

JUSTICE 1 COMMITTEE AND JUSTICE 2 COMMITTEE (JOINT MEETING)

Wednesday 2 October 2002
(Morning)

Session 1

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33rd Meeting 2002, Session 1

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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)

COMMITTEE SUBSTITUTES

Bill Aitken (Glasgow) (Con)

Kate Maclean (Dundee West) (Lab)

Mrs Margaret Smith (Edinburgh West) (LD)

Kay Ullrich (West of Scotland) (SNP)

*attended

JUSTICE 2 COMMITTEE

33rd Meeting 2002, Session 1

CONVENER

*Pauline McNeill (Glasgow Kelvin) (Lab)

DEPUTY CONVENER

*Bill Aitken (Glasgow) (Con)

COMMITTEE MEMBERS

Scott Barrie (Dunfermline West) (Lab)

Mr Duncan Hamilton (Highlands and Islands) (SNP)

*George Lyon (Argyll and Bute) (LD)

Mr Alasdair Morrison (Western Isles) (Lab)

*Stewart Stevenson (Banff and Buchan) (SNP)

COMMITTEE SUBSTITUTES

Roseanna Cunningham (Perth) (SNP)

Lord James Douglas-Hamilton (Lothians) (Con)

Donald Gorrie (Central Scotland) (LD)

Dr Sylvia Jackson (Stirling) (Lab)

*attended

WITNESSES

Colin Boyd QC (Lord Advocate)

Jim Gallagher (Scottish Executive Justice Department)

Robert Gordon (Crown Office and Procurator Fiscal Service)

Mr Jim Wallace (Deputy First Minister and Minister for Justice)

CLERK TO THE COMMITTEE

Alison Taylor

SENIOR ASSISTANT CLERK

Claire Menzies Smith

ASSISTANT CLERK

Jenny Goldsmith

LOCATION

Committee Room 1

CLERK TO THE COMMITTEE

Gillian Baxendine

SENIOR ASSISTANT CLERK

Irene Fleming

ASSISTANT CLERK

Richard Hough

Scottish Parliament

Justice 1 Committee and Justice 2 Committee (Joint Meeting)

Wednesday 2 October 2002

(Morning)

[THE CONVENER *opened the meeting at 10:09*]

Budget Process 2003-04

The Convener (Pauline McNeill): Good morning, everyone, and welcome to this joint meeting of the Justice 1 Committee and the Justice 2 Committee, on stage 2 of the budget process. We welcome the Minister for Justice, Jim Wallace, and both his officials. Thank you for coming along this morning. I appreciate that you have only about 45 minutes, but I think that that will be tough for us and that we are likely to run a wee bit over. However, we will do our best to stick to time. We will go straight to questions.

Bill Aitken (Glasgow) (Con): Good morning, minister. Given that justice and law and order were one of the Executive's many priorities for action—although those priorities have latterly been restricted to five—is it not surprising that the justice budget is set to decrease as a share of the Executive's overall spend from 3.54 per cent in 2002-03 to 3.22 per cent in 2005-06?

The Deputy First Minister and Minister for Justice (Mr Jim Wallace): If Mr Aitken considers the figures, he will see steady real-terms increases in the justice budget. I do not think that it would be a fair criticism to say that there is any less commitment to justice issues as a result of the most recent spending round. Any Administration has to make judgments and, to give two major examples, our commitment to funding free personal care for the elderly and our commitment to the McCrone settlement have increased the budgets of those respective departments. A majority in the Parliament has agreed with those priorities.

Some figures are not obvious at first glance. The justice department line does not include the amount that is paid in police and fire grant-aided expenditure. If that is included, the increase over the period covered by the most recent spending review announcement is 2.5 per cent per annum in real terms. We could also include figures for the Crown Office. It is important to consider the justice system as a whole. With due respect to Mr Aitken, one of the mistakes that his party made when in office in the 1990s was to increase funding for the

police but not to make a similar increase for the Crown Office and Procurator Fiscal Service. That put tremendous strain on the service, which we are now addressing. Later this morning, committee members will have an opportunity to talk to the Lord Advocate on that issue. If figures for the Crown Office are included, the real-terms growth over the period of the spending review is 3.35 per cent per annum. That indicates a commitment to the justice system as a whole.

Bill Aitken: Let us leave that on the back burner for a moment. Even if we accept the minister's figures, there is still a lower allocation to justice as a share of the overall Executive budget. If we compare like with like and refer to the "Building a Better Scotland" document, we see on page 14 that real spending on justice will grow at an average annual rate of 1.3 per cent, whereas the total Executive budget will grow at an average annual rate of 4.6 per cent. Those figures demonstrate clearly, in budgetary terms, the lack of commitment to the justice department. I hear what the minister says about expenditure on the Crown Office and other things, but, even taking his best figures, he is still below the average.

Mr Wallace: As I indicated, the figure of 1.3 per cent excludes the money that is going to fund police through the local government settlement. I hope that the justice committees would not think that that money was not being spent on the justice system. That money is an important part of the funding, as it allows us to sustain front-line policing at record levels.

As I have said, if we include those figures, we move up to a 2.5 per cent increase. However, as everyone knows, there are a number of competing demands on the Government. For example, Parliament wished to spend more money on delivering free personal care for the elderly, which I wholly support. I am prepared to see that through—taking part of the collective responsibility for the decision making of the Government—and that funding has to be found. Such decisions feed through to the kind of figures that Mr Aitken has referred to. However, we have to take into account the money on the justice department line, the money that is going to local authorities to fund police and fire grant-aided expenditure and the money that is going to the Crown Office. No one can be in any doubt that we are seeing sustained real-terms funding for those important services.

Bill Aitken: But those are lesser real-terms increases than are found elsewhere in the budget, even on the basis of your figures.

Mr Wallace: I have just given an example of a major new policy development, in the provision of free personal care for the elderly. Different Parliaments and Governments weigh up considerations differently. These are the

considerations that are presented in the budget. I believe that the resources that we have found will allow front-line policing to remain at record levels. There has been a significant increase in resources to help the Crown Office and Procurator Fiscal Service and a significant increase in the amount of money that goes to, for example, criminal justice social work. Anyone who looks at the budget fairly must accept that the funding is being made available to support our commitment to the creation of a safer Scotland. The funding is now in place to sustain the number of police officers at a level that was not possible before.

10:15

Christine Grahame (South of Scotland) (SNP): I do not think that you gave us the figure for the real spending increase. The figure of 1.3 per cent is not right for justice. You mentioned the police service, the fire service and the Crown Office and Procurator Fiscal Service. What is the percentage including those?

Mr Wallace: Including the police service GAE and the fire service GAE, the real-terms growth is 2.5 per cent per annum. Including the Crown Office, it is 3.35 per cent.

Christine Grahame: So, it is still below the budget average.

Mr Wallace: Yes, but that is real-terms growth.

Christine Grahame: If the average was found, excluding what you have just mentioned, there would be an even bigger difference.

Jim Gallagher (Scottish Executive Justice Department): Arithmetically, that must be right. The real-terms growth in the block as a whole—which you will find on page 14 of “Building a Better Scotland”, in the table to which Mr Aitken referred—is 4.6 per cent per annum across the period. Members must take account of the fact that a contingency fund is included. Excluding the contingency fund, the growth for programmes is about 4.4 per cent, which compares with the 3.35 per cent that the minister has suggested.

Christine Grahame: That figures backwards and forwards, but it is still lower than the average.

Mr Wallace: Yes. That is factually correct. However, there is no saying that we will not get money out of the contingency fund.

Stewart Stevenson (Banff and Buchan) (SNP): The minister referred to local authorities. Their share of the Executive's total managed budget over the period will be reduced by about 7 per cent, from 5.72 per cent to 5.34 per cent. Does the minister share my concern that the Liberal administration of Aberdeenshire Council is cutting criminal justice social work because of a shortage

of funds? Is it appropriate that there should be a reduction in the share that is devoted to the financing of local authorities' activities in that and other criminal justice areas?

Mr Wallace: I would require more specific detail on that. What Mr Stevenson says surprises me, as criminal justice social work services are 100 per cent funded by the Executive. Page 18 of “Building a Better Scotland” shows that the proposal for criminal justice services is an increase in funding from £67 million in the current financial year to £88 million in 2005-06. I cannot understand why criminal justice social work services should be cut, given that they are 100 per cent funded. I would require chapter-and-verse detail on that before I could pass any opinion.

The Convener: Perhaps Stewart Stevenson will correspond with you at a later date.

Stewart Stevenson: In fairness to the minister, I have not yet received a formal reply from Aberdeenshire Council. Nevertheless, I am assured that that is the case at its half-year review.

The Convener: You can take that up with the minister at another time.

Let us move on. I will not rehearse all the dialogue that we have had previously on time-out centres, but I thank Jim Gallagher for his response to some of my questions about them. I recognise that the Executive is marching on with the proposal, which is an important one, but I feel that, in its response to the committees' stage 1 budget report, it missed the point that we were making.

If the time-out centre in Glasgow is to serve only people from within the local authority boundary, we will create the same problems as we have with secure accommodation. Will the centre not cover the sheriffdom of Glasgow and Strathkelvin? Will only women who live within the local authority boundary be able to use it? Could a referral be made only for a Glasgow resident?

Mr Wallace: In the first instance, the Glasgow City Council boundary will be used. In his letter to you, Mr Gallagher indicated that setting up such facilities can sometimes be a sensitive matter. Glasgow City Council has shown a lot of commitment to the creation of the centre. If the centre establishes itself as we all hope it will, I do not rule out its replication in other parts of Scotland. It is a new development.

The Convener: I acknowledge what you have said. However, it seems bizarre that the disposal will be available to sheriffs at Glasgow sheriff court only if the woman who is before the court is a Glasgow resident. To continue to have justice served on the basis of a local authority boundary is not the way forward. In my experience, the

problem is the same with secure accommodation. It does not matter how great the need is; there is no flexibility in the system. The committee will later discuss where the responsibility for secure accommodation should lie within the Executive.

Are you not concerned that the boundary is too strict? Even if we set up time-out centres in other areas, if their use is determined by local authority boundaries, that will reduce their flexibility. That is the point in our stage 1 report that I wanted you to respond to.

Mr Wallace: I understand the point that you are making, convener. However, the centre has not been refurbished or opened its doors yet. If, six months down the line, it is only being half used, I would be concerned, especially if the system was so inflexible that we could not use the available space for both day care and residential treatment. However, I do not think that anyone expects the centre to be lying half empty, even if we use only the Glasgow City Council catchment area. That is the tragedy. Figures suggest that the bulk of those who are given custodial sentences come principally from the Glasgow area. Nonetheless, I take your point. If the facility was not being used to a significant extent, that would not be a proper use of resources and there would have to be more flexibility.

The Convener: I recognise that the problem is not wholly with the Executive, but, again, I register my disagreement about the way in which the policy is proceeding, if that is the model. We should learn from past experiences, when local authority boundaries have meant that we have not been flexible.

On that point, I ask Lord James Douglas-Hamilton to ask a question on secure accommodation.

Christine Grahame: May I ask a supplementary question on an issue relating to the time-out centre that the minister has not addressed?

The Convener: Okay.

Christine Grahame: Minister, in a letter to the justice committees, you say that

"funding is being made available to assist the development of offender programmes geared specifically to women in other parts of the country."

We now understand that the time-out centre will be in Glasgow, but is it possible to see in the budget the funding that you refer to?

Jim Gallagher: The funding for community justice services in "Building a Better Scotland" includes all the funding for non-custodial penalties, including those for women offenders throughout the country. Once the details of the budget are set out, at the next stage, we will be happy to share details of the provision with the committee.

Christine Grahame: I want to tease that figure out. If what Pauline McNeill is saying is true, we will want to know what women in other parts of the country are having spent on them.

Mr Wallace: Diversion from prosecution is a case in point.

Lord James Douglas-Hamilton (Lothians) (Con): Cathy Jamieson announced the creation of 25 extra places in secure accommodation. Will those be additional to the present number and will they have a substantial impact on the justice budget?

Mr Wallace: There are 25 extra places, therefore they are additional to the existing number. The extra places will be to offer much-needed facilities for girls. Members might recall that we wanted to configure the estate so that we could have a girls-only unit. As far as possible, we hope to avoid having under-16s remanded to young offenders institutions. In 2000-01, there were 218 admissions to secure units. That figure was lower than in previous years, in which there were approximately 260 admissions.

The funding is essentially part of the education department budget. I know that the committee has raised the issue before. Of the 200 or so children who are held in such establishments, only 20 per cent are remitted by the courts. The committee will be aware that the justice department has responsibility for children only if they are sentenced to detention under sections 205 or 208 of the Criminal Procedure (Scotland) Act 1995. Otherwise, the responsibility for what has worked out at about 80 per cent of the placements rests with the education department and therefore the education budget.

Lord James Douglas-Hamilton: This appears to be a cross-cutting issue. As you have said, extra funds have been announced for tackling youth crime. That money appears in "Building a Better Scotland" under the heading "Education and Young People". With regard to the small number of persistent young offenders who are likely to be sent to secure accommodation, who is the lead minister? Is it the Minister for Justice or the Minister for Education and Young People?

Mr Wallace: The responsibility for those who are sentenced to detention under the sections to which I have referred rests with the justice department.

Lord James Douglas-Hamilton: Will the funding come from the justice department?

Mr Wallace: Yes. It will make a contribution.

Lord James Douglas-Hamilton: Can you give an undertaking that, if the children's panels give disposals to that effect, you will find sufficient places in secure accommodation?

Mr Wallace: No, because the children's panels would not make those disposals. The courts would make those disposals.

Jim Gallagher: The minister could undertake to ensure that the justice budget would find the costs when the courts make such disposals.

Lord James Douglas-Hamilton: Is it the case that all disposals by children's panels are the responsibility of Cathy Jamieson and not the justice department?

Mr Wallace: Yes.

Lord James Douglas-Hamilton: So it does not matter how many crimes the young offender has committed.

Jim Gallagher: Whether the young offender is treated under the children's panel system after the commission of a crime is a matter for the procurator fiscal's discretion. If the matter is reported by the police and the fiscal decides that—despite the fact that the child is under 16 or is an 18-year-old under supervision—there will be a prosecution, which leads to a recommendation that the child should go into secure accommodation, the justice department will pick up the bill.

Lord James Douglas-Hamilton: Who is the lead minister in that situation? Would it be the Lord Advocate?

Jim Gallagher: In relation to prosecution, yes.

Christine Grahame: The committees' recommendation to put the matter under one budget heading was important. I believe that the issue has to be revisited. Given that we are trying not to put children through the adult criminal court system but to get them back in front of something similar to children's panels, any remit to secure accommodation will not come under the justice department's budget. There is a false division. You say that you commissioned a secure accommodation advisory group, which

"concluded that there was a lack of evidence to support an increase in places."

That was probably true for those cases that were referred under the Criminal Procedure (Scotland) Act 1995, but there is a great lack of secure accommodation places for children who have been referred from children's panels. The authorities cannot put them anywhere. I was told that we needed six to eight places in the Borders alone, and we do not have any. The authorities could not even find places for some of the offenders in England.

Mr Wallace: I find it difficult to believe that there is a need for 68 places in the Borders when there is only a need for 260 in the whole of Scotland.

Christine Grahame: I am talking in the broader sense, not just about referrals that are made under the remit of the justice department but about those made by children's panels. Children who run away and who are put into secure accommodation because they are not happy at home are known by the police to commit petty crimes when they are out on the streets for three or four days. How would they survive otherwise? Technically, those children do not fall within the criminal justice system, although many of them commit petty crimes.

10:30

Mr Wallace: If children have run away from home and there are issues relating to that, they should not come into the criminal justice system.

Christine Grahame: I agree, but my point is that the distinction that is made between children who are put into secure accommodation for protection, who have unhappy domestic circumstances and who may also be committing petty crimes, and children who are at the tough end of the criminal system—those who have been admitted through the courts—is sometimes false. We mentioned the possibility of having a comprehensive budget for the whole range of secure accommodation. That would make things clear to us when we considered the funding and it would also be fairer in showing that there is often not a huge distinction between the different groups that I have described.

Mr Wallace: We know that people can drift from petty crime into more serious crime. That is why we are pursuing a range of measures, including the development of youth courts and the pilots that are referred to in part 7 of the Criminal Justice (Scotland) Bill.

I want to correct what may have been misapprehensions on Christine Grahame's part. The secure accommodation advisory group to which I referred in my letter in response to the committees' report was not a justice department group; it had a cross-cutting responsibility. Lord James Douglas-Hamilton, among others, has referred to that. Although the group concluded that there was a lack of evidence to support an increase in places, it is wrong to say that that was solely in relation to those who were referred through the criminal justice system. The group's conclusion related to the whole spectrum.

Given that there were 218 admissions in Scotland in 2000-01, I find the suggestion that the Scottish Borders has 65 cases very odd. That is a remarkably high percentage. If that were the case, we would want to know what is going on in the Borders. That figure seems disproportionate, given the size of the Borders population in relation to the total population of Scotland.

Christine Grahame: Let me clarify the issue. The advisory group said that there was no lack of secure accommodation across the range, including for social work referrals, children's panel referrals and criminal referrals.

Mr Wallace: Although the group said that there was a lack of evidence to support an increase, we have announced an increase of 25 places. There will be an increase, because we are aware that children's panels have commented that they cannot always get the disposal that they want when they want it.

The Convener: It is astonishing that the advisory group reached the conclusion that it did. That has been acknowledged. I am pleased that the Executive has recognised that that conclusion is wrong and has provided 25 extra places. I presume that those 25 extra places will be for criminal justice social work referrals and referrals that arise from the justice department's procedures.

I am having a separate dialogue with Cathy Jamieson about the appropriate nature of accommodation for certain children. There should be a review of what is available. Children who need to be protected for safety reasons should have different accommodation. The case that the justice committees are making to you is that a number of the issues—especially those concerning local authority boundaries—would be resolved if the justice department managed all secure accommodation places.

There is a strong case for that to happen. I do not know the ins and outs of Christine Grahame's figures for the Borders, but I know of cases in which a local authority that has no secure places available is unable to use the secure places that are available to another authority. If the justice department held the places centrally, I presume that we could overcome that problem. We have to leave this point shortly, but we must put our case to you. We feel that there is a substantial case for the justice department to manage all secure accommodation places.

Mr Wallace: I hear what has been said and I shall ensure that it is drawn to the attention of the First Minister, who is ultimately responsible for the allocation of responsibilities between departments. It is not for the justice department to go on a territorial land grab, if I can put it like that. I rather suspect that, if that were to happen, we would find the Education, Culture and Sport Committee addressing a similar concern to the Minister for Education and Young People, especially as 80 per cent of admissions have come through the children's hearings system rather than through the criminal justice system. I recognise the strength with which committee members make that point and I shall ensure that the First Minister is aware of their views.

The Convener: That is a fair point. I appreciate your promise to put the case strongly. I am sure that you will be able to summarise some of the comments that we have made. We are not simply being territorial; we think that we have a good case and we have put it to you.

I see that Lord James Douglas-Hamilton wants to speak. Unless it is a burning issue, we should move on. I urge you to be brief, Lord James.

Lord James Douglas-Hamilton: I shall put my point in one sentence. As we see it, there is a strong case for the justice department to take the lead in the matter, as the Minister for Justice is the lead minister.

Mr Wallace: That point has been fairly made.

Donald Gorrie (Central Scotland) (LD): I have a couple of questions about the status quo, followed by a couple of technical questions about the budget. I was interested in your response to the Justice 1 Committee's report on the subject of diversion from custody. Your officials obviously told you that they have no evidence that the reported difficulties of funding in South Lanarkshire, which we commented on, are replicated in other areas of Scotland. My understanding is that it is notorious to everyone who is interested in the subject that councils are not able to provide robust alternatives to custody for all the people concerned. Sheriffs therefore do not make use of such alternatives, because, quite rightly, they have no confidence in them. Why have your officials commented otherwise?

Mr Wallace: With respect, I believe that you are confusing alternatives to custody with diversion from prosecution. My understanding is that the comment to the committee from South Lanarkshire Council related to diversion from prosecution, which is different from cases in which people are prosecuted and the courts wish to have the option of a custodial sentence.

In 2000-01, £665,000 was allocated to diversion from prosecution. In the current financial year, that figure has grown to £1.465 million, more than doubling the amount. Of course, that takes into account the fact that we have now rolled out diversion from prosecution to all local authorities, so that procurators fiscal across Scotland can access local schemes. This year's funding figure of £1.465 million will form the base figure for next year.

South Lanarkshire Council made no direct approach to the Executive to support the claim that was made to the committee. I said that no reported difficulties would be replicated in other parts of Scotland. In 2001-02, out of a total national allocation of £1.465 million made available to local authorities for diversion schemes, estimated actual expenditure amounted

to £1.069 million. In other words, there was a shortfall—if my arithmetic is correct—of £395,000. So £395,000 less than the allocation was spent, which does not appear to indicate a shortage of funding.

Donald Gorrie has raised the question of alternatives to custody and the range of community disposals that are available. I am happy to draw the committees' attention again to page 18 of "Building a Better Scotland". The line for community justice services moves from a planned expenditure in the current financial year of £67 million to a planned expenditure in 2005-06 of £88 million. By anyone's reckoning, that is a substantial increase.

To give members a slightly wider historical perspective on the matter, for the year 2000-01, that budget line was £46 million, which means that the amount spent on criminal justice social work services has nearly doubled in five years. That is against the background of a static number of community disposals. Therefore, it is difficult to point the finger at the absence of funding as the reason why sheriffs do not use alternatives to custody.

As I have told the committees in the past, the issue is about more than funding; it is about public and judicial confidence in the available alternatives. To that end, we have brigaded local authorities into 11 mainland units to deliver criminal justice social work, the intention of which is to raise standards and attain greater uniformity and quality throughout Scotland. We want to ensure that criminal justice social work is not the cinderella service of social work departments. An accreditation panel is being established to accredit the various schemes properly.

Alternatives to custody have an important role and choices of appropriate disposals ought to be available to the courts. The issue is not only about money, but about confidence in the quality of the available disposals. For example, the early assessment of drug treatment and testing orders is that they are successful, which is why we intend to roll them out to more sheriff courts. No one should be under the illusion that those orders are not resource intensive, but we believe that they make a contribution. The roll-out of the DTTOs is reflected in the substantially increased figures on page 18 of "Building a Better Scotland".

Donald Gorrie: I feel that the statement in your letter reflects complacency about the status quo. With all due respect, excellent funding increases in future, although welcome, do not affect the present situation. Your letter states that pilot schemes are funded in 18 local authority areas and that the scheme will be rolled out throughout the country. Can you provide information on which pilot schemes are being rolled out, which are not

being rolled out and why? Some successful pilot schemes have been going on for years—the pilots must have reached the north pole by now—but the schemes have not been rolled out or supported, although regularly they receive good reports. Will you guarantee that those pilot schemes will be funded on a firm basis instead of having to waste time by scrabbling for money from year to year? Will you seriously consider relevant schemes that are run by all sorts of voluntary organisations, many of which are extremely successful?

Mr Wallace: Yes, of course. I will be happy to provide the committees with the evaluation of the pilot schemes on diversion from prosecution to which the letter refers. The schemes have now been rolled out throughout Scotland. An obvious example of national roll-out is the pilots for restriction of liberty orders in Aberdeen, Peterhead and Hamilton sheriff courts. As from 1 May this year, that scheme has been rolled out throughout Scotland.

DTTOs will take longer to roll out, but, as I said, the initial evaluation of the pilots has been positive, which is why we are extending them to a further raft of sheriff courts. As I have made clear in debates in the chamber, DTTOs require a lot of infrastructure to support them. It is not possible simply to turn on the tap and have them operating throughout Scotland; people and resources must be in place in each area, which is why such programmes take time to roll out. That said, there is a commitment to continue to extend drug treatment and testing orders.

There are a number of individual projects of note—Donald Gorrie may be thinking of the Freagarrach project, for example—that have been positively evaluated, and much needs to be done to learn from and disseminate good practice. I think that a unit at the University of Edinburgh is doing work in that connection, but I will get back to the committees with the detail of that. We may consider using on the dissemination of that good practice some of the additional resource that has been made available for youth crime.

10:45

The Convener: I take this opportunity to give the committees a timing alert. If we do not move a wee bit faster, we might not be able to cover all the subjects that we wish to explore.

Stewart Stevenson: The first part of objective 3 for justice in "Building a Better Scotland" is "To reduce offending". I am not sure that that fits well with the second part of the objective, but let us leave that to one side. Target 7 reads:

"Increase the number of prison rehabilitation programmes and approved activities by 40% to 1,500 by 2005-06."

The minister knows that I am enthusiastic about prison rehabilitation programmes, but I am concerned that we do not have a clear linkage between increased activity in that area and a measurement of the outcomes that are delivered through investing in prison rehabilitation programmes. How does the minister intend to show us that there is an adequate linkage between the two, so that I can continue robustly to defend investment in rehabilitation programmes?

Mr Wallace: There is widespread recognition that prisons should not exist solely for punitive purposes. Every prison sentence has a punitive element that marks society's disapproval of what has been done, but there must be a clear objective in the prison system of trying to ensure that people, when they are released back into the community, are less likely to offend as a result of having served their prison sentences.

Anyone who looks at the recent history of the development of the Scottish Prison Service will have noticed a marked increase in the commitment to reducing reoffending through rehabilitation. When I came into office, I was surprised at the paucity of the information that is required to measure levels of reoffending post release. That is now being addressed, and figures are being made available. I want to monitor that closely.

I believe strongly that simply to let people vegetate in prison will do absolutely nothing to make them less likely to offend on release. Some of the programmes that are now delivered in our prisons address behaviour directly, and some are directed towards skills to enhance prisoners' employability. Some provide basic education, including literacy and numeracy. Those should all contribute to reducing the likelihood of prisoners reoffending.

Stewart Stevenson: Specifically, will there be a comparison of the group of prisoners who undertake rehabilitation with those who do not, so that we can make some quantitative assessment, and hence defend the rehabilitation programmes against sceptics?

Jim Gallagher: I am grateful to Stewart Stevenson for raising that point. It is very difficult to measure the effect of a programme that a prisoner has gone through or of the intervention that has been taken with him set against the other things that happen in his life once he is released.

One of the interesting things that we now measure is the rate of return to prison, which stands at about 48 per cent returning within two years. That figure is much higher than any of us would like, although it is not unusually high by international standards. The most commonly used mechanism for telling whether or not a programme

works involves accreditation of that programme against international standards.

The Scottish Prison Service's corporate plan contains the objectives that the minister has set for the Prison Service. Among them are objectives not merely on the volume of programmes, but on the proportion of those programmes that are accredited to standards that are measured against the effectiveness of programmes for reducing reoffending.

Mr Wallace: I have a copy of the Scottish Prison Service publication "Making a Difference", which deals with several of those issues. I understand that that document is available electronically. If the committees wish, we can arrange for it to be sent.

The Convener: Yes, please. You have given us useful information. We will return to pressing you on the theme of outcomes in accordance with expenditure.

Mr Wallace: Absolutely. That is perfectly proper.

Donald Gorrie: Much of the large increase in the police budget is to deal with the new pay structure. I understand that recently you specified some of the improvements that are to be made to the police service, in addition to increased pay. What is being improved in the police service?

Mr Wallace: Donald Gorrie is right. Funding is in place to sustain the levels of front-line policing that we have taken up. For example, the airwave project will bring state-of-the-art radio communications to our police. It would be fair to describe that technology as being at the cutting edge of 21st century technology.

The spending review allocates an additional £25 million over the period of the review to provide police forces in Scotland with that airwave technology. The development is exciting and will improve police effectiveness. The system has an encryption facility that prevents people from listening in. It will bring greater clarity to voice communications. It has the potential to give police direct access to police data while they are out on patrol and has safety features such as the facility to summon urgent assistance in emergencies, so it gives police officers some protection.

It is widely acknowledged that the existing technology does not meet needs. We have said it in the past, but the airwave project is now almost coming to fruition. I think that I am right in saying that it is hoped that Dumfries and Galloway constabulary, Lothian and Borders police, Strathclyde police, Central Scotland police and Fife constabulary will change over in 2004 and that Northern constabulary, Grampian police and Tayside police will change over in 2005.

Other investments that we are making in technology include investment in LiveScan, which

can feed in electronically and quickly some of the fingerprinting that is done in different parts of Scotland. The issue is not only people—vital though they are. It is important that we equip our police as best we can with state-of-the-art technology. Airwave is a good example of that.

The Convener: I propose to move on to the prison estates review. Bill Aitken had a question on criminal justice social work. Are you satisfied that everything has been covered?

Bill Aitken: The minister dealt briefly with the fact that £8 million is going into the criminal justice social work component of the pot. What will we get for that?

Mr Wallace: Much of that will be used on several matters that we have discussed, such as diversions from prosecution, securing the range, quality and availability of non-custodial sentences and increasing the number and range of community sentences. As I said—this relates to what Jim Gallagher said about the Scottish Prison Service—we are establishing an accreditation panel to ensure not only the volume but the quality of the programmes that are being delivered through the criminal justice social work services. Some of the detail of that will be available when we get down to the level 3 figures.

Jim Gallagher: It is worth recording that the overall target for what that increase will buy is set out on page 16 of "Building a Better Scotland". That target is the capacity for 17,000 community disposals, which is a marked increase on the 12,000 that are available in the current year.

Bill Aitken: We look forward to the discussion of the level 3 figures, when things will be clearer.

Christine Grahame: In your statement to the Parliament of 5 September on the prison estates review, you announced a £110 million modernisation fund. That seems to be made up of Scottish Prison Service savings of £12.5 million per year for three years, plus an annual baseline capital investment of £20 million for each of the three years and the £15 million that was announced in the spending review. In other words, of the extra £3 billion announced in the spending review, something like £15 million is being invested in the prison estate. The other money was already available.

Mr Wallace: It was not, because we had not committed spending for future years. I said that £12.5 million per year would be available for two years, but it had never been announced that that money would be available for a third year; it is additional spending. The £20 million to which the member refers is in the baseline for 2003-04, but there had been no commitment to provide £20 million for capital investment in either 2004-05 or 2005-06. The £15 million that was announced in

the spending review is additional to that. Money that had never previously been committed is now available. As I said in my statement of 5 September, this is the biggest-ever public investment in refurbishment of the public prison estate.

Christine Grahame: Given that there is a baseline figure, the only additional money that was not already committed is the £15 million.

Mr Wallace: The £20 million was included in the baseline figure to ensure that it was retained. If it had not been included, it would not necessarily have been retained.

Christine Grahame: So my understanding is incorrect. It is not correct to say that of the £3 billion of additional money that has been announced in the spending review the SPS is receiving only £15 million that it would otherwise not have received. Are you saying that all the rest of the money was in the package of what you call savings?

Mr Wallace: It would be incorrect to say that only £15 million had not previously been committed. We could discuss the semantics of what has come out of the £3 billion of extra money, but we must deal with the budget as a whole. The £20 million that I included in the baseline had not been allocated previously, the £12.5 million in year 3 had not been committed previously and the £15 million was announced in the spending review. Those sums are all being committed for the first time.

Christine Grahame: Your spending plans are outlined on page 18 of "Building a Better Scotland". In 2002-03, £301 million will be spent on the Scottish Prison Service. In 2005-06, £314 million will be spent. Spending in real terms will remain flat: £314 million in 2005-06 is worth £291 million today.

Mr Wallace: The footnote to the figures for spending on the SPS reads:

"The fall in SPS provision between 2002-03 and 2003-04 is due to the inclusion of impairment costs, which amount to £35 million in 2002-03 and £18 million in 2003-04. If impairment costs are excluded, SPS's provision rises from £266 million in 2002-03 to £281 million in 2003-04."

I discussed impairment costs with the committees at the previous meeting at which we considered the budget.

Christine Grahame: The figure for 2003-04 translates to £291 million today. The figure for 2005-06 also translates to £291 million today. The figure does not change: spending is flat. Given the size of the modernisation programme that we face—for example, provision of ducting and toilet facilities at Peterhead—that budgetary provision cannot be sufficient.

Mr Wallace: There will be improvements in efficiency. Indeed, that is where some of the £12.5 million will come from. That is one of the key performance targets that I set the prison service. However, the fact remains that there is a £110 million capital investment programme to refurbish our prisons, which is primarily directed at Perth, Glenochil, Edinburgh and Polmont prisons. That work is over and above that which is being done at Edinburgh and Polmont prisons. In addition, work on improving access to night sanitation and putting electricity into cells will be done at Peterhead prison.

11:00

Stewart Stevenson: If we can leave aside the issue of how developments in the prison service estate might be funded—I think that that opens up other issues—have you a target capital cost per prisoner place for new places?

Jim Gallagher: No, not in those terms. We have a series of programmes for building in the public estate house blocks that will typically provide a couple of hundred places in each establishment. There is a comprehensive development plan for each of the major prisons in the estate. Those plans will obviously be subject to competitive tender among building contractors for the building. The prison service's job will be to ensure that it gets the best cost for that.

We have not, however, set a capital cost per prisoner place. What we set in the budget round for the SPS and what the minister sets in his annual targets is a revenue cost per prisoner place.

Stewart Stevenson: Does that include funding for the capital cost?

Jim Gallagher: No. The revenue cost that is set in the key performance indicators is in fact just a current expenditure cost. It strips out the capital charges and suchlike.

Stewart Stevenson: Will you say later what sort of figure you have in mind? My interest derives from my belief that we can increase capacity through the existing infrastructure at Peterhead. The provision of another 200 places there for the remaining long-term sex offenders could be cost effective when compared to developments elsewhere. I want the opportunity to explore that matter later.

Jim Gallagher: If Mr Stevenson wants to explore that issue it might be helpful to start with the figure work which was, of course, published in the estates review.

George Lyon (Argyll and Bute) (LD): I have a couple of questions on prisons. Are the figures predicated on two private prisons being built, as

was announced in Mr Wallace's statement in the chamber on 5 September?

Mr Wallace: No—that statement did not refer to two private prisons. It referred to one private prison and one new prison, which we are challenging the public sector to deliver as efficiently in terms of value for money as could the private sector. Again, as I have said, there are difficulties in planning. The question is how much of the costs for the two prisons would come into the spending plans. The first prison, which we have earmarked primarily for remand, should come into the spending plans.

Jim Gallagher: The first of the two prisons is likely to be available sometime around the end of the budget. However, the target that the minister set in "Building a Better Scotland" for the provision of prisoner places is 6,300 by the end of the spending review period, which is just below what we would have if we get the first new prison. Therefore, the big growth in places would be at the end of the spending review period.

Mr Wallace: The period of the prison estates review was longer than the spending review.

George Lyon: Yes, I understand that. I am just trying to get a handle on when the provision for prisoner places starts to impact on the budget. *[Interruption.]*

The Convener: I am sorry for the interruption. I have a new mobile phone and I do not know how to work it.

Christine Grahame: I am not sure whether that is a mitigating circumstance.

George Lyon: The minister said in his 5 September statement that further work in conjunction with the SPS, the Prison Officers Association Scotland and the unions would be about trying to drive down costs and get better value for money. Is any of that built into the figures in the Executive's spending proposals in "Building a Better Scotland" for releasing better value for money through the years? Do the spending proposals include figures that are indicative of the Executive's expectations of what the process might deliver?

Jim Gallagher: It might be best for me to divide my answer to that question into two parts. When he made his statement on the prison estates review, the minister announced that the target that he had set for the current year for the prison service to provide efficiency savings in its revenue costs, which could be reinvested into capital, was to continue for the period of the spending review. That is the first proposition. The second is the challenge that he set in relation to the provision of the second of the two new prisons that ministers concluded were needed. That is an even more

demanding challenge to the prison service, its management and the unions, and it is the challenge that they are currently coming to terms with. Given the timings, we have made no assumption about the further benefits that will come from that in the figures that are displayed in "Building a Better Scotland".

The Convener: We will draw this part of the meeting to a close. I know that members had some questions on the Scottish Legal Aid Board; however, I suggest that we leave those unless members want to ask something specific.

Christine Grahame: How long do we have the minister for?

The Convener: That is it, really. However, if anyone has an important question that they want to ask, I will let them.

Mr Wallace: If it is a question on legal aid, I will try to answer it.

Lord James Douglas-Hamilton: I have two brief questions on legal aid. First, is it possible to try to deal with all the legal aid orders together? I know that the civil service has always found it difficult to deal with them separately. I leave that request.

Mr Wallace: You can leave that request hanging in the air, James.

Lord James Douglas-Hamilton: Secondly, is it possible to have annual uprating, which would make for simplicity and would create more satisfaction among all concerned?

Mr Wallace: I wrote to Christine Grahame on that issue and repeated my view when I appeared before the justice committees last month. I understand fully where Lord James and other members are coming from on the matter; however, our legal advice is that we cannot provide for automatic uprating without a change in primary legislation. I am not sure that, even then, Parliament would want to relinquish its right to scrutinise our proposals in that area. Nevertheless, we are committed to trying to ensure that, over time, eligibility levels keep pace with inflation.

The suggestion that we should deal with all legal aid orders together is, no doubt, born of Lord James's experience.

Jim Gallagher: It is also born of the justice department's work. Dealing with the orders separately creates more work for us, too.

Mr Wallace: We will see what we can do about that.

The Convener: Thank you.

Can you tell us briefly anything about the

announcement at the weekend on the Executive's proposal to make additional resources available for the police service in return for its meeting targets?

Mr Wallace: There are additional resources for the police to allow them to maintain their numbers for front-line policing. I announced the targets earlier in the year; some are in "Building a Better Scotland". For example, a further reduction in the level of serious violent crime is a target that the Scottish police service should meet. It is important to remember that the targets are tripartite agreements between chief constables, ministers and the police authorities. The target is to reduce the level of serious violent crime by 5 per cent by 2004. As was reflected in one of the Sunday newspapers, we do not expect that work to come to a grinding halt in 2004. Having set targets, we want to engage with the police to continue to refresh and renew them.

The Convener: According to the report that we have received, the targets for further reductions are to be agreed by 2006. Is that still up for discussion?

Mr Wallace: Yes. We announced the targets for 2004 only in March. It would be impossible to have the new ones for 2006, although there is continuing dialogue. It is important to remember that those targets require the consent not only of chief constables and ministers but of the police authorities.

The Convener: We had a few questions for you on end-year flexibility. Would you be happy for us to write to you on those points?

Mr Wallace: Yes.

The Convener: Thank you for coming along and giving evidence this morning. We are very grateful, as usual.

Mr Wallace: Thank you.

11:11

Meeting suspended.

11:13

On resuming—

The Convener: I welcome the Lord Advocate and representatives of the Crown Office to this joint meeting of the justice committees on stage 2 of the budget process. We will go straight to questions. We have about an hour or so.

The Lord Advocate (Colin Boyd): I am at your disposal.

Christine Grahame: That is reckless.

The Convener: You should not say things like that. On that happy note, Bill Aitken will begin.

Bill Aitken: The Lord Advocate will recollect that, at stage 1 of the process, we were unable to scrutinise the Crown Office and Procurator Fiscal Service budget because of the lack of detailed figures and the announcement, last spring, of £10 million extra funding. The end year flexibility announcements made by the Minister for Finance and Public Services on 16 June outlined a £16.7 million allocation for 2002-03, which is the current financial year. I presume that that includes the £10 million that was announced previously. That takes us to current-year baseline spending of approximately £78 million.

Bearing it in mind that the Pryce-Dyer report estimates that strengthening of management could cost between £4 million and £5 million, do you think that the extra money is sufficient to enable you to implement the entire recommendations of the Pryce-Dyer report?

The Lord Advocate: Yes. Along with the spending review settlement, which will take next year's baseline up to £87 million, it will be sufficient. You will recollect that Pryce-Dyer contemplated a two-year implementation period.

So far with the extra £16 million we have been able to strengthen management, bring in more legal staff, invest in more information technology, and invest in the victim information and advice offices.

Bill Aitken: I find that reassuring up to a point. However, although you are correct that the Pryce-Dyer report said that the implementation period would be two years, it also made it clear that the majority of the increased expenditure would be incurred during the current financial year. Have you taken that into consideration?

The Lord Advocate: If we take it that we are up by £25 million on the baseline—£16 million coming in this financial year and £9 million in the next—the answer to your question is yes.

Bill Aitken: I will now ask the converse question. Are you certain that you will be able to maximise the budget spend?

The Lord Advocate: Yes. We are in the middle of a programme of modernisation and reform and in a period of transition. That means that we have to bring together the benefits of investment in new technology and the new legal staff coming on stream. However, I am confident that with the management structure that we have in place, we will be able to maximise the benefits of the money that we receive.

Bill Aitken: There will be no underspend.

The Lord Advocate: In the past, the Crown Office has been in a slightly different situation from the rest of the Scottish Executive because the pre-devolution Scottish Office budget was separate

from the Crown Office and Procurator Fiscal Service budget. In the past, our underspends were planned and managed because they were part of a three-year financial deal. I do not see underspends as being as much of a problem as others do because of my experience of those three-year expenditure plans. However, we want to maximise the benefits that we receive from the settlement.

The Convener: You have already told Bill Aitken that you believe that there is enough money in the budget to implement the Pryce-Dyer recommendations. Do you believe that there is also enough money in the budget to deal with other issues such as the pay comparability study? Will you require additional resources for that study?

The Lord Advocate: No. The settlement will take care of the pay comparability study.

The Convener: Does that mean that you have an idea of how the negotiations are likely to conclude? What stage is the pay comparability study at?

The Lord Advocate: The comparability study has been made available to the parties. I understand that negotiations have just started and are at a delicate stage. Perhaps delicate is the wrong way of putting it. The negotiations are at the preliminary stage and we will have to wait and see what the outcome is.

The Convener: If the negotiations are at a preliminary stage, how can you be so confident that there is enough money in the budget?

The Lord Advocate: The budget contains a degree of flexibility. The settlement that we reached was on the understanding that pay comparability would be paid for out of that flexibility.

Stewart Stevenson: Between £4 million and £5 million is being put into strengthening management. I want to turn our attention to what that will deliver for the rest of the service. The money is intended to enable the rest of the service to focus more on its core job. How many hours a week—you can express the matter in another way if you wish—will that free up for the legal staff by taking away non-legal activities and putting them in the hands of specialist managers? In what other way can you demonstrate that the £4 million or £5 million to strengthen management will deliver value?

The Lord Advocate: It is not possible to answer the question by giving the number of staff hours a week that will be freed up. We start from a poor managerial base. The Pryce-Dyer report indicated the weaknesses in the management structure. One fault we may have had in the past was that

when extra resources became available, they were used to fund more fiscals, deputies and other staff, without considering the management possibilities.

I will give an example that might explain that. Until recently, we did not have a director of human resources and our personnel management was weak. We have people who are on long-term sick leave and issues of ensuring proper career structure and development. In the 21st century, we require enhanced and modern human resources management. In the past, I have been guilty of talking about front-line services and management as if the two were different. We required a director of human resources to provide an effective and efficient management system. That person is as much part of the front line of what is an operational service as the fiscal assistants, precognition officers or deputies, because he provides value for money by giving essential support and more efficient ways of working.

Stewart Stevenson: I am perfectly happy to accept that. I used to manage 500 staff, so I know exactly what you mean. If I were to invest more money in management, which merely supports the core activity of the service, I would have to demonstrate that there was £7 million worth of benefit to the delivery of core services or to some other aspect. I want to know how we will measure—in monetary terms or otherwise—the benefit that will be delivered. We can measure the cost; how will we measure the benefit?

The Lord Advocate: In the prosecution service, measuring can be difficult. We have set targets, which members have seen, and they are improving targets. There are dates for reaching those targets. We anticipate benefit from the modernisation process, which goes right across the board. We are putting in place better financial reporting systems and information technology projects and better training and development requirements for staff. Some of those improvements will be in the more difficult-to-measure areas of achieving a more professional product and a service that is better able to meet the steep rise in serious crime of the past four years.

George Lyon: I want to ask about front-line legal services. We have a printout of the increases in staff numbers from 1997 to 2002. The printout shows clearly that there has been an increase of 100 legal staff and 200 non-legal staff. First, do those figures show the hoped-for level, or are you still trying to increase staff numbers? Secondly, you have strengthened the number of back-room staff by double the increase in front-line legal staff; is that the ratio that you intend to keep to? Thirdly, there seems to have been a drop of 100 in the number of senior legal assistants; is that because

of a change in management structure, or is there another explanation for the drop?

The Convener: Before the Lord Advocate answers George Lyon's questions, I should say that what the committees seek are the finer details on the figures for legal staff and on the additions that you have spoken to us about in the past. We have real difficulty in understanding the figures that you have given us, and this is an important area for us.

The Lord Advocate: I understand that the figures that you have taken us up to 30 March 2002. The current total figure for legal staff is 401; in other words, the 382 has now risen to 401, as of 1 September. The total number of staff in post, shown as 1,251.7, should now read 1,319.

George Lyon asked, I think, whether that is where we intended to end up. A recruitment drive for more deputy fiscals has just started. That will increase the number of legal staff. Next year, we will consider whether or not more legal staff will be required and, if so, how many.

Will we keep the same ratio between legal and non-legal staff? The answer to that is no. The number of non-legal staff will decline, as a result of investment in new technology. Many processes that are currently done by hand, as it were, can now be done online. Therefore, the investment in information technology is an investment to save.

The description of someone as a senior legal assistant is, I understand, a hangover from previous gradings. The decline is because some senior legal assistants have been promoted, or regraded, to principal deputy or higher. Senior legal assistant is no longer a grade to which people are appointed, as part of the restructuring.

George Lyon: Can you give us the geographical spread of appointments? The question of which offices have been strengthened and which have not has been asked time and time again. I have heard reports from the Hamilton office that there is still a shortage there.

The Lord Advocate: I can make available to the committees a breakdown, as of 1 September 2002, which shows the number of staff not only by area but by office and position. Would that be of assistance?

The Convener: It would.

The Lord Advocate: It shows the earlier comparator of 1 September 2001 and shows where the changes have taken place.

11:30

George Lyon: I seek one further point of clarification. Is the new management structure now in place and fully operational? You appointed

Mr Gordon as chief executive. You also mentioned a personnel manager, or human resources manager. Are all of the management positions now filled and the new structure operating or are you still in transition?

The Lord Advocate: Robert Gordon, who is the chief executive, might be able to answer that.

Robert Gordon (Crown Office and Procurator Fiscal Service): The answer is that the new structure is pretty much operational. The 11 area fiscals took up post approximately six weeks ago. We are already beginning to see the difference because an area fiscal is able to concentrate on one police force area, or one substantial part of Strathclyde for example. Instead of having a regional fiscal who has to range over two or three areas, one person is able to concentrate on one area.

For instance, in the Highlands and Islands, Graeme Napier in Inverness is able to concentrate on what can be done with the predominantly small offices dotted around the area. John Watt, who has gone to Aberdeen, is able to concentrate on the Grampian area. There are already benefits coming from that and there is lots of evidence of team working among the fiscals.

In the past, one of the problems was that the fiscal in charge of an individual office was able to respond to local demands but was also subject to huge pressures if there were peaks of work. We are already seeing team working in the areas and additional capacity is being moved around to meet particular needs.

On top of that, the area business managers who have been appointed will be coming on stream over the next few weeks. I am looking forward to the close collaborative working between the area fiscals and the area business managers. We have set up an induction programme for the area business managers to ensure that all of them understand what we are looking for across the organisation.

We have a director of finance who has played a major part in the spending review and is working on setting area budgets and helping the area fiscals to understand their role in managing those budgets and getting the best from the resources that are being invested. Our director of human resources started work at the beginning of September and he is already having an impact. He has been involved in various recruitment and promotion exercises. We are bringing a private and local government sector background to bear in our human resources work.

The head of information technology has been in his job for a bit longer and has been instrumental in assuring us that the major information technology projects that we are undertaking will work. The IT has been scrutinised and he is

bringing to bear his experience in bringing in major projects to ensure that the business will run through the period when lots of staff are being trained in the new systems. He is making sure that we catch any teething problems.

I am greatly encouraged by the strengthening of management in all those areas.

The Convener: I want to return to the question of staffing numbers and then the management structure. I want to be sure about the figures that you have given us. Is the staffing number the full-time equivalent or is it the number of bodies?

The Lord Advocate: It is the full-time equivalent.

The Convener: We need a breakdown because, according to your figures, the number of procurator fiscal deputies has nearly doubled, but that does not bear out our experience on the ground. We still get the impression of a hard-working, overworked service. I do not think that the signs are there. How would you explain that? Perhaps you do not accept the premise.

The Lord Advocate: I can assure you that the figures are accurate and that the staff are there. Of course, there are 47 offices. The staff are not, by any stretch of the imagination, spread among all 47, but are put into areas where new staff are required. You are right that the figures show a considerable increase in the number of legal staff. That demonstrates that we are conscious that one of our real problems was having too few legal staff; it also demonstrates the fact that we have responded to the sharp increase in serious crime. There has been a 25 per cent increase in solemn crime over the past four years. That area soaks up more resources.

The Convener: So it is really down to the work loads. Perhaps we need to examine whether we have the right number of staff for the current work load, given that solemn crime is increasing.

The Lord Advocate: We are committed to bringing in more staff next year and further strengthening the number of legal staff. Therefore, the figure of 401 will rise, but I cannot say by how much. Staffing will also depend on how effective we are in freeing up some of the time in which deputy fiscals are employed in management and how effective information technology is in streamlining processes. Those two issues are fundamental for staffing.

The Convener: Which offices have benefited most from the substantial increase in staff?

The Lord Advocate: There has certainly been a large increase in Glasgow. In the past year, the other main beneficiaries have been the Inverness, Edinburgh, Falkirk, Arbroath, Paisley, Kilmarnock, Ayr, Dumfries and Airdrie offices.

The Convener: Where does the Hamilton office feature in that list?

The Lord Advocate: I think that I wrote to you recently about the Hamilton office, but I do not have the details in front of me. The overall increase in staff for the offices in that list is 1.6 per cent. To be fair, I would have to assess how much the figure for legal staff has increased. Frankly, the most accurate information is in the letter that I wrote to you. I regret that I do not have a copy of that in front of me.

Christine Grahame: I have a simple question, but it might only be a preliminary. What percentage of the Crown Office and Procurator Fiscal Service budget is for staffing costs?

Robert Gordon: About 55 per cent.

Christine Grahame: I acknowledge what you said about the increase in staff for front-line prosecution services. However, page 21 of "Building a Better Scotland" shows the spending plan totals for 2003-04, 2004-05 and 2005-06, which are £87.1 million, £89.6 million and £92.1 million, respectively.

When that is translated into real values, the figures are flat from 2003-04 to 2005-06. Given that procurators fiscal take up such a large part of the budget, does that mean that you will not be able to increase the number of procurators fiscal, if required, in those years?

The Lord Advocate: George Lyon asked about the proportion of non-legal staff to legal staff.

Christine Grahame: Yes. I was listening.

The Lord Advocate: We anticipate that the number of non-legal staff will diminish as the benefits of information technology and the future office system take effect.

Christine Grahame: So you will cut administration and put more resources into front-line services.

The Lord Advocate: That is right.

Christine Grahame: We have your comment on the record. We will see whether that is how the situation pans out.

Robert Gordon: Many administration staff work closely with front-line lawyers. In future, the processes will be more automated and we ought to be able to free up administration staff to develop the value-adding services to which we are committed, such as better support for victims and witnesses.

Christine Grahame: On that subject, I have heard from a senior procurator fiscal that, strangely, investigation of deaths takes up more time nowadays because people are more aware

and call for fatal accident inquiries more often, so procurators fiscal are doing more of that type of work. However, the budget for investigation of deaths flattens out. I hear what you are saying, but we will discover whether the situation pans out that way.

The Lord Advocate: There is a £900,000 increase for investigation of deaths from 2002-03 to 2003-04. I take your point about the final three years of the period, but we should not consider the matter without taking into account the initial increase.

Christine Grahame: You have told us the reasons and we will have them in writing in the *Official Report*. We will look back at it next year when we know what has happened.

Donald Gorrie: On my arithmetic, although the figures have risen, the percentage of the budget that will be spent on non-court costs will not increase between 2002-03 and 2003-04. Given that the Executive's official policy is to lay great emphasis on alternatives to custody, is that enough money to provide the service? Does the budget take account of the fact that £1 spent intelligently on non-court costs could save £2 in court costs?

The Lord Advocate: There are two approaches to non-custodial disposals. Obviously, alternatives to prosecution result in a non-custodial disposal. The other approach is when the court has the option of choosing from a range of alternatives to custody. Jim Wallace is keen to increase the use of the second approach.

I agree that alternatives to prosecution save court time. At present, a range of alternatives to prosecution are available, including warning letters and a range of fiscal fines of up to £100. I do not want to get into controversial issues, but there are limits to the extent to which those alternatives can be used. There is a debate about the importance of the court process in making people face up to the criminal conduct in which they have indulged.

Other countries have more alternatives to prosecution available to them, especially in the field of environmental crime, for which very large penalties can sometimes be imposed almost by administrative fiat, although subject to court processes. However, such penalties would require primary legislation and would be the subject of much political debate if we were to use them.

11:45

The Convener: Maureen Macmillan has a question.

Maureen Macmillan (Highlands and Islands) (Lab): Sorry. I think that the question that I was going to ask has been asked.

The Convener: Okay. We will come back to you later.

Christine Grahame: Page 21 of "Building a Better Scotland" details the spending division between solemn and summary work, which in 2002-03 will be allocated £21.4 million and £28.3 million, respectively. However, according to the same table, by 2005-06, the amounts allocated to each will be pretty much the same. That is interesting, given the fact that you mentioned the increase in solemn offences. I thought that that would mean that the budget lines would diverge rather than converge. Can you explain why they are converging?

The Lord Advocate: The allocation to solemn work will increase more significantly, from £21.4 million in 2002-03 to £33 million in 2003-04—an increase of about £12 million. By contrast, the allocation to summary work will increase by only £8 million over the same period. That reflects the fact that we are increasing the resources for work on solemn offences. I remind you that, of the 275,000 cases that are reported to the Crown Office and Procurator Fiscal Service, only 2 per cent fall into the solemn category. The other 98 per cent of cases are split between non-court and summary proceedings.

Christine Grahame: You are saying that it is more expensive to conduct solemn cases. It is not a simple matter of the figures converging. The statistics show not that there are more solemn cases, but that they are more expensive to run.

The Lord Advocate: That is right.

Christine Grahame: This is perhaps a stupid question. Do you have unit figures for what a summary case and a solemn case might cost to run, to help you to budget for them?

The Lord Advocate: Yes. There are figures, but I do not have them with me. The Scottish Legal Aid Board's report contains some interesting comparisons between the costs of a sheriff and jury trial, a High Court trial and a solemn trial. Looking at the overall costs, one can see that, as the type of case proceeds from the district court to the High Court, the costs increase considerably.

Christine Grahame: I have just been passed a document entitled "Costs, Sentencing and the Scottish Criminal Justice System 2000", which gives some figures.

The Lord Advocate: That is another publication that gives some information.

Christine Grahame: The solemn procedure costs are about treble the size of those for the summary procedure at certain stages. That explains it for me.

Bill Aitken: Let us consider the matter further.

These figures tell me that you anticipate a significant increase in solemn work. Is that the case?

The Lord Advocate: We anticipate some increase in solemn work. Over the past four years, the increase in such work has been about 25 per cent. It is difficult to predict how the figures will change over time, and I gather that past attempts to do so have never been successful. We are a demand-led service—that is the main problem.

We have recently published a report by the quality and practice review unit of the Procurator Fiscal Service on the prosecution of High Court crime. That report, along with Lord Bonyon's review of the management of High Court cases, makes it clear that we will require to put more resources into those cases. Part of the large increase in solemn expenditure is to take account of possible outcomes from the QPRU and Lord Bonyon's review.

Bill Aitken: Allow me to try to be helpful without being politically controversial. Let us leave the High Court out of the equation—although I fully accept that it is a major part of the equation—and talk about sheriff and jury courts. For example, you have recently announced the opening of another sheriff and jury court in Glasgow. That means that there will be seven such courts, which is fairly significant. Have you given any thought to amending legislation to increase sheriffs' sentencing powers on summary matters to 12 months? That would be in line with what happens down south and it would reduce the pressure on the sheriff and jury courts.

The Lord Advocate: That will be addressed in Sheriff Principal McInnes's report on the future of summary business, as Bonyon will no doubt address the issue of increasing the sheriff and jury sentencing limit from three years to five years.

Bill Aitken: The UK judicial process seems a bit inconsistent when, down south, someone can get locked up for a year by the butcher, the baker and the candlestick maker, but a highly qualified, trained sheriff, who might well be a Queen's counsel, is restricted to six-month sentences for an offender who has previous convictions of an analogous type.

The Lord Advocate: You may say that, but I could not possibly comment.

George Lyon: You have partly answered my question about the Minister for Finance and Public Services's announcement to Parliament on 26 June, in which he detailed an extra £2.7 million for electronic service delivery in the areas of justice and agriculture. How much of that will go to the Crown Office and Procurator Fiscal Service and what will it buy?

The Lord Advocate: We have our own IT budget. I am not entirely sure that I follow your question.

George Lyon: The announcement was about end-year flexibility money.

Robert Gordon: We have been fortunate enough to receive some of that money, which is to improve links in the system and our links with the Scottish Criminal Record Office and to speed up processing.

Coming back to some of the earlier questions—and indeed Mr Gorrie's question—I say that we want to cut the cost of the non-court disposals, not the alternatives that are available to individuals because we do not fund those. We want to process the high-volume but relatively straightforward cases, such as speeding, by using technology to the full. That frees up our legal staff's time so that they can concentrate on the more difficult business.

There is a similar argument to do with the cost of the summary business. We need to get better at everything that we do. We think we can get better at the summary business by better use of technology and better processes.

To get better at the solemn business, we need more capacity to investigate cases. It is a people issue. On technology, we are also looking at electronic communications with defence agents and others. We have become reasonably good at using electronic communications with our criminal justice partners—with the police and the court service—but we still have to reach out electronically to defence agents.

We are also considering ways to communicate better with victims and witnesses. Some communication could be by e-mail, but then we get into the digital divide. We have been thinking along the lines of call centres, so that people can pick up a phone to contact us and find out about the progress of cases. For that to work, our systems will have to be reliable and up to date, so that people are given the right information when they call in. More electronic activity will be required.

George Lyon: Are you working towards fully electronic case management systems?

Robert Gordon: Yes.

The Convener: I was hoping that George Lyon would ask what precisely you mean by electronic service delivery. You have covered a range of related areas—such as the use of e-mail—but could you explain precisely what you mean by electronic service delivery?

Robert Gordon: We want to get to the stage where people can interact with us electronically.

The Convener: Do you mean by e-mail?

Robert Gordon: We need to make it possible for defence agents and others who correspond with us to do so electronically and for us to reply by e-mail. However, the people who are dealing with us—such as victims and witnesses—will not always have access to e-mail or be digitally provided for. We therefore need to think of other ways of making it easier to be in contact with them. Further work will be done on this with our criminal justice partners but, for the moment, the best way seems to be via a single number to a call centre. For instance, it is possible for jurors to hear a recorded message if they phone the court service to find out whether they need to turn up. We need to go beyond that. In collaboration with the court service, we could use a call centre that people could phone without being told that they had phoned the wrong part of the criminal justice system. The ideas are embryonic at present, but that is the direction that we want to take.

The Convener: But is the development of call centres not a separate point from electronic service delivery?

The Lord Advocate: We are talking about a whole range of activity within the Crown Office and Procurator Fiscal Service. As members will have seen on visits, police reports come in via e-mail and hard copies are then printed. The hard copies are distributed among the people who are marking cases that day. Once they are marked, they are passed to typists who will type the complaint and so on. The system that we are developing will store the reports electronically as they come in. The reports will then be marked by deputes at their own computers; the deputes will pull down the particular file and decide how the case should be disposed of by marking it online. That process will then generate the complaint and the initial court papers and, once the case has gone to court, it will generate such things as witness citations. Related standard letters will also be generated.

Electronic service delivery covers a range of activities. By managing systems electronically, we will be able to cut out some administrative support. Some of that support will not stay with us, but some of it will be reassigned, for example to helping victims, which we will be able to do far more successfully. We will also have access to better management information systems. I know that members have been in touch with us about the issue of the lack of information. However, such management information will be far easier to access because of the systems that we will have in place.

12:00

The Convener: At whom is the call centre aimed?

Robert Gordon: It is an embryonic idea. We are addressing the issue of how we communicate with the outside world and the people who have to deal with us. I acknowledge that it can be difficult for people to get information from us by phone about the progress of a case in which they have an interest.

The Convener: My opinion is that lack of resources is the reason why there is no one on the end of a phone. However, the term "call centre" conjures up for me all sorts of issues that make me question whether that is the way forward. You said that setting up a call centre is how you are proceeding in your strategy to communicate with people from the outside world. However, a police officer could phone the Crown Office or the fiscal's office to speak to a fiscal, but get only a call-centre operator. I am concerned about the fact that you think that the way forward is to create a call centre.

Robert Gordon: I did not say that I thought the way forward is a call centre. In the context of electronic service delivery and modern ways of communicating, call centres are the sorts of methods that we need to consider. I am not suggesting that we have one small, or large, call centre. However, when people phone about a case in which they have an interest, the details need to be available quickly so that those people can be told quickly what is happening. That is particularly the case for victims and witnesses. I agree that there is also a need for police officers and other—

The Convener: That was my question. At whom is a call centre aimed? You just said that it is aimed at witnesses and victims and not the agencies.

Robert Gordon: Yes.

The Convener: Right—sorry.

Robert Gordon: Is that it?

The Convener: Yes, that clears up that matter.

Christine Grahame: I have a brief supplementary. I know that the legal profession moves slowly, but I am astonished that we are only now considering such matters as electronic prints of complaints and electronic triggering of witnesses, which seem to me easy-peasy lemon-squeezy things that should have been done a while ago. I am not blaming anybody for that—I am just saying that it is a fact. Other agencies and businesses use such technology. Using that technology would give you, no doubt, additional money to use on front-line services for more

procurators fiscal and more support at that level. When will that technology be in place? What savings will you make by doing away with the paper chase?

The Lord Advocate: It is not easy to introduce that kind of technology. I appreciate that businesses have done that, but a considerable amount of money for development work goes into it. I am pleased that we now have the resources for such development. I said in answer to an earlier question that in the past we put money into buying more fiscals, as it were. We have invested in new technology and we now have a joined-up system between the police and the court service that is one of the best in the world. However, managing the change to a computer-based system is difficult and requires not just the technology, but considerable amounts of money to train people to operate that system.

Christine Grahame: I sit corrected on that issue. However, when will that system be in place and what savings will it make that can be spent elsewhere?

Robert Gordon: We will roll out the system in two phases. The roll-out of the new version of the standard case management system will begin this month. From April next year, we will roll out the system that will allow deposes to mark cases online, which will have the attendant benefits that Christine Grahame described. We will see how the measures work in practice, but I think that we will achieve savings. There is an issue of realising savings and diverting resources to other tasks. For example, in small offices, if part of the work of the fiscal assistant is cut out, that person cannot be moved to other work. However, we expect savings of between £5 million and £10 million.

Donald Gorrie: Your policy gives victim support a high priority but, although there is a modest increase in the budget for victim support, it is not great. Are you satisfied with the present level of victim support?

The Lord Advocate: No. A number of dedicated victim information and advice—VIA—offices are now open. I said that we would create a presence in every region by this summer, which we have done. That was based on the old system of six regions. We are considering mainstreaming—if I may use that phrase—the VIA service so that we have an office in each area. Those offices will support the VIA service that is run from each fiscal's office. In a small office where there are perhaps only two people, it would be impractical to have a dedicated VIA officer. We must ensure that the people in such offices are properly trained and that they have access to the information systems that will allow them to provide the support service.

More work must be done on mainstreaming VIA,

but that is what we anticipate. When we started the process, our initial thought was to have a dedicated VIA structure that was entirely separate while being under the umbrella of the Crown Office and Procurator Fiscal Service. That was thought more appropriate because there were difficulties in some cases with contact with victims. However, experience has shown that we need to make the whole service more victim orientated, which points us clearly in the direction of mainstreaming the VIA service.

Donald Gorrie: If the service works, as you suggest—which is encouraging—MSPs will receive fewer letters from constituents and will not have to hassle you so much. The saving that results from that could be credited to the victim support service.

Maureen Macmillan: Lord Advocate, you mentioned smaller fiscal offices. Rural fiscals, who are often single-handed in their offices, have told me that they do a lot of victim support. Victims or people who have recently been bereaved through a fatal accident turn up on the fiscal's doorstep. The fiscal has to spend a lot of time with them, but that is not factored into the fiscal's work load. There is often no one else to do the work—perhaps the fiscal has only a part-time assistant. Are you considering closely the management of victim support?

I also wish to ask about the extent to which you are being proactive—not waiting for the victim to come to you, but reaching out to the victim, who may be waiting for somebody to approach them instead of taking the first step and approaching the fiscal or whomever.

The Lord Advocate: The VIA offices are being proactive and are contacting victims who fall within the categories that we have defined. We recognise the difficulties that are sometimes imposed on staff in the smaller offices. We aim to strike a sensible balance and ensure that the necessary support is in place. People should not be snowed under with victim issues. However, it is part of the work of the fiscal or member of legal staff dealing with bereaved relatives to take the time to sit down with them, go through things and explain things to them.

Stewart Stevenson: You have six objectives and 10 targets. Would I be right in supposing that many of the quantitative targets that are set out in “Building a Better Scotland” are related to things that you are only just starting to measure? Target 9 is:

“In deaths which require further investigation, to conclude investigation and advise next of kin of outcome within 12 weeks in 60% of cases by 31 March 2006.”

That suggests a preliminary sighting shot in an area where the numbers are not so good. By the

same token, target 10 involves a target of 60 per cent of cases, which then rises to

“90% of cases by 31 March 2006”.

Target 2 is:

“To take action in 75% of crime reports within six weeks by 31 March 2005 and within five weeks by 31 March 2006.”

Are such targets indicative of the fact that you are getting metrics for some processes within the service for the first time?

The Lord Advocate: Some of those targets have been measured and are susceptible to measurement at present. What you say is true, in that we have never before done any kind of survey on, for example, the length of time within which we take action in crime reports, which is the subject of target 2. The new inspectorate covered by target 4 is not up and running yet. However, many of the targets are susceptible to measurement at this stage.

Stewart Stevenson: My question was not so much whether the targets were susceptible to measurement—clearly they are—but whether you are introducing them for the first time. If you are telling me that you have already been measuring objectives such as that relating to target 9, which involves meeting a target of 12 weeks in 60 per cent of cases, I point out that that seems more reassuring than saying that in a higher percentage of cases you are meeting a target of five years—I exaggerate for the sake of effect, not because I am suggesting that that is accurate. Would it not be more appropriate if the objectives were nearer 90 per cent or 95 per cent? Is that your intention?

The Lord Advocate: You are contemplating replacing the flat target of 60 per cent within 12 weeks with a series of targets including 60 per cent within 12 weeks and, say, 80 per cent within 26 weeks and 95 per cent within whatever number of weeks that may be appropriate.

Stewart Stevenson: If I may say so, Lord Advocate, it is you who are managing the service, not me. I am not making a specific suggestion as to numbers and timetables; I am merely suggesting that the way in which the targets are presented is perhaps a little unambitious in certain respects. I am inviting you to tell us that your ambition is greater than what some of the targets would suggest.

The Lord Advocate: The targets are set in order that they can be easily understood and readily managed. Target 9 replaces the previous target with one that is more outcome based. The target is to conclude investigations and advise the next of kin of the outcome of the death investigation where further investigation is required. To ensure that the service is improving,

the target refers not just to concluding an investigation, but to advising the next of kin of the outcome. That means not just sending a letter, but bringing the person in—sometimes with pathologists and other people who have been involved in the investigation—to explain matters to them.

12:15

Stewart Stevenson: I will conclude my remarks on that facet before addressing one other little thing. The 60 per cent target does not give us a good feel for the median. Even though you achieve the target of dealing with 60 per cent of cases within 12 weeks, the median might be many times 12 weeks. I simply do not know. The issue is the choice of target.

I perceive a potential omission in what we have learned about the Crown Office and Procurator Fiscal Service, because I see nothing that relates to the staff who work in the service. According to target 3, you are going

"To conduct a public survey to monitor trends in public confidence".

Do you intend—even if you have not made it an objective or a target—to measure the improvement in the attitudes and commitment of the service's staff, which have been at a low level in certain respects for a while?

The Lord Advocate: We have an Investors in People certificate, which requires us to fulfil certain requirements in terms of staff attitudes as well as the management of the service. In the past, we conducted stress audits, which indicated that there was pressure on staff. With the unions, we have put in place measures to address the issues. So far as the future is concerned, we are undertaking a staff survey to which, like any other good employer, we will respond. I suppose that it comes down to the vision thing. Part of my vision, which I have talked about, is to provide a full, satisfying and rewarding career for staff. I am as committed to that as I am to the other aspects of the business.

Stewart Stevenson: I just think that it is slightly surprising that you do not have an objective on that matter, but you may consider that point later.

The Convener: Stewart Stevenson makes a fair point. My concluding point to the Lord Advocate is that, notwithstanding the vision thing and some of the ambitious and important targets and work—there is a lot of change—we started off when it was indicated to us that there was low morale, and a stress audit showed that there were staff who felt severely under pressure. As we have said before, your front-line staff are concerned that you are spending a great deal of your time sorting out the management structure when it was identified

early on that it is the front-line staff who need to be considered. Have you any short-term plans to address the issue of morale and give front-line staff the confidence to make changes?

The Lord Advocate: There are various aspects to morale. Part of it is a feeling of underinvestment and being underresourced. I hope that we have now addressed that. I believe strongly that we have done so and that we now have the resources to address many of the issues. Another aspect is providing staff with the correct tools to do the job. Information technology is an important aspect of that.

Communicating with staff is also important and we should be doing more of that. A head of communications has been appointed and will take up the post next week, I think. It is important that her job will concern not only our external communication but our internal communications, which can improve.

Management issues have been one of the problems. Senior fiscal staff have been stretched by their legal responsibilities—the core work of the service—and the management of staff underneath them. That requires management and it is why I said that bringing in a director of human resources is not separate from the front line but fundamental to it.

Last August or September, I toured the Glasgow office and was made very aware of the deep dissatisfaction there about what was happening. I did the same more recently and found a sea change in attitudes in that office. It is now embarking on team working. We now have plan alpha in place, which will divide the office into four geographical areas and will mean that staff have greater ownership of cases, which has been one of the failures in the past. Staff want to see their product, as it were, being progressed in court.

I appreciate the issues of morale in the service. However, the number of staff leaving has always been in single figures over the past few years. We have the best traineeship in Scotland. People want to come to the Crown Office and Procurator Fiscal Service because of the quality of that traineeship. We have a highly professional and dedicated service. Although I appreciate that much has been said about management and the pressures that management staff are under, at the base we have a human resource of excellent people. I feel proud to be head of a service that has so many dedicated and professional people in it.

Bill Aitken: I return to a point that you made to Stewart Stevenson. In answer to earlier questions, you underlined the significant increase in funding that is being made to prosecute solemn cases. Yet I am a little disappointed when I look at target 6 in which you undertake

"To serve indictments in 80% of Sheriff and Jury cases"

where the accused is on bail

"within nine months of first appearance on petition".

In view of the additional resources that are being put into the solemn court procedures, I would have thought that you could have brought that target down significantly. Bear in mind the fact that, in 20 per cent of the cases, you are only a few weeks away from hitting a time bar.

The Lord Advocate: We have three months, and that is—

Bill Aitken: You have not. If you do not serve the indictment six weeks before the year is up, you have a problem.

The Lord Advocate: I take your point. The target is challenging for us. We will meet it—there is no doubt about that—but it is certainly challenging. Our current performance is 60 per cent of indictments in such cases served within nine months. The target is for a 20 per cent improvement over the next two years.

Bill Aitken: Is there a problem that we perhaps do not see? Basically, it is not satisfactory that such cases should lie for that length of time. Indeed, it is contrary to the interests of justice. I know that there might be reasons for that in individual cases, but I would have thought that, bearing in mind the additional resources that are being put into the prosecution of solemn cases, we could get the target figure down to about seven months.

The Lord Advocate: When we come to revise the targets, we will consider doing that. I point out that, at the moment, we have the tightest time limits for custody in the world—the 110-day rule. That must always be the priority. We add to that murderers who are on bail, for whom we have our own internal target of 110 days, notwithstanding the fact that it would be a year in terms of the statute. Our priority must be custody cases and we try to meet the same target in children's cases. The question is where we put the priorities.

The Convener: We have the tightest time limits except for China and Macedonia, according to the Solicitor General.

The Lord Advocate: I was not going to quote that.

The Convener: That draws our questioning to a conclusion. I thank the Lord Advocate for giving a detailed response to our questions. I also thank Robert Gordon—chief executive of the Crown Office and Procurator Fiscal Service—and Bill McQueen for attending.

I remind the committees that we will have a joint meeting again on Tuesday 29 October, when we

will prepare our draft report on the budget. We will report to the Finance Committee by 14 November.

Meeting closed at 12:26.

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