

**The Convener:** Tell us about that prison—it sounds interesting. We have to be clear that Mr Nathan has been asked to give evidence about his

research. The prison estates review did not give examples from elsewhere. Stephen Nathan has been called as a witness to enlighten the committee about models and regimes elsewhere.

**Michael Matheson:** I want to pick up on the issue of contracts. Lord James Douglas-Hamilton made reference to the possibility of the private sector's being involved for as long as contracts are in place. Those contracts are tightly monitored. Some of the evidence that we have heard today and previously suggests that part of the problem with private prisons is that the contracts are often rigid and the prison operators have limited flexibility. The visit that I paid to Kilmarnock also suggested that.

It would appear that there is an inherent conflict between the public sector wanting to set the standards as to what should be done and the fact that that works against the development of a healthy prison regime. That is a problem for Kilmarnock. Is it a common problem?

**Stephen Nathan:** That is a problem. One must question how and in whose interests contracts are written. Part of the *raison d'être* of private prisons in England and Wales was to create a marketplace whereby the private sector would come in, perform brilliantly and provide a benchmark against which to judge the public sector. Contracts have been written to some degree for the benefit of contractors to encourage them to enter the marketplace and to stay in it. Unless there is a so-called viable marketplace, it is not possible to have competition and without competition it is not possible to ratchet up public sector standards.

That is the theory, but in practice 99.9 per cent of a private company's existence is to serve the interests of its shareholders. Companies have to be interested in making returns on their investments and in assuring their profitability. They will sign only contracts with which they are almost entirely happy. In England and Wales, for example, contracts are written that include a clause that puts a cap on the amount of money by which the company can be penalised in any one year, which is 5 per cent of the annual revenue. If someone asked a parliamentary question about the financial penalties of prison X in this financial year and received the answer that the penalties amounted to Y thousands of pounds, that would not necessarily inform the questioner about the extent of the problems at that prison. That is partly to do with the way in which the contracts are written and partly to do with the penalties.

The bottom-line answer is that if the contractors complain about the way in which a contract is written, why are they in the business in the first place and why did they sign the contract? If they do not have the expertise to judge a contract at

the beginning, what are they in the business for?

**The Convener:** By contractors, do you mean the Scottish Prison Service?

**Stephen Nathan:** No. The contractors are the companies that operate the prisons.

**The Convener:** You mean Premier Prison Services Ltd and so on.

**Stephen Nathan:** Yes.

**Michael Matheson:** The Kilmarnock contract appears to be primarily a work-based contract. It is about the number of prisoners who go to a workplace in one of the sheds each day. It appears that rehabilitation has been left out. Is that a common occurrence in private sector prison contracts? Is rehabilitation left out because it is harder to cost? The number of prisoners involved, the way in which rehabilitation is provided and the training that staff require could change over the course of a contract.

**Stephen Nathan:** That is partly true. There is also a trend toward regarding work as the be-all and end-all of rehabilitation. The problem that has arisen in England and Wales, and in Australia and the United States, is that the kind of work that is being offered is ultimately fairly useless in preparing a person for the outside world, because that work does not exist in the outside world. If prison is about anything, it should be about rehabilitation, not about basket weaving, sack making, widget fiddling, or whatever menial work is being offered.

If, as you put it, being driven into the woodsheds is the be-all and end-all at Kilmarnock, that situation does not bode well for rehabilitation rates further down the road. Drawing up a contract with the idea that work is the answer is a short-sighted approach. One should ask what is the best form of rehabilitation that one could apply and how one could instil that in a facility. It might be that full-scale rehabilitation according to an ideal model costs too much in the private sector and therefore cannot be achieved.

**Donald Gorrie:** I wanted to ask about the United States, but perhaps we are still dealing with the situation in Britain.

**The Convener:** We have wandered. Mr Nathan has opened up several seams on rehabilitation and on whether privatising the running of prisons might distort the criminal justice system and policies in that system. He has pursued an interesting line, which is based on his experience elsewhere, and I would like to pursue that, if we have time. However, I am content for Donald Gorrie to ask his question, because I think it fits in.

**Donald Gorrie:** Perhaps we could travel to America via Australia. You mentioned an

Australian jail that went private and then went public again. Could you describe that, as a taster?

**Stephen Nathan:** In the mid-1990s, the state of Victoria developed a prison privatisation programme that was based largely on the experience of England and Wales. The programme used the same models, the same consultancies—advisers, that is—and the same companies in the marketplace. The state of Victoria commissioned three prisons that were financed, designed, built and operated privately. The first of those to come on stream was a 125-bed women's prison, which had persistent problems for four years, involving all kinds of matters, such as those we discussed earlier, including drug problems, staffing shortages and violence.

I could give you chapter and verse, but it might be better if I were to submit that later.

**The Convener:** Yes, it would be.

16:30

**Stephen Nathan:** I have written an article—I do not know whether it is in your bundle of papers—that sets out what the Government's concerns were and the steps that were taken to try to improve the prison. In the end, the Government paid the contractor something like 22 million Australian dollars to buy out the contracts and bring the prison back into the public domain.

The two other privately run prisons faced a number of problems. There was a high number of suicides after one of them opened because the prison was designed with ligature points in the cells, which the company would not spend money on removing before the prison opened. Several prisoners died and the coronial findings were that the Government and the company were complicit in those deaths because they did not ensure that the design was up to standard. Subsequently, the prisons have had fewer problems—having seen what happened to the first prison, they have both made efforts to ensure that their contracts were not taken away.

The Victorian Government's policy has shifted. Of the three new prisons that have been commissioned, one is publicly financed and operated and the other two will be privately financed but publicly operated. That decision was based partly on the Government's experience to date.

**Donald Gorrie:** I want to seek your views on the Wackenhut Corrections Corporation of America, which, as I understand it, is a half-owner of Premier Prison Services, which operates Kilmarnock prison. Can you give us any information about Wackenhut's operations in

America?

**Stephen Nathan:** Wackenhut Corrections Corporation is the second largest domestic operator in the sector in the United States. Partly because of the number of prisons that it operates and partly because of what we know about the problems that private prisons have, the company has tended to show up under the spotlight in the past few years as scrutiny of private prisons has increased. Wackenhut has been involved in a number of high-profile lawsuits arising from abuses carried out on prisoners by its staff. The company has lost contracts—one in Texas and one in Louisiana, I think—because of inadequate provision of services and inadequate staffing. Again, I would be happy to submit the relevant documentary evidence.

**The Convener:** That would be useful, but it would also be good if you could supply synopses of the documents if they are large. We would then be able to issue them in hard copy and have a web link to them, so that anyone who is following the committee's study of the estates review will be able to read them for themselves. We are trying to open up the debate publicly as far as possible. Would you be able to do that?

**Stephen Nathan:** Yes; that would be fine.

I would like to mention something else while we are dealing with the United States. A document was produced by two academics, one at Stirling University and one at the University of Strathclyde.

**The Convener:** Taylor and Cooper.

**Stephen Nathan:** That is correct. I do not know whether the document has been put before the committee.

**The Convener:** Yes. We have it.

**Stephen Nathan:** It refers to the United States General Accounting Office, which did some work on cost comparisons in 1996. Taylor and Cooper did not refer to a much more substantial document, which was produced for the US Congress in 1998 and which is considered to be the definitive work on all previous studies relating to prison privatisation in the US. I will read out the conclusions of that study for the *Official Report*.

**The Convener:** What study is that? Do we have a copy?

**Stephen Nathan:** It was commissioned by the US Congress and conducted by a firm called Abt Associates. Subsequent research by the Federal Bureau of Prisons is based on the work that Abt Associates conducted. The firm found that,

"With respect to public safety and inmate programming, the available data do not support definite conclusions"

about advantages or disadvantages of privately

operated prisons.

"The available surveys of either privately or publicly operated facilities do not provide the information needed to compare the quality of such programs or the extent of prisoners' engagement with them."

The document also says:

"Few studies have been conducted to compare the relative performance of privately and publicly operated prisons. Most are affected by a variety of methodological problems ... Given these shortcomings and the paucity of systematic comparisons, one cannot conclude whether the performance of privately managed prisons is different from or similar to that of publicly operated ones."

Many hundreds of pages of documentary evidence show why those conclusions were reached.

As well as considering individual problems at specific facilities, which may or may not have been rectified since incidents occurred, it is important to consider the overall case, which has not been proven, as I said at the beginning. The United States now has 18 years of that experience. A number of states are taking prisons back into their own operation, because they have found that the costs have not been less and the services have not been better than in publicly operated prisons.

A shift is happening. In California, for example, the state Government has just decided to close down all its privately operated prisons because they have not come up to scratch—those prisons are run by the state Government, not the federal bureau of prisons. North Carolina has taken two prisons back into the public sector.

For the Scottish Executive to take a route that has not been proven and that, at best, is on the wane in other jurisdictions would be a real—I do not know what the right word is. The only word that I can think of is "mistake". The evidence exists.

That is all that I will say about the US. I will provide the relevant bits of paper.

**Donald Gorrie:** Is there any bright side to what we can learn from American prisons in general, not just Mr—I have forgotten his name. He has a funny name.

**Stephen Nathan:** Wackenhut.

**Donald Gorrie:** Wackenhut—that is right. Is there a bright side, other than that the prisons are built more quickly? What are the downsides, accepting the point that you have made that there is no conclusive evidence?

**Stephen Nathan:** I am no further on than I was at the beginning. Overall, there is no evidence to suggest that private prisons are a panacea or that they, at best, provide anything better than the best of the public sector. In New Zealand, the Minister of Justice has said that there has been an ideological experiment abroad, which has failed,

and that therefore New Zealand will not go down the route of private prisons.

In South Africa, the Department of Correctional Services said in February that it realised that private finance is not ideal. Given that South Africa is being dictated to by the International Monetary Fund, the World Bank and others, I think that it had no choice but to go down that route. That brought two new facilities on stream much quicker.

The only other example is New Brunswick, where the provincial Auditor General found that a privately financed, designed, built and operated youth facility would have been about 500,000 Canadian dollars more costly. Therefore, the facility was publicly operated.

The evidence that exists out there should convince the committee—or the Government—not to go down that route.

**The Convener:** Maureen Macmillan has a question on privately built, publicly operated prisons.

**Maureen Macmillan:** You said that two PPP prisons are to be built in Australia. When we discussed PPP previously, we were told that the private sector will not take on the risk and that the public sector cannot afford to carry it. It is a question of insurance.

**Stephen Nathan:** What risk are you talking about?

**Maureen Macmillan:** The risk of damage to the fabric of the building, for example. If prisoners riot in, and cause a lot of damage to, a building that is built by a private firm but run by the public sector, who will pay for that damage? We have discussed that thorny problem with witnesses in various evidence-taking sessions. What are your views? What is happening in Australia? I would be interested in the type of contract that is being used there and in how the risk is being allocated.

**Stephen Nathan:** I cannot give you an exact answer. All that I can say is that no independent academic research has evaluated the 21 so-called semi-private prisons in France. As far as I am aware, the University of Paris at Nanterre undertook the only research that has been done, but the prison companies funded that research.

Another important point is that part of the mythology that has grown up around public and private prisons is based on where the research comes from. As I said, the prison companies funded research in France. In the United States, where there is a lull in new contracts, two think-tanks, the Reason Foundation and the Heritage Foundation, promote privatisation throughout the world and are conducting so-called independent research that shows how good private prisons are. We must question their findings, because, to begin

with, we know what their findings are going to be.

In answer to your question, there is no truly independent work for us to evaluate, because such work has not been done. I know, anecdotally, that problems have arisen in France as a result of the dual discipline of a private company managing all the non-custodial services and the Government employing the prison officers. There are culture clashes in those facilities.

In Belgium, I know of violence and problems with work. In France, there is a problem with finding work for prisoners in the semi-private prisons because they are located in areas in which nothing is going on.

At the same time as the two new prisons are being commissioned in Victoria, Australia, inquiries are being held into how best to reorientate corporate governance. Things are being done the wrong way round—prisons are being commissioned but the homework has not been done. However, Victoria considers that it is in desperate need of more prisons.

The lesson is that the policies, practices and legal procedures have to be sorted out before a decision is made to go down that route. It is no good going down that route and finding out five years down the line that there are legal problems that cannot be solved.

16:45

**Maureen Macmillan:** I hear what you are saying. The Executive has used the same argument in the estates review. It says that we cannot go down this route because there is no model to be followed. We were hoping to find a model in Australia or France or somewhere else, but from what you are saying, the model does not exist, or if it does, it is not terribly successful. Would you say that what is happening in France is successful?

**Stephen Nathan:** I could not honestly tell you what the outcomes are for prisoners—ultimately, that is what the prisons exist for—in semi-private prisons. In England, for example, Patrick Carter went to France for about five minutes, came back and said, “They seem to work”, so in England and Wales that option will be considered. That is not a scientific basis on which to base criminal justice policy. Far more work has to be done before a decision is made on the model of procurement.

**The Convener:** I seek clarification. Under the heading “Private Build, Public Operate” the Executive’s “Consultation on the Future of the Scottish Prison Estate” states:

“The advice from SPS and PwC is that the market is not yet ready to accept this type of contract and the worldwide experience supports this view.”



You are saying that, in fact, there are contracts out there and that they are all different. They may not have been evaluated, but they exist.

**Stephen Nathan:** Chile, for example, has just commissioned 10 semi-private prisons, which will be privately financed, designed and built. The non-custodial services will be operated privately, but the prison officers will be state employees, because constitutionally, in Chile, prison officers cannot be privatised.

**The Convener:** But you have provided a list of contracts, so it was completely wrong for the document to say:

"The advice from SPS and PwC is that the market is not yet ready to accept this type of contract".

**Stephen Nathan:** That does not surprise me at all. The paucity of research that was done in the Carter review and the SPS review is extraordinary.

**The Convener:** Such contracts seem to be thick on the ground. Could you provide the committee with a list of examples of similar contracts—be they private-build-public-operate contracts or otherwise, because we will not necessarily be comparing apples with apples—so that we know where we are?

**Stephen Nathan:** In Chile, the first three prisons are under construction, although they are not yet operating. Belgium has one such prison. The state Government of Hesse is considering one such prison. France has 21 and is commissioning six more; it has a programme of 30 new prisons. I do not know—in fact, before the elections the French Government did not know—whether those 30 prisons will be of one sort or another. The Netherlands is considering this option. However, such prisons are not tried or tested or proven.

**The Convener:** But that was not the point of what was stated in the Executive's consultation paper.

**Stephen Nathan:** Yes.

**The Convener:** We have another group of witnesses, who have been patient. I am in the committee's hands with regard to how long we extend our discussion with Mr Nathan. It is interesting to have him here, and we have only one bite at this. Would another five minutes suffice?

**Michael Matheson:** Yes.

**Stephen Nathan:** May I return briefly to my point?

**The Convener:** Certainly, then we will take a question from Michael Matheson.

**Stephen Nathan:** The quotation that you read out from the consultation document illustrates the problem with the development of criminal justice

policy in this era. The debate about best criminal justice provision has been hijacked by the argument over public or private provision.

One point that comes into that is what the market is prepared to do, but, arguably, that is the wrong basis for considering what is best criminal justice practice. In my humble view, best criminal justice practice should not be based on the whims and wishes of a handful of multinational corporations, whose business is based on opening up new markets in the criminal justice sphere throughout the world. The question of what is best criminal justice practice should be discussed with the best practitioners that can be found, not based on the wishes of boardrooms in Copenhagen or Florida.

**Michael Matheson:** In your article in this month's edition of "The Howard League Magazine", which is entitled "Aggressively seeking further opportunities", you discuss a range of countries. In the past half hour, we have probably been round the globe a couple of times. I was interested in your statement in that article that the Government of Belize is attempting to use a non-profit-making model to provide prisons, although the contracts might be run either publicly or privately. Is that a further development?

From what you have said, I cannot help but feel that with the prison estates review we are swimming against the tide. Countries that went down the private sector route some years ago are beginning to move back in the opposite direction. Is the project in Belize another development in building new prisons?

**Stephen Nathan:** I have tried to get more information on Belize, but the Government is not forthcoming. The changes in the prison system in Belize are not part of a trend that I have detected around the world. In South Korea, religious organisations and private companies were invited to bid for a 300-bed prison contract. I have not detected that as a trend elsewhere, apart from in Brazil, where a religious organisation runs a prison. I have no clue how good that prison is.

If you are asking whether you should consider a system like that in Belize, the answer is no. I refer to what I said earlier about the basis on which Governments should decide how to provide facilities and best criminal justice practice. Does that answer the question?

**Michael Matheson:** Yes.

**The Convener:** We have heard some interesting information—

**Stephen Nathan:** I want to add one more point. One reason why private prisons are appearing in certain countries is not because Governments have taken measured decisions about what is right

or best, but because of the influence of corporations and because banks put pressure on countries—particularly those with developing economies—to privatise assets and services. There is also the general agreement on tariffs and trade and the World Trade Organisation, which have a bearing on the longer-term opening up to the private sector of criminal justice services. All those factors must be borne in mind.

**The Convener:** I thank you for that caution and for your evidence.

Before we start to have toast for supper, I welcome Dr Jacqueline Tombs, honorary director of the Scottish Consortium on Crime and Criminal Justice, Bernadette Monaghan, director of Apex Trust Scotland, and Sue Matheson, chief executive of Safeguarding Communities Reducing Offending. Thank you for your patience; we are trying to prise open as many cracks as possible in all the evidence.

Thank you also for your helpful briefing note, which I refer members to. Some members may have to leave at 5 o'clock because they have other meetings, but I certainly hope that we can give you 30 minutes—or more, if you wish—as you have waited a long time and are certainly entitled to it. Your written submission states that community sentences are more cost-effective than imprisonment. How do you reach that view?

**Dr Jacqueline Tombs (Scottish Consortium on Crime and Criminal Justice):** I will say a few words of introduction and Sue Matheson will answer that question, but I would like to make a point of general principle about why community sentences might be more cost-effective. It is not by a direct cost-by-cost comparison that I would make that argument. In general terms, all the criminology research suggests that community sentences are at least no less effective in rehabilitation and in reducing reoffending than prison sentences are. An increasingly convincing body of literature is demonstrating that, when they are used in the right way and with the right target groups, community-based sentences are actually more effective in relation to recidivism.

Community sentences are extremely important in relation to the point that Stephen Nathan made about hidden costs. A community sentence, in essence, is aimed towards the inclusion and integration of the offending person. With a prison sentence, it does not matter how good the rehabilitative programmes in the prison are; prison is, by definition, a form of social exclusion of the most extreme kind. That is the context of our view, and we want the wider context to be borne in mind. With respect, convener, you raised that point earlier in relation to what Clive Fairweather was saying.

For us, it is a question not of how many more prisons we need to build but of what prisons are for and who needs to go to them. That is a prior question; Stephen Nathan also espoused the view that we need to ask that question first. We can deal with and rehabilitate people in the community more effectively and at less expense. We are not talking about extra prison places, but about reducing prison places by 2,000 or 3,000.

**The Convener:** That was punchy. When you said, "With respect" I was on my guard, because that usually means "without respect". That brings out the lawyer in me.

**Susan Matheson (Safeguarding Communities Reducing Offending):** What was said about looking at the situation in the round is absolutely right. The Scottish Executive's statistical bulletin for criminal justice shows that 76 per cent of people who have been to prison are reconvicted within four years, but people on community sentences do not have as high a rate of reconviction as those who go to prison. The services themselves for community sentences are a lot cheaper. Prison costs about £28,000 a year.

**The Convener:** Before you press on, what is the percentage of people on community sentences who are reconvicted within four years? You gave us a figure of 76 per cent for prisoners who are reconvicted.

**Susan Matheson:** It is in the statistics bulletin numbered 2001/1, but I do not have a copy with me. I beg your pardon.

**The Convener:** That is all right. We shall have to find that out.

**Susan Matheson:** Prison costs about £14,000 for six months. A probation scheme costs about £1,100 for the same period and a community service order averages about £1,600, while SACRO mediation and reparation costs about £350. The community programmes are much cheaper. As Jackie Tombs says, they are at least as effective, if not more effective, at preventing reconvictions. They also promote community involvement and social inclusion.

17:00

**The Convener:** I thank you for those comments, which made the distinction between valid bare cost comparisons and the ripple effect of incarceration in other costs to the community.

**Donald Gorrie:** On the number of prisoners, your submission contains this excellent sentence:

"The projections in the SPS Estates Review are based on penal expansionist assumptions."

I like that—not the idea, but the description. The idea is awful. In what ways can we prove to the

Executive that its figures are wrong?

**Susan Matheson:** The Executive's consultation paper says:

"projections cannot offer an exact or dependable prediction of the future".

Even the Executive says that the projections are not dependable. Many factors must be taken into consideration, such as the crime rate, the clear-up rate, the use of custodial remand, sentencing and time served, so it is difficult for projection to be an exact science. The Executive admits that.

The Executive also says that figures might reduce if other programmes were introduced but that those figures cannot be estimated. The Executive does not fully take into account the existing sentences and the new sentences that the Criminal Justice (Scotland) Bill proposes, and what could be done if existing provisions were adequately resourced so that they were available throughout the country to every sheriff court. If every sheriff court had the full range of sentences, which were fully backed by resources so that they were effective, the projections would be different.

Clive Fairweather referred to the peaks and troughs. In three days last month, prison numbers changed by 108, although numbers had changed by only 200 in five years. Sometimes, in three days, the figures can change by more than 100. The figures increase and decrease all the time. The issue is complex. The statistics are accurate as far as they go, but they are based on assumptions, some of which are flawed.

**Dr Tombs:** As Sue Matheson has said, all projections are only as good as the information on which they are based. If projections were taken from 1900—I have done that, and tried different figures—different results would be produced, because things change. Nothing stays the same.

Donald Gorrie is asking what we suggest should be changed to avoid ending up with a prison population of the projected level. We are anxious to draw attention to the fact that 82 per cent of people in prison have short sentences. That is not to say that those offenders are not a nuisance or troublesome for victims, because they are, but short sentences serve no useful purpose. The witnesses from the inspectorate also addressed that issue. Nothing can be done for those people in that time and there is nowhere to reintegrate them.

Bernadette Monaghan will tell us what a typical Apex Trust client is like and the committee will hear about the problem that we deal with. I am doing some work on the throughcare centre at Edinburgh prison with people who are entering and leaving by a revolving door. We are saying that we do not need to put such people in prison.

**The Convener:** Before Bernadette Monaghan

speaks, I ask you to define short sentences for the record, because some people who will read the *Official Report* of the meeting will not know what they are.

**Dr Tombs:** I would say that a short sentence lasts six months or less. Some judges would say that a short sentence is less than three months, but even if judges stopped setting sentences of three months or less, that would stop about 60 per cent of sentences.

**The Convener:** You said that 82 per cent of prisoners have sentences of six months or less.

**Dr Tombs:** Such sentences are given for repeat offences that are less serious, such as minor shoplifting.

**The Convener:** I am sorry for interrupting.

**Bernadette Monaghan (Apex Trust Scotland):** Although the phrases such as "short-term offenders" and "short sentences of six months or less" are used, short termers are, in effect, long-term prisoners, because they end up being in prison for several years, with short periods in the community between each spell in prison. While those people are in prison, they are ineligible for any structured intervention or programmes.

**Susan Matheson:** The Scottish Executive says that 10 per cent of the increase that it projects in the number of prisoners comes from remand. It also says that that does not take account of the alternative to remand that might be put in place. That is an example of a case where the Executive's assumptions are flawed.

**Dr Tombs:** We could drive you round the bend giving you example after example.

We must decide what kind of criminal justice and penal policy we want to promote in Scotland. What we have heard this afternoon suggests that we are going backwards, rather than forwards. We have tried prison and we know what it does. The previous Government found out that prison does not work, then Jack Straw thought that he could change policy to make it work. However, prison does not work for many people—it does not change anything, because they go right back into the same chaotic lifestyle that they came from. That is the question that we must address.

The way in which the estates review has been written and its context suggest that we are going towards a policy of penal expansion. If we build more prisons, we will fill them, just as if we build more motorways, they get congested. We want to turn that on its head and ask who really needs to be in prison. That is a tough question, because it means that the judiciary and others must be on board. As a society and as potential victims of crime, we need to know who we need to put into the most severe kind of restriction that we possibly

can. We have electronic tagging, other restrictions of liberty, community-based sentences and all kinds of safety measures that were unavailable in the past. Young offenders can be electronically tagged, just as they are in other countries. The question we must ask is who needs to be in prison.

**Maureen Macmillan:** You are making a robust case for disposals other than prison. That argument must be put robustly because the judiciary is a problem—or rather, the problem is how we ensure that the judiciary takes notice of other proposals—as is the general public, who want to lock offenders up and throw away the key. How do we persuade the general public that other disposals will benefit the community?

**Susan Matheson:** The general public does not think that offenders should simply be locked up. The Scottish Parliament survey, the Halliday report, the British crime survey and the Scottish crime survey all tell us that the public want offenders to pay back, make amends and undergo rehabilitation. The public are beginning to realise that prison is not giving them what they want, which is for the offender to stop offending.

If members think back to when it was proposed to reduce the number of women in prison, even although it did not happen, they will remember that there was no public outcry. It is true that the proposal was about women and that there had been a lot of suicides, but there was no outcry. As time goes on, the public are realising that prison is not giving them what they want and is not making the community safer.

Another way to persuade the public is to involve them in restorative justice. In restorative justice, the victim has a central role and people in the community can have a role, either by taking part in meeting the offender, sorting out the issue and trying to get the offender to make amends, or as trained mediators. The community is involved, the victim is central and the offender must face up to what they have done and, for the first time, take responsibility for it. Restorative justice engages the public and is a fundamental shift that we are beginning to make in youth justice in Scotland. We need to introduce that to the adult system.

**Maureen Macmillan:** What about the judiciary? Are the disposals being used as often as they might be?

**Susan Matheson:** Judges want to have other means at their disposal. In some places, they use other disposals. However, some judges do not have confidence in other disposals because they are not adequately resourced. If the judges think that someone will not get a community service order for a few weeks and that if the offender breaches the order they will not be called to account quickly, judges will lose faith in such

disposals. We must properly resource those appropriate and effective sentences.

**Maureen Macmillan:** Do procurators fiscal also have a role?

**Susan Matheson:** Yes. For example, procurators fiscal are enthusiastic about the restorative justice services that are run by SACRO. Procurators who do not have those services available to them are asking why not.

**Dr Tombs:** There is a great danger of chicken and egg situations here. Clive Fairweather will know only too well that, for women, we have safer and better alternatives to custody now. However, we still have more than 200 women in Cornton Vale. That is unacceptable when we are some years down the line with the good pieces of work that are being done. I use Cornton Vale as an extreme example, but why are so many women imprisoned there? The Government can get off the hook by saying that judges are not implementing the available sentences. The judges can get off the hook by saying that the Government is not giving them the resources—blah, blah, blah—to make use of the sentences.

There is truth in both those arguments, but they do not have all the truth. People tend to talk about there being two tracks: prison and its alternatives. I try to get away from talking about those tracks and to talk in terms of sentencing or community sentences, so that prison is not set up as the norm from which alternatives deviate. If all the resources and the millions of pounds that we are talking about keep going to prisons, the judiciary will be unable to use alternatives because they will not exist.

Pilot schemes have been running—off and on—for three and four years. Pilots do not need to be running for such lengths of time before we figure out whether they work. For example, there are drug treatment and testing orders—DTTOs—which cost £7,000 a year, compared with the £27,000 a year it costs to keep someone in prison. A DTTO is much more likely to be effective for an offender with a drug problem than being in prison. Even in drug-free halls in prisons, it is easy to get drugs. Prisoners have a line of cocaine at hogmanay, not a drink. That is the reality, so why do we keep sending people to expensive places to get worse? We must ask why people do not ask philosophical or principled questions. However, questions such as, “What are prisons for?” are also practical questions. We can start to build a policy around such questions.

**Bernadette Monaghan:** That is a fundamental point because—to go back to the issue of educating the public—whether we like it or not the public read headlines in newspapers that do not instil any sense of security that their communities

are free from crime or the fear of crime, or that offenders are being dealt with appropriately. The estates review has largely focused on numbers and prison populations. We would like to turn that round. The public needs to be educated about who makes up the prison population.

We have heard about women offenders. The proposed time-out centre for Glasgow, which is based on a throughcare model, will demonstrate its effectiveness. It will not prove to be any less effective than prison. We have spoken about short-term prisoners going through the revolving door. Young offenders also have a short-term focus. They do not make the connection between staying on at school and getting a job and having a positive future. Those groups of people make up about 50 per cent of the prison population and are not a danger to the community. The other 50 per cent perhaps need to be contained for the public's safety and they need their offending addressed through offending behaviour programmes. It is important, rather than just talking about numbers, to focus on who makes up the prison population.

**The Convener:** The committee has genuinely done that and continues to do so. The committee is well aware of that issue and has considered, through the budget investigation, matters such as the time-out centre.

I want to move on, but I believe that Lord James Douglas-Hamilton must leave, so I wonder whether Michael Matheson would let him in first.

**Lord James Douglas-Hamilton:** I have cancelled my other engagement.

**The Convener:** Right. We will have questions in the order that we arranged.

**Michael Matheson:** You paint a rather bleak picture of the alternatives to custody. You say that there are pilot projects, other projects with some funding, still further projects without adequate funding and so on. That ties in with some of the recent evidence on criminal justice that we have received from the Association of Directors of Social Work.

You clearly believe that the estates review is dealing with the wrong end of the problem. Where should we start?

17:15

**Susan Matheson:** We could start by dealing with bail. The daily population of prisoners on remand is 1,000. At a cost per prisoner of £28,000 a year, that comes to £28 million in total. If we spent a small fraction of that on properly resourced bail schemes, we could significantly cut the number who are on remand. As we said, the Scottish Executive consultation document on the estates review says that 10 per cent of the

increase comes from the growth in the number of remand prisoners and 10 per cent of the Executive's projected increase will be 720. Given that the Scottish Executive thinks that a prison should hold 700 people, you can see what would happen if we could tackle the number of people who are on remand by providing adequately resourced bail schemes.

The Scottish Executive will say that it is rolling out bail support and supervision schemes. However, it is rolling them out across Scotland at a cost of £900,000. That has to be divided between all the local authorities, which means that some of them will have so small an amount of money that they will be unable to do anything with it while other local authorities will be able to appoint only a part-time worker.

The Scottish Executive's paper says that the bail schemes have not made any impact on prisoner numbers. That is true. We have to resource the schemes far more if we are to make a dent in the numbers. Adequate resources would ensure that there is a reduction.

**Michael Matheson:** So bail is one area in which we could start.

**Dr Tombs:** Can I clarify what you mean? Start to do what?

**Michael Matheson:** Start our consideration of the alternatives to custody. We are putting forward the view that we should have better resources for the existing alternatives and that the patchwork approach results in various alternatives being available across the country.

Are you suggesting that, before we even start to consider the estates review, we should have a complete review of the alternatives to custody that are in place to see how we could use them more effectively?

**Dr Tombs:** Absolutely. However, I support other elements of the estates review, such as the parts that deal with humane conditions for prisoners and so on.

**Michael Matheson:** That is my next question. Alternatives to custody are issues that we could deal with in the medium to long term, but we have a short-term problem with prisoner population—five or six of our prisons are overcrowded and Barlinnie is overcrowded by about 140 per cent. We have to achieve a balance.

**Bernadette Monaghan:** I know that we have spoken about alternatives to custody, but we need to go further back than that. About one in 10 people in prison has difficulty reading and writing. The previous speaker highlighted the fact that work that is available in prisons very often does not relate to any opportunity that the prisoner will have when they are released. There are

fundamental skills deficits among that population. I believe that the criminal justice world and the social inclusion world should work more closely together. We are doing that in Glasgow in partnership with NCH Scotland. We run a community justice and employment project that involves young people from the criminal justice system and the children's hearing system.

**The Convener:** What does NCH stand for?

**Bernadette Monaghan:** It stands for National Children's Homes.

It is also important to remember the fact that around 70 per cent of people who are sent to prison are unemployed at the time they are received. We are not talking about a particularly bright or able group. If there are to be alternatives to custody and related programmes, they have to link up with opportunities for those people to use the skills that they gain.

**Paul Martin:** One of the points that was raised by prisoners when we visited Barlinnie was that, while they are taking part in the programme, they are genuinely involved in it, but the minute that they are released into their usual environment, they no longer feel the urge to continue with the programme. An environment where drugs are available is an environment where there are opportunities to commit crime. It is all very well people serving a sentence through an alternative to custody, but how do we prevent those people from moving on to the next stage or going back to the behaviour that led them to serve that sentence in the first place? I appreciate that prison is not the answer and that is not what I am advocating.

I would welcome a profile of those people who come through your door in respect of the alternatives to custody. I would also like to hear about the success stories, as they are not being promoted effectively. I would like somebody to say, "Five hundred people in Royston were referred to a particular programme and they will all now get jobs in Tesco." That does not seem to happen. People want to talk about alternatives to custody and what a terrible place prison is, but they do not tell us the success stories of alternatives to custody.

**The Convener:** Perhaps we could have some answers to that long question, if it was a question.

**Bernadette Monaghan:** Many of the available programmes are alternatives to custody. There are difficulties with giving alternatives where the penalty for breach is more severe than the penalty for the original offence. We have that issue with supervised attendance orders. I hope that the Criminal Justice (Scotland) Bill will rectify that by making such orders a sentencing option.

In answer to your point about people coming out

of prison, many interventions are happening in isolation and do not link with other issues. We know that an income, a house and some kind of support are the three basic things that most people need if they are going to sustain the benefits of any kind of programme.

There is a throughcare unit in Edinburgh. In Barlinnie, a project that is funded through the new deal innovation fund brings together the Glasgow Council for Single Homeless, the Employment Service, the Benefits Agency, the Prince's Trust and the Apex Trust. More of those examples would be worth while.

**Paul Martin:** How do you answer one of the prisoners to whom we spoke? He was being released after serving less than three years, but he had had no contact with any organisation to talk about housing and employment opportunities.

**Dr Tombs:** Most prisoners do not.

**Susan Matheson:** That should be changing.

**Dr Tombs:** Yes. It is true that most prisoners will not have had that contact. However, there are initiatives such as the throughcare centre in Edinburgh and other places that Sue Matheson and Bernadette Monaghan have mentioned. We want to see more of that developing in the prison system.

However, on the previous point, we should be talking about people not going into prison in the first place if it is not necessary. It is likely that their problems will only be exaggerated if they go into prison. Whatever community links, ties and integration they have before they go in to prison are likely to be shattered by the prison experience.

**Lord James Douglas-Hamilton:** Your response to the SPS estates review was quite excellent. I have a question about the paragraph in which you mention

"rapid nation wide introduction of all community sentences including DTTOs, SAOs, RLOs, enhanced deferred sentences, and refreshing and adequately resourcing community service orders and probation".

Could you give us more information about the problems throughout Scotland, about where such sentences are being used, and about the scope of the problem? I am looking for a more complete picture. I do not expect to get that picture tonight, but it would be helpful if you were to send something to the committee.

**Susan Matheson:** We will do that to the best of our ability. However, the Scottish Executive has been compiling a register to put on every bench. It is a long process. We will do that as best as we can, but if the Scottish Executive, with all the resources that are at its disposal, is having difficulty, I am not sure whether we will be able to give you the chapter and verse that you are

seeking and should be able to get.

**Lord James Douglas-Hamilton:** That would be helpful. Would you be content for children's panels to be reviewed and for them to be able to use further disposals of a community-based nature?

**Dr Tombs:** I am very supportive of that. The consortium's report on rethinking the criminal justice system in Scotland supports completely the bridging system and giving children's panels more flexibility in disposals.

**Lord James Douglas-Hamilton:** My final question is about fine defaulters. Fine defaulters clog up prisons, which is a major problem. The consortium recommends, in its recommendation 8, that all fine enforcement measures should be tried and

"other community sentences actively considered before imprisonment".

Is there scope for considerable change in respect of fine defaulters?

**Dr Tombs:** Sue Matheson will be able to answer that question.

**Susan Matheson:** There is a great deal of scope in respect of fine defaulters. Proposals have been made for the reintroduction of fine enforcement officers and for greater flexibility in methods of paying fines, which would mean that people would not need to have a bank account. Another suggestion is for increased judicial guidance in setting the appropriate level of fine.

In our mediation and reparation service, where the victim and the offender agree on monetary compensation, we find that the agreed rate is manageable for the offender. A significantly high number of offenders pay what they owe—they do not become fine defaulters.

In the past in Germany, I think—although I would have to check the figures—about 80 per cent of people paid their fines. The remaining 20 per cent defaulted on their fines and were sent to prison. A decision was taken to abandon imprisonment for fine default, the result of which is that 80 per cent of people pay their fines and 20 per cent do not. In England, a significant decrease in the use of prison sentences for fine default has not resulted in a significant increase in fine defaulting nor has it led to a public outcry.

**The Convener:** Unless members have other questions, I would like to bring this part of the meeting to an end.

**Michael Matheson:** I have two brief points.

**The Convener:** If members want to sit here all night, that is not a problem. I am simply here to convene.

**Michael Matheson:** As long as the witnesses are happy to take my questions, I have two brief points. I will put them to you both, but you may answer individually.

First, we are trying to find a more holistic, joined-up approach to dealing with crime—one that considers issues of social inclusion and how the various parts of the criminal justice system could be integrated. Given that we have gone round the globe a few times this afternoon, can you suggest good models from other countries for our consideration? We need to obtain such research.

Secondly, the gentleman who is sitting behind you is the chief inspector of prisons. In his most recent follow-up report on Peterhead, he suggested that, if the STOP programme is to be transferred, there should be

"wide consultation with organisations ... such as ... APEX and SACRO".

Were you involved before the publication of the prison estates review or are you involved now in any consultation exercises about the possibility of the transfer of the STOP programme to another prison?

**Bernadette Monaghan:** I will respond to the first point. I am not aware of examples from other countries, but good examples exist in this country, some of which we have touched on. One example is Apex's partnership project with NCH to address employability and offending behaviour. The project evaluation is due to be published by the end of May. It should demonstrate promising results in terms of cost-effectiveness, people completing the programme and not reoffending and the perceptions of sentencers and social workers. That model could be examined along with throughcare from prison.

One difficulty is the lack of ability to track young offenders from the point of entry into the system and follow them throughout their sentence. It is likely that Audit Scotland's study of the effectiveness of the youth justice system will flag that up. Numerous assessments are carried out on young people and offenders, but those assessments do not move around the system with them. If they did, that would help to give a picture of when young people start offending, what their backgrounds and profiles are and where they end up.

The committee may be interested to know that Apex has put in place a tracking process for our clients. The Scottish Criminal Record Office will help us to undertake recidivist checks through the offender index. We believe that the system will comply with data protection regulations.

I return to the issue of public confidence, as we are aware of the need to demonstrate that what

we do is of value and makes an impact. We have started a process whereby we look at our clients after six, 12 and 24 months, when they have moved on, to see whether what we have done has been of value to them in sustaining employment or in achieving whatever other outcome was needed. I could keep the committee informed of what progress we make on that.

**Michael Matheson:** It would be useful if you could forward a copy of the evaluation to the committee.

**Bernadette Monaghan:** I will do that.

**The Convener:** It is also interesting to note that the report will be published at the end of May.

17:30

**Maureen Macmillan:** The consortium's excellent written submission states that you foresee that

"Prison numbers could be substantially reduced (by well over 2,000 places)".

Will you give us some idea of how you calculated that figure? The prison governors to whom we have talked have said that such reductions are not realistic. They do not believe that diversions will make much difference. Clive Fairweather said that, although there could be considerable reductions if short sentences were replaced with non-custodial disposals, that might not bring about the kind of reductions that we might have hoped for because of the growth in the long-term prisoner population. Moreover, the estates review says that the courts would have to stop passing all sentences of less than six months to get a reduction of 500, which is a lot less than a reduction of 2,000. I am interested to find out how robust your figures are. Robust figures are important in making any case.

**Susan Matheson:** Let us start with bail schemes. We know that 65 per cent of those who go through the most intensive and thorough bail schemes do not get a custodial sentence. If such programmes did not exist, those people would likely have been remanded in custody, as they would not have been given bail. Those programmes are effective—65 per cent of the people on them do not receive a custodial sentence. If bail schemes were increased and properly resourced—tagging might be used in some instances—we could make significant inroads into reducing the daily population of 1,000 remand prisoners. The Scottish Executive has said that if all the various proposals were put in place to reduce the imprisonment of fine defaulters, the daily prison population would be cut by 70.

It is perhaps a bit optimistic to expect no

sentences under six months, but an increasing number of people say that we should seriously consider substantially reducing the numbers of such sentences because, as we have heard clearly today, short sentences do not achieve much. That is being said not only by the consortium but by the Association of Directors of Social Work, the Howard League for Penal Reform and the Scottish Centre for Human Rights. Just yesterday evening, Martin Narey, the director general of HM Prison Service in England said that, if we want to reduce reoffending, in the vast majority of cases we should not send people to prison for short periods but should give them community sentences. He said that, if we could get the people who are on short sentences out of prison, he could deal much more effectively with the serious offenders. I am sure that the Scottish Prison Service would say the same thing. The half of the prison population who are given long sentences because they need to be in prison could be worked with much more effectively if the prisons did not have to deal with that churning of people on short-term sentences.

How many young offenders are a significant danger to the public? In Scotland, we lock up a lot of young people, as we do not have enough programmes in place. Under our mediation and reparation scheme in Fife, where the police help us to track young people, 75 per cent of the young people did not reoffend within the following year. For others, we may have reduced the frequency and seriousness of their offending.

There is a range of other community sentences, which are either already in use or are proposed in the Criminal Justice (Scotland) Bill: drug treatment and testing orders, supervised attendance orders, restriction of liberty orders, enhanced deferred sentences, community service orders and probation. As I said, we should invest in all those. The projections in the estates review say that we cannot estimate by how much such measures would reduce the prison population, but we say that there is an enormous potential for community sentences. The estates review also gives no estimate for how an increase in bail support and supervision could reduce the prison population.

We know that there are great opportunities. If we could remove from prison those people who do not need to be there and who not only get no benefit from it but come out worse, the numbers could add up, as long as enough resources were made available to support the full range of sentencing options.

**Dr Tombs:** If the money that was to be invested in building just one of the three proposed private prisons was used to resource those programmes, more could probably be done than even we suggest. Our assumptions are as robust as the



assumptions on which the building of three new private prisons are based. Regardless of whether you think that our assumptions are robust, they are no more or less robust than the assumptions about the building of three new private prisons.

**Maureen Macmillan:** It is important to make that sort of calculation. If we used the money for one prison on such programmes, that would be cost effective.

**Susan Matheson:** The danger is that we have a small window of opportunity, in that we probably need some building to deal with slopping out and Low Moss. Over and above that, the Executive is still talking about an increase in the number of prison places of 900. We do not even need 900 new places if we attack the figure of 2,000—the target for reducing prison numbers—which we should be working at. I think that the proposal is to build two prisons and to see how the numbers go.

**The Convener:** It is.

**Susan Matheson:** Therefore, we must carry out the investment much more rapidly than is usually the case to ensure that we do not need those extra 900 places before plans are put in place to build them.

**Dr Tombs:** We could build one prison and put the money for the others—

**Maureen Macmillan:** We might be able to reach a situation in which, rather than having to build two to three prisons, we had to build only one or two.

**The Convener:** I want to clarify whether you said that the impact of the Criminal Justice (Scotland) Bill has not been taken into account in the prison estates review. That would mean that the Executive was doing one thing with one hand—the Criminal Justice (Scotland) Bill—without relating it to what it was doing with the other hand.

**Susan Matheson:** One or two sections have been taken into account, but sometimes the Executive says in the statistics, “We do not know,” or, “You cannot estimate this.”

**The Convener:** We are coming to a conclusion, but I do not want to truncate Donald Gorrie.

**Donald Gorrie:** I want to follow up on Paul Martin’s question, which, with respect, you did not respond to. We need some good news stories, as well as statistics, to promote your argument. Mr Fairweather and his colleagues provide a systematic review of prisons—for example, they say that prison A does certain things well, but could improve on certain other things. We need more of a survey from you. You are at the sharp end and you know much more about the situation than many of the civil servants who write the stuff that we have to deal with. Will you provide us with

anecdotal and more systematic evidence that shows that you succeed in circumstances in which you get a decent chance? Can you do that?

**Susan Matheson:** One of my colleagues told me today about a woman who has experienced our service in Glasgow. He said, “Phone the manager in Glasgow and get the story for the Justice 1 Committee,” but I ran out of time. I can obtain that story. As I understand the situation, the woman in question, who had multiple difficulties, came to stay in our supported accommodation and turned the corner significantly—she is highly unlikely to reoffend.

Glasgow City Council did a review of a sample of people who had used our supported accommodation. Eighty-six per cent of those in the study remained offence free while they were in our supported accommodation and 71 per cent remained offence free throughout the research period, which in some cases was as long as 18 months. So there are good news stories.

**Paul Martin:** Do those percentages relate just to the sample?

**The Convener:** I know that members all have questions. Perhaps Sue Matheson could provide us with a supplementary paper, which we will put into the public domain. I want to conclude, because it is now 5.40 pm.

**Lord James Douglas-Hamilton:** I have a question that requires only a yes or no answer.

**The Convener:** You always say that in such a charming way.

**Lord James Douglas-Hamilton:** Are you in favour of sentencing seminars for sheriffs and judges?

**Dr Tombs:** I most certainly am.

**The Convener:** There we are. The Justice 1 Committee has conducted a public survey on attitudes to sentencing. We intend to put into the public domain the remit for our inquiry into alternatives to custody before the summer recess. The seam has been opened and the Justice 1 Committee will follow up on it. It is perhaps quite timeous that we must respond to the prison estates review at the same time.

I thank the witnesses for appearing. It is hard to sit and wait for such a long time.

**Dr Tombs:** The meeting was interesting.

**The Convener:** Good. I am pleased to hear that. Thank you very much.

We are not quite ready to pack our bags for the night. It would be useful for us to write to the Sheriffs Association, because we have heard evidence on sheriffs and their attitudes to

alternatives to custody. Although we have not got time to take evidence from the sheriffs, it might be useful to write a letter to them. We were also going to write to the SPS about whether it has carried out or intends to carry out a structural survey of Peterhead.

**Paul Martin:** It would be useful to clarify the status of the survey that has already been carried out.

**The Convener:** We should find out when the most recent survey was carried out.

## Adviser

**The Convener:** I will move quickly on to item 4, which relates to the appointment of an adviser for the forthcoming title conditions (Scotland) bill. The bill seems to be technical and long. We found it advantageous to have an adviser on the budget. Do members agree to the appointment of an adviser to assist with consideration of the title conditions (Scotland) bill?

**Members** *indicated agreement.*

**Lord James Douglas-Hamilton:** I ask for my entry in the register of interests to be noted.

**The Convener:** We will drop item 5, the oral report, which can be done on another occasion. The bell has not rung yet—leave your bags unpacked for the moment. This has been a long meeting. The next meeting will be on 21 May in committee room 1, when we will take further evidence on the prison estates review. There will be three Justice 1 Committee meetings next week, because there are no plenary meetings. I am told that that creates a wonderful opportunity to take further evidence on the prison estates review. The further meetings will be in the afternoon of Wednesday 22 May and in the morning of Thursday 23 May. We also have our usual slot in the afternoon on Tuesday. Just to give members even more fun, there will be a lunchtime briefing on 22 May by the committee's adviser, Professor McDaid, on the financial aspects of the prison estates review. There you are—wall-to-wall prison estates review. That concludes the meeting.

*Meeting closed at 17:42.*

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