

JUSTICE 1 COMMITTEE AND JUSTICE 2 COMMITTEE (JOINT MEETING)

Tuesday 7 October 2003
(*Afternoon*)

Session 2

£5.00

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JUSTICE 1 COMMITTEE

8th Meeting 2003, Session 2

CONVENER

*Pauline McNeill (Glasgow Kelvin) (Lab)

DEPUTY CONVENER

*Mr Stewart Maxwell (West of Scotland) (SNP)

COMMITTEE MEMBERS

*Bill Butler (Glasgow Anniesland) (Lab)
*Marlyn Glen (North East Scotland) (Lab)
*Michael Matheson (Central Scotland) (SNP)
Margaret Mitchell (Central Scotland) (Con)
*Mrs Margaret Smith (Edinburgh West) (LD)

COMMITTEE SUBSTITUTES

Roseanna Cunningham (Perth) (SNP)
Helen Eadie (Dunfermline East) (Lab)
Miss Annabel Goldie (West of Scotland) (Con)
Mike Pringle (Edinburgh South) (LD)

*attended

JUSTICE 2 COMMITTEE

10th Meeting 2003, Session 2

CONVENER

*Miss Annabel Goldie (West of Scotland) (Con)

DEPUTY CONVENER

*Karen Whitefield (Airdrie and Shotts) (Lab)

COMMITTEE MEMBERS

*Jackie Baillie (Dumbarton) (Lab)
*Colin Fox (Lothians) (SSP)
*Maureen Macmillan (Highlands and Islands) (Lab)
*Mike Pringle (Edinburgh South) (LD)
*Nicola Sturgeon (Glasgow) (SNP)

COMMITTEE SUBSTITUTES

Ms Rosemary Byrne (South of Scotland) (SSP)
Cathie Craigie (Cumbernauld and Kilsyth) (Lab)
Michael Matheson (Central Scotland) (SNP)
Margaret Mitchell (Central Scotland) (Con)
Mrs Margaret Smith (Edinburgh West) (LD)

*attended

THE FOLLOWING GAVE EVIDENCE:

Colin Boyd QC (Lord Advocate)
Jim Gallagher (Scottish Executive Justice Department)
Robert Gordon (Crown Office and Procurator Fiscal Service)
Cathy Jamieson (Minister for Justice)
Norman McFadyen (Crown Agent)

CLERK TO THE COMMITTEE

Alison Taylor

SENIOR ASSISTANT CLERK

Claire Menzies Smith

ASSISTANT CLERK

Douglas Thornton

LOCATION

The Chamber

CLERK TO THE COMMITTEE

Gillian Baxendine
Lynn Tullis

SENIOR ASSISTANT CLERK

Irene Fleming

ASSISTANT CLERK

Richard Hough

Scottish Parliament

Justice 1 Committee and Justice 2 Committee (Joint Meeting)

Tuesday 7 October 2003

(Afternoon)

[THE CONVENER *opened the meeting at 14:05*]

The Convener (Miss Annabel Goldie): I welcome members to this joint meeting of the two justice committees. Once again, I remind all members to turn off mobile phones and pagers.

Let me just mention that we shall be joined by members of the Basque Government who are visiting the Scottish Parliament. They will appear in the course of the afternoon, and I shall introduce them when they do so.

I welcome Brian Main, who is the adviser to the committee. On behalf of all members of both committees, I express our grateful thanks to him for the welcome support that he is giving us in the budget process.

I have a note of apology from Margaret Mitchell. Mike Pringle has indicated that he will attend the meeting, but that he will be late.

Items in Private

14:05

The Convener: Under agenda item 1, I invite the committees to agree to take item 3 in private to consider our conclusions on the draft budget. I also ask the committees to agree to discuss the draft report on the budget in private at a future meeting. Is that agreeable to committee members?

Members indicated agreement.

Budget Process 2004-05

14:06

The Convener: For agenda item 2, which concerns the budget process, I am pleased to welcome the Minister for Justice, Cathy Jamieson, and her colleagues, Jim Gallagher, who is from the Justice Department, and Ruth Ritchie, who is from the justice finance team. We thank them for joining us this afternoon.

Members of the committee who visited Glasgow sheriff court yesterday have asked me to raise a point with the minister. We do not seek a response from the minister today, but ask her to take away the issue and seek advice on it. Today is our first opportunity to mention this issue, which was a matter of concern to all levels of personnel whom we met at the sheriff court.

The issue concerns the process that is in place for the procurement of private escort duty personnel, who escort prisoners from prison to court. The question raised was whether the new arrangement will affect current levels of policing in the courts. There seemed to be doubt about where the obligations of the escort duty personnel finish and where those of the custody officers in courts begin.

Members from all parties on the visit were unclear about the answer to the question that was posed. We confirmed that we would put the matter to the minister and highlight the real concern that exists, certainly in Glasgow sheriff court, about whether the necessary degree of security for the criminal courts will be prejudiced by the new arrangement. There was an apprehension that current levels of police coverage might drop. We undertook to bring those issues to the minister's attention.

The Minister for Justice (Cathy Jamieson): I thank you for bringing those matters to my attention. Indeed, some of the same issues were raised when I visited the drugs court in Glasgow. At that stage, we had not taken forward the process as we had yet to announce that we would go ahead with the proposals on escorting. However, we will consider that matter and reply correctly to the committee in due course.

The Convener: I am grateful to the minister for that. Would the minister feel able also to respond to the sheriff principal at Glasgow sheriff court?

Cathy Jamieson: The sheriff principal made me aware of some of the concerns in a meeting that I had with him. I would be happy to pick up those points.

The Convener: I thank the minister for that confirmation.

We now proceed to the budget process and relevant questions. [*Interruption.*] I am reminded by the clerk that I am being far too brusque and precipitate, minister, and that I should invite you to give the committee an opening statement. Forgive me for not having done so. Please proceed.

Cathy Jamieson: I will respond with a brief opening statement. You mentioned that there would be visitors from the Basque Government this afternoon. However, I see visitors in the public gallery who come from much closer to home—from Ayrshire—who have chosen this afternoon to observe the committee proceedings. I am sure that they will find the experience interesting.

I have sent the committee a short paper, which puts the budget proposals in the context of our wider priorities for the justice portfolio. It is worth reminding ourselves that the Executive parties published “A Partnership Agreement for a Better Scotland” in May, setting out a programme for the four years ahead in the Parliament. A key priority is to work for safer, stronger communities. The justice portfolio has a lot to contribute to that, and the draft budget for 2004-05 shows how our spending plans support that priority as well as the 2002 spending commitments that were published in “Building a Better Scotland” last year.

The justice budget, including the local authority elements for the police and fire services, increases by 3.6 per cent, in real terms, between 2003-04 and 2004-05. The total increase for the Executive is 3.2 per cent. That enables us to push forward in the delivery of our partnership agreement initiatives as well as those that we identified in the 2002 spending review. I will not attempt to cover the whole justice programme in my opening remarks, but I will mention a couple of examples.

Our priorities include targeting the causes of crime, which is not a matter for the justice budget alone. We make provision for crime prevention and community safety, including a modest increase in the resources that are available to support closed-circuit television schemes. I am sure that members will agree that such schemes have proved their worth, both as a safety measure and as a source of reassurance to the public.

We will continue to work in partnership with communities and education interests to progress and deliver our programme for the reduction of antisocial behaviour, which includes addressing the problems associated with youth disorder. Last month, Andy Kerr announced that he has set aside an additional £65 million to cover the costs that will arise in addressing that behaviour. Most of that will be spent not on justice programmes that are identified as such, but on other preventive measures in the education and communities budgets. However, such measures will clearly be an important part of the whole package.

Drugs remain a huge problem for many people in Scotland's communities. We make a major contribution to tackling drug problems through enforcement and dealing with offenders. We have given a commitment to continue to expand the Scottish Drug Enforcement Agency, which works closely with Scottish police forces and the relevant United Kingdom agencies to tackle drug crimes as well as other serious organised crime. The agency is being funded to enable it to expand to employ more than 200 officers in addition to its support staff. We have also given a commitment to roll out drug treatment and testing orders across Scotland by the end of March 2006. That was an issue in which the committee took a specific interest last year. We will use the model of drugs courts where it is needed.

We have renewed our focus on reducing reoffending, providing for further growth in the use of community penalties alongside our plans to consult on the proposal for a single agency. We must accept that we do not do well enough in reducing reoffending. It is necessary to invest more in those services, but that will not be enough on its own. We must also focus more clearly on helping offenders to break out of the cycle of repeated crime and punishment.

Reforming the courts is also important, and budgetary provision is made to help to implement Lord Bonython's recommendations for High Court reform. We need a legal system that is more responsive to the needs of victims and witnesses, and new resources are being provided to help to achieve that, alongside the legislative changes that we are bringing before Parliament.

We aim to modernise the law for a modern society, which means legislative change but also cultural change, in addition to the allocation of funds. Simply allocating funds would not solve all the problems. Our proposals include additional resources for the Accountant in Bankruptcy to implement the new debt arrangement scheme. As I have said, the allocation of resources to our priorities is part of the answer, and I have referred to the legislative and cultural changes that accompany some of the spending plans. However, we also need everyone who has an interest in the justice system to work together to deliver on our priorities. That is shown in the budget document, which sets out the aims and targets on which we expect the resources to be focused—whether that is on reducing crime, making the courts operate more efficiently or increasing the number of effective disposals to cut reoffending. Those investments reflect our priorities and we intend to deliver on them.

I will be happy to answer any questions that the committees may have.

The Convener: Thank you for those introductory remarks. I remind members that we have a heavy agenda and a lot of questions to put to the minister and to her colleague, the Lord Advocate. I therefore ask members to keep their questions as crisp as possible. Perhaps the minister and her colleagues could try to be similarly brief.

14:15

Nicola Sturgeon (Glasgow) (SNP): I will kick off with a general question about the budget. I take on board your comments about the contribution that spending that is made under other budget heads can make to the achievement of your overall objectives.

The Executive has cited the reduction of crime as one of its priorities. In fact, when the Minister for Finance and Public Services introduced the draft budget, he said that it was the Executive's top priority. However, the draft budget shows that the proportion of the total Scottish budget that is being spent on justice is set to decline from 4.06 per cent in 2003-04 to 3.68 per cent in 2005-06. How can you square that declining share of the budget with your assertion that the reduction of crime is your top priority?

Cathy Jamieson: I re-emphasise the fact that the reduction of crime is a priority for the Executive. I am aware of a potential problem that also arose in the scrutiny of the budget last year. There can be a misapprehension that the justice line in the Executive tables is the sum total of what is spent on justice in Scotland. That is not the case. The spending information that is included in the justice line relates solely to the money that is spent on central Government services and does not include all the money that is spent through the local authorities on police and fire services.

To find out how much the Executive actually plans to spend on justice, members have to take into account the local authority element including, for example, the civil defence specific grant, the police and fire services grant-aided expenditure and the police and fire services capital allocations. The central Government core allocation for justice for 2003-04 is some £755 million. When the local authority element is taken into account, the figure rises to £1,927 million. The real-terms comparable figures for 2004-05 are £784 million rising to £1,996 million, with subsequent increases planned for the following year. That shows that the spending on justice is, in real terms, a steady 9.5 per cent of the total Executive budget, excluding funds that are held in the contingency fund. I think that that is a good percentage allocation for justice, given our responsibility throughout all departments to meet the commitments in the partnership agreement.

Nicola Sturgeon: I appreciate the further detail in that answer, which moves things forward. You say that, far from declining, the justice budget—taking into account the other budget heads to which you refer—is steady as a proportion of the overall Scottish budget. I do not want to labour the point but, given the fact that justice—in particular, the reduction of crime—has been elevated in the list of Executive priorities, is it sufficient for it to receive a flat-line budget of the same proportion of the overall budget as before?

Cathy Jamieson: I am not suggesting that the justice budget is a flat-line budget; I am suggesting that we have an opportunity to review, year on year, how best we can use those resources. Increases are available to us and we must consider where some of the pressure points will be in the future. I am sure that members will comment on that later. As I tried to outline clearly in my opening remarks, simply investing more money without looking at what we get for it, and without getting the necessary cultural and legislative changes, will not solve the problem.

Nicola Sturgeon: I appreciate that. You have made an important point and I am sorry if I was misleading—it was possibly wrong to refer to a flat-line budget. However, based on what you have said, the justice budget is not increasing as a proportion of the overall budget, but is remaining steady. If priorities mean anything and justice and fighting crime have been pushed up the Executive's priority list, other things must have slipped down the list. Given that, would it not be reasonable for the total justice budget to increase as a proportion of the overall budget, rather than remain steady?

Cathy Jamieson: There will be increases in certain areas of the justice budget in the next couple of years. Things are not staying at a steady level. We have identified particular pressures in the coming years that we must consider. However, as an Executive minister, I also have a responsibility to consider the range of issues in the partnership agreement. It is not only the Justice Department or the justice budget line that will deliver on tackling crime. I have a responsibility to work closely with my colleagues—particularly with those with responsibility for education and communities—to ensure that resources are allocated in other departmental spending lines to assist in dealing with the priorities.

I mentioned CCTV. It is obvious that CCTV has knock-on effects for enterprise, for example, through promoting safety in shopping areas. My responsibility is to consider departmental budgets and ensure that the priorities are reflected in other departmental spending lines.

Bill Butler (Glasgow Anniesland) (Lab): I want to develop the theme of the adequacy or

inadequacy of resources in the justice budget. I accept what you have said to Nicola Sturgeon about year-on-year increases; however, we should consider the growth in real resources in the Scottish budget. Between 2003-04 and 2005-06, it would seem that the departmental expenditure limit in the Scottish budget will grow by some 7.29 per cent, but over the same period, the real resources that are allocated to the justice area will grow by only 4.93 per cent. Perception is important in politics. You discussed other areas that have an impact on justice matters, but it could be perceived that there is a below-average increase in real resources to the Justice Department. Will you comment further on what might, to a lay person, appear to be an anomaly in the figures? It might be thought that there will be an increase in the justice budget, but that the justice budget seems to be suffering as a percentage of the total budget.

Cathy Jamieson: I am happy to deal with what you have asked. However, members should forgive me, as I will have to go through some figures again to illustrate why I do not accept what has been said, albeit that people might draw such initial conclusions.

Such conclusions might be drawn if only the centrally funded justice allocation were considered and local authority funding were not taken into account. However, the inclusion of the contingency fund in the overall Executive budget increase must be borne in mind. If that is taken out of the picture, the Executive budget increase between 2003-04 and 2005-06 is 7.08 per cent in real terms. If the local authority allocations are taken into account, the percentage increase for justice is 6.3 per cent in real terms. Therefore, the figure, which is around 1 per cent below the overall Executive increase, is not particularly problematic in the way that has been suggested. There is a reasonable increase for the Justice Department, given the range of portfolio pressures across the Executive that we must address.

Bill Butler: I do not gainsay what you have said, but I want to make a further point. Table 2b in the committee's briefing paper shows that, over the longer period from 2003-04 to 2005-06, the figures in the autumn 2002 draft budget for 2003-04 show the growth in the total Scottish budget to be 14.51 per cent, but over the same period, the justice budget is shown to grow only 3.93 per cent in real terms. If we accept that contingencies and local authority figures are separated out, do you agree that there is an apparent anomaly, at least in the public's perception?

Cathy Jamieson: I appreciate what Bill Butler is saying, but the figures and information that I have suggest that, in the 2003-04 budget, the total justice core budget and the local authority

allocation is £1,927 million in cash terms. For 2004-05, the real-terms allocation is £1,996 million and, for 2005-06, we are talking about a further increase to £2,049 million. As a percentage share of the Executive budget, we are talking about 9.55 per cent, 9.56 per cent and 9.48 per cent. The amounts and variations that we are talking about are not necessarily a problem, and do not show that the Justice Department has been treated any less favourably than any other department.

The Convener: I bring to members' attention the fact that we have been joined in the visitors gallery by the minister for justice, employment and social security, Mr Joseba Azkarraga, and the vice minister for justice, Esther Larrañaga Galdos, from the Basque Government along with—I will be cowardly and say—four of their colleagues. On behalf of the committees, I welcome you to our proceedings this afternoon.

Karen Whitefield (Airdrie and Shotts) (Lab): Last week, during our evidence taking, we heard from members of the Association of Directors of Social Work, who welcomed the additional real-terms resources for community justice services. However, they also highlighted their concerns about what they see as continual strains on core funding for social work services. They used the example of restriction of liberty orders to highlight their concerns, and pointed out that while there is money in the justice budget to cover the cost of community disposals, they often require social inquiry reports to be completed, which puts a strain on core funding. How do you attempt to balance that and to ensure that there is sufficient money for core funding, while also ensuring that there is sufficient money for special programmes?

Cathy Jamieson: I looked at the ADSW's evidence on that issue, and I appreciate that the association has concerns that core funding keeps pace and that new initiatives do not prevent it from doing the day-to-day business. I am also aware that core services have been under pressure as a result of increased numbers of reports, for example for courts and community services, over a period of time. That is why for this year, 2003-04, we provided the criminal justice social work groupings and the local authorities with a 5 per cent increase in their allocations to assist them in their dealings with social inquiry reports and probation orders.

As a result of further increases in work load for the mainstream services, we are providing an extra £2 million in 2004-05 to ease the pressures on staff and to ensure that courts continue to be provided with a high-quality service. We have recognised the issue and addressed it in the budget.

In advance of the national roll-out of restriction of liberty orders, and in anticipation that authorities

would be faced with some costs, we looked to provide an uplift in 2002-03, which is on-going. That uplift was built into the budgets that the authorities were given, to take account of RLOs, and additional funding is now being used to assist the situation.

Karen Whitefield: That is useful information. As a former social worker, you will be aware of the concerns of the social work services in Scotland. Do you agree that it is important that, when we consider the introduction of new community-based disposals, we always assess the impact that that will have on core funding in order to ensure that such disposals can be implemented? It is important that such disposals do not end up just being talked about because the overall funding is not there to ensure that they can have an impact and make a difference in communities.

Cathy Jamieson: I am not sure whether I now need to declare an interest as a former social worker. Karen Whitefield's point is valid. Whenever we seek to introduce new measures or disposals, it is incumbent on us to ensure that they are properly costed and properly resourced. It is also important that we evaluate them in terms of their cost-effectiveness and outcomes. Much of this afternoon's discussion will focus, rightly, on the amounts of money that are going into the system, but we also need to look at the results. At the end of the day, the money that is being put into the system is about changing people's lives. The criminal justice social work side is about changing people's behaviour as well, in order that they do not become further involved in offending. We need to ensure that that is properly resourced.

We have increased significantly the amount of money that is available for alternatives to custody; that was welcomed by the ADSW and Safeguarding Communities Reducing Offending in their evidence. Although there may be differences of opinion about the balance of the spending, generally speaking people recognise that we have increased resources to deal with the new programmes.

14:30

Michael Matheson (Central Scotland) (SNP): I want to stick with the subject of community justice services. I note your comments about tackling offending behaviour and the role of services such as criminal justice social work in that area. Why did criminal justice social work receive none of the £7.1 million from the end-of-year underspend to assist it to deal with its core funding problem?

Cathy Jamieson: There are a number of reasons for that. Let us consider why the underspend of £7.1 million arose in the first place. It resulted from the fact that piloting of the new

alternatives to custody and of community sentences took longer than was anticipated. The money was allocated in exactly the way that Karen Whitefield has described, to ensure that resources were sufficient. The process took longer than expected, so the money was not required at the end of the previous financial year. The main contract for electronic tagging was less expensive than was originally anticipated and the bridging pilots, which were the subject of some controversy in the previous session of Parliament, were not proceeded with. The money that had been allocated to those projects was therefore available.

As a former social worker, I do not believe that it makes logical sense to use end-year flexibility money as core funding. People who are trying to balance budgets over a number of years will agree with me. Simply to inject money into the system for one year, with no guarantee of sustainability, would not help to provide more long-term, sustainable programmes. As members will be aware, there is a problem with the number of social work staff who are coming through the system. If we had put the money back into the budget line, it would have sat there for another year and would not have been spent. It is much more useful for us to reallocate resources when they can make a difference now but also to seek sustainability in the long term.

Michael Matheson: I suspect that people who work in criminal justice social work would say that they could have spent the money if it had been given to them.

Cathy Jamieson: With respect, the money was made available and the system was not able to spend it.

Michael Matheson: I understand that criminal justice social work made a bid for the money, but that that bid was turned down.

Cathy Jamieson: If the member has a specific proposal for what could be done differently in criminal justice social work with the £7.1 million, I will listen to that. No one has presented me with a proposal that I regard as better overall than the way in which we have allocated the resources. We are seeking to strike the right balance between investing in new projects and ensuring that what we put in place on the ground is sustainable.

Michael Matheson: I return to your earlier comments about the 5 per cent increase in the local authority budget for criminal justice social work. How much does that work out at in real money on the ground?

Cathy Jamieson: I will have to ask my colleagues to work out the sums. When you talk about real money on the ground, are you talking about the money that is available per local

authority, per criminal justice social work grouping or per social inquiry report?

Michael Matheson: How much does the increase work out at in real-money terms for local authorities across Scotland?

Jim Gallagher (Scottish Executive Justice Department): I cannot give the committee a figure immediately. The 5 per cent to which the minister referred was the increase in the allocation in the budget for social inquiry reports and probation orders. Unfortunately, the core budget is not displayed in the tables that are before us. However, it is easy to calculate and we would be happy to send it to the committee.

Michael Matheson: That would be helpful.

Marlyn Glen (North East Scotland) (Lab): My question is based on the evidence that we took last week from the ADSW. It relates to the Executive's cross-cutting initiative to close the opportunity gap and to mechanisms to give priority to women in community disposals. The committee received evidence that running programmes for relatively small numbers of women can create disproportionate resource demands, owing to concerns about personal safety, family needs and so on that must be addressed. Does the Executive recognise those demands when it provides funding for such programmes?

Cathy Jamieson: I understand Marlyn Glen's point. When we look across the piece at all our programmes, we must take into account the needs of women offenders in the justice system. I have said before—and members will not be surprised to hear me say again—that we have to tackle the problems that bring some women into the system in disproportionate numbers.

However, when we considered the allocations, we also had to decide whether it was better for us, at a centralised level, to differentiate among and compartmentalise certain areas according to our expectations of how the budgets should be spent, or to allow for a degree of local flexibility so that people can meet local needs. The formula for distributing funding among the criminal justice social work groupings is already complex. Indeed, I am aware that ADSW has some views on that matter. That said, continuing to build in more and more indices would only complicate the situation further. For example, we are already under pressure to examine the rural dimension in certain authorities.

As a result, we have sought to give authorities flexibility within their core funding to make decisions to vire the money among the various options. As far as social work groupings are concerned, such an approach would allow authorities to establish a localised plan within which they can deal with particular problems in relation to women offenders.

Pauline McNeill (Glasgow Kelvin) (Lab): I want to explore the issue of secure unit places. As far as that part of the budget is concerned, the justice committees deal only with the aspect that relates to children who enter secure accommodation after being convicted by a court. I think that the rest of the matter is dealt with under the children and young persons budget or the local government budget. However, in the previous session of Parliament, the Justice 1 Committee and the Justice 2 Committee jointly recommended that it would make more sense to put the issue entirely under the justice heading, purely because it is much more likely to be demand led. At the moment, there is a specified number of places; if they run out, there is no more provision.

Having exchanged views with you on this subject, I know that you are strongly committed to reviewing the purpose of the policy and to increasing the number of places. However, the justice budget is perhaps not the best place for this particular budget element. Because the matter is demand led—as with the Scottish Prison Service—we would not have to face the prospect of running out of funding. Instead, we would simply have to host the number of required places.

Cathy Jamieson: I am aware of the discussions about this matter that took place last year during the justice committees' joint consideration of the budget. I recall that, at the time, the then Minister for Justice told committee members that the matter was really my responsibility as the then Minister for Education and Young People—it is amazing how things have turned around in a year.

We have decided not to put all the money for that element together under one budget heading; however, although the budget lines in this respect remain under the education and young people heading, I have a clear responsibility to develop the secure estate and the other elements that are traditionally part of the justice budget.

There are problems with putting all the money under one budget heading because, as Pauline McNeill is aware, young people enter secure accommodation for a number of reasons, not all of which are to do with offending behaviour. For example, some young people will be referred to secure places on welfare grounds. As a result, it would not be appropriate for all those resources to sit wholly within the justice budget and for the Scottish Executive to remove local authorities' discretion to make recommendations that are in the best interests of young people.

That said, I should point out that the situation is helped by having one minister oversee the development of the secure estate. That will allow us to find out how to achieve a balance in the number and mix of places. Indeed, such an approach would, for example, deal with issues

relating to girls and young women, young people who enter secure accommodation for their own care and protection and the problems of persistent offenders.

Pauline McNeill: I do not disagree with what you have said about the need for local authorities to have control—I do not disagree with that principle. I am just concerned that in practice there have been cases of children who were not at risk, who needed a secure unit place for other reasons, but for whom there was no place. Theoretically, if the provision of secure accommodation were demand led, we would not face that problem. Did I understand you correctly? Did you say that that issue is dealt with by another minister and not by you?

Cathy Jamieson: No; I now have responsibility for all of it. The funding lines are still with education and the officials who work on the secure accommodation programme are still in the Education Department, but my responsibility is to oversee the delivery of that programme as part of the youth crime action plan. That is a change from the way things were.

On the point about whether the provision of secure accommodation is demand led, part of the problem is estimating the correct number of secure accommodation places. I am sure that members of the committee are well aware of how difficult that exercise has been. When we asked local authorities to estimate how many places they need in any one year, we got wildly different estimates and calculations. The secure accommodation advisory group could not agree on an appropriate overall figure. We had to decide to increase provision by the proportion that we believed was required to provide the appropriate number and range of places and to take account of the geographical spread.

The issue is therefore not straightforward enough for me to be able to say that provision should be demand led. Some young people end up in different placements that are not in secure accommodation because of lack of availability in certain places. It is rare for a local authority to say that it has run out of money and cannot afford to provide secure accommodation because authorities have to deal with such placements if required to do so by a children's hearing. However, there has been a problem with the availability of places and that is why we have allocated money in order to build new secure accommodation and to upgrade the existing accommodation.

The Convener: I turn to the police, the police central Government grant and the GAE. Page 31 of the draft budget document contains a list of 10 police targets. However, for seven of those, the baseline figure is either the latest available, or not

available at all. In the case of drugs, neither a baseline nor a progress figure is reported.

Given that over the three-year span of the budget period, the police central Government grant is going to rise by approximately £20 million, and the police GAE figure is going to rise by approximately £67 million, should there not be greater regard given to the effectiveness with which those resources are used? Could they not be monitored in a more timely fashion?

Cathy Jamieson: The convener raises an interesting point. The first set of national targets for the police was announced by ministers in May 2001. Additions to those targets were made in the following years. Initially, the targets set were to be achieved by the end of 2003-04. However, following the 2002 spending review and the linking of police resources to delivery and performance, it was decided that the targets would be rolled forward to the end of 2005-06 to match the spending review period.

Some progress had been made on the original targets but it was decided to set new, up-to-date baselines rather than to stick with some of the earlier baselines that mostly related to the 1990s and were not as up to date as we would have liked. It is important that we have that information and that we are able to benchmark our progress year on year. However, it is also important that the police authorities are involved in that process and we have made significant strides forward on that. I am sure that that was reflected in the evidence taken from the Association of Chief Police Officers in Scotland about how forces are working to deliver on the national and local targets. I have had productive discussions with the police about how we can get those baseline figures in place so that we have something to measure year on year.

The Convener: That is helpful because otherwise it is clearly difficult for the justice committees to determine what progress has been made and whether that progress has been meaningful.

If, on an interim basis, the minister becomes aware of information from our chief police officers or some other source, does she propose to share that information with the committees, so that members may have a better feel for what is happening on the ground and whether the additional resource is being used meaningfully?

Cathy Jamieson: I am happy to give that commitment. It would be worth while doing what the convener suggests. We must move away from a situation in which sometimes we set targets before finding out what the baselines are to one in which we know what the baselines are and set targets appropriately.

Nicola Sturgeon: Last week when we took evidence from representatives of the police service we asked them about the budgetary impact of the Vulnerable Witnesses (Scotland) Bill, which the Justice 2 Committee is currently considering. ACPOS and the Scottish Police Federation indicated that the bill would have an impact on both police central Government grant and police GAE. The SPF indicated that it would cost the police in the region of £1 million extra per year to provide additional statements about the vulnerability of witnesses. Can you confirm that the additional costs have been taken into account in the draft budget and point us to the section in which that has been done?

Cathy Jamieson: From the evidence that the police gave, I am aware that they believe they will incur additional costs. However, I not yet seen anything from the police that convinces me that the costs that will fall to them of providing additional notification of potential vulnerable witnesses will be as high as they suggest. We have made substantial provision for the implementation of the bill. The important point is that we ensure that the resources that have been allocated make the service better for vulnerable witnesses and that people receive support. I have not received from police representatives a detailed breakdown of the figures that have led them to arrive at their conclusion.

14:45

Nicola Sturgeon: Rather than my labouring the point today, will the minister agree to consider the matter further? I do not want to pre-empt the Justice 2 Committee's stage 1 report on the bill, but from evidence that has been given to us it is clear that early identification of vulnerable witnesses will be crucial if the bill is to work as intended. To me it seems logical that determining at an early stage whether witnesses are vulnerable will place an additional burden on the police. Common sense would suggest that that task will have some budgetary impact. I appreciate that the minister may not have seen the detail of the figures that have led the police to suggest that that will cost £1 million, but further work on the issue is required.

Cathy Jamieson: We will continue to examine the matter while the Parliament scrutinises the bill. As I indicated, we must ensure that the resources that have been made available to implement the bill are directed to places where they may be used best to support vulnerable witnesses.

Jim Gallagher: The police are often very good at supporting witnesses and families as part of their ordinary business. They already take statements from all witnesses and report on witnesses to the Crown, with a view to

prosecution. On the face of it, the provision of additional statements about the vulnerability of witnesses does not seem like a large additional burden. However, as the minister says, the matter can be examined during consideration of the bill.

Bill Butler: I turn to the issue of police pensions. From last week's evidence-taking session on the budget, you will be aware that representatives of the Scottish police service said clearly that pension arrangements were very important in attracting, motivating and rewarding police officers. However, Mr William Rae, the chief constable of Strathclyde police, described the budgetary arrangements associated with police pensions as a "time bomb". As the minister is aware, because pensions are unfunded and paid out of current revenue, longer life expectancy and foreseeable increases in the number of retirements mean that pension payments will account for an ever-increasing proportion of the police budget. What budgetary provision is being made to deal with that time bomb, to ensure that it does not go off?

Cathy Jamieson: I am sure that Mr Rae would not want it to go off either. I am aware of the evidence that he submitted to the committee. It is worth remembering that the police pension scheme is unfunded and that payments to it are made—as has been pointed out—from the current revenue budget, which brings significant pressures and challenges. We are reviewing those arrangements, and that work must be influenced by on-going consultation and work that is being done by the Department for Work and Pensions on public sector pensions.

The Scottish Police Service expanded substantially in the second half of the 1970s, and those who were appointed in the mid to late 1970s are due to retire shortly. The number of officers retiring from the service is forecast to increase from around 250 in 2002-03 to more than 500 in 2005-06. The number then falls slightly before being projected to peak at more than 800 in 2009-10. Members can see clearly where the pressures are looming in the future. Forward planning is, therefore, very important.

The cost of police pensions is also rising as more officers are retiring and—to be frank—as retired officers are living longer. As a result, the cost of police pensions will increase from around £128 million in 2002-03 to a projected figure of £170 million in 2005-06. The 2002 spending review took full account of those pressures, and the funding that was allocated for police GAE up to 2005-06 includes an allocation to meet those costs. Nevertheless, in the longer term we will have to address the matter through future spending reviews.

Colin Fox (Lothians) (SSP): As you would imagine, the Scottish Police Federation was particularly anxious about that—more anxious, perhaps, than ACPOS, as a lot of SPF members will be acutely affected. The SPF made the point last week that, in the past, its members paid over the odds into the pension scheme, although it accepts that they now pay less. Given the fact that there is a lot of concern over those issues, is the minister prepared to say that she has ruled out the possibility of reduced pension payments or an increase in the age at which policemen qualify for their pension?

Cathy Jamieson: I have not ruled anything in or out. There is a scheme at the moment, and projections have been made of the money that is to be allocated to implement that scheme in the future through police GAE. The scheme, as it sits, is covered. In the future, we will have to take account of future pressures. It is not for me to make amendments to that provision at this point.

Colin Fox: So, the current provisions are based on the existing terms.

Cathy Jamieson: Absolutely. The provision is based on the existing scheme, and that has been covered by the figure that has been allocated.

The Convener: Let us clarify the practical consequences of that for the budget. You say that the peak for police retirements could be in 2010. According to the evidence that we received from the ACPOS, we are talking about £130 million. That continuing obligation—it is not something that is paid out and disappears—is a very hefty percentage of the GAE. We cannot change what has happened; however, I wonder whether we could start to look at alternative means of funding what have been directly grant-paid pensions. Is there any ministerial intention to consider alternative means of funding police pensions in future decades?

Cathy Jamieson: As I said earlier, it is important to recognise the pressures that the pension arrangements bring. However, we should do that in conjunction with the work that is being undertaken through the Department for Work and Pensions as it considers public sector pensions in general. I would not want to act in isolation from that broader perspective.

You are absolutely right to say that pressures are building. We need to ensure that we have the funding in place to address those and we must project the costs into the future. As you will pick up from my comments about the age profile and number of officers who are due to retire, the forces are currently facing additional pressures in having to forward plan and recruit officers who will be experienced enough to fill the gaps when those officers retire. It is, therefore, not just a matter of

funding the pensions; it is a matter of finding a work force planning model. We have moved significantly towards having a model that stacks up and is sustainable, whereas, in the past, such things have been done on a wing and a prayer, in the hope that it would all work out.

Pauline McNeill: The Executive has made the right response to the issue. We faced it with the fire service, so the police will know that they are not alone. The convener's question about whether we can review the funding arrangements for both those pension schemes in the future is the key question. I hope that, as a matter of policy, the Executive accepts that this is an important issue for the police service, as its officers are likely to face injury and stress. That is the reason for the nature of the pension scheme. I would not want us to depart from that policy intention. The same remarks apply to many other professions, not just the police. Is it a matter of policy that you still support such a general view of the profession?

Cathy Jamieson: The points that you have made show why it is not right at this stage to consider the future of police pensions in isolation. Such points and comparisons with similar professions should be taken into account. It would be wrong to take a decision without broader consideration.

Mr Stewart Maxwell (West of Scotland) (SNP): I want to ask about clear-up rates for crime throughout the country, which we discussed with the ACPOS witnesses last week. When members asked them about the balance of resources across police authorities with high clear-up rates and those with low clear-up rates, we were told that a new funding formula would be ready by March and implemented by April 2004 to try to address problems relating to the balance of resources in different forces in Scotland. It was also stated that there would be no losers in the future with the new formula and that some forces would be in a standstill position. What allowance has been made in the budget to ensure that there will be no losers? If there are no losers, it is clear that there will be added expense in future budgets. How has that matter been dealt with?

Cathy Jamieson: I am happy to expand on the matter. It is correct that a new funding formula is being developed by the police GAE working group. Members will have heard my answers to questions on the matter in the chamber. The group comprises ACPOS, the Convention of Scottish Local Authorities and the Executive and is due to report in spring 2004.

In its interim recommendations, the group has signalled that it would not favour the direct use of clear-up rates in the allocation formula for a couple of reasons. First, it is not currently possible to be certain that all forces have defined and measured

the concepts involved in a consistent manner. Secondly, extra money for high-crime or low clear-up areas might end up rewarding poor performance, whereas forces should use it to seek constantly to improve performance. Instead, the working group has proposed that allocations of GAE should take account of the factors that are associated with high levels of crime—for example, population size, deprivation and an additional component for the four major cities to reflect the disproportionate amount of crime that takes place in them.

The working group's final recommendations are not known, but I expect that it is likely that it will recommend that some forces should receive a higher share of resources than they currently do. The intention is to achieve that by using the growth that is available within the GAE budget in the plans until 2005-06 to allow initial progress to be made by those forces without penalising others. That is the basis of the no-losers approach. Other areas would not have to reduce funding dramatically in order to fund forces that may have a strong case to receive additional resources.

Mr Maxwell: I am still not absolutely clear about the no-losers approach. I understand what you said about changes in GAE, which will result in funding going to areas that perhaps require more funding because of the new priorities that have been set, and that such priorities might be set as a result of what happens in the four cities, or because of deprivation or population size. However, if certain forces are in a standstill situation, that would surely be a loss.

Cathy Jamieson: I shall try to explain matters more straightforwardly. If there was one overall pot of money and we decided that some forces required more resources and we therefore took money from that pot, gave it to them and subsequently reduced the budgets of the other forces, there would be losers. We are attempting to ensure that, where additional resources are required, they are genuinely additional, accepting the fact that we will not immediately cut back the other forces' budgets to fund increases. That approach has been included in the GAE figures up to 2005-06.

Jim Gallagher: Over the past year or two, the pattern in the redistribution of GAE has been that, where we have had growth, it has gone disproportionately towards those forces that need to come up a little. That has not been done at the expense of taking money away from those that already had a certain level of spending.

The Convener: Members have been co-operative, as has the minister, in trying to deal with matters as swiftly as possible. I hope to round off the evidence-taking session with the minister at

about quarter past 3. I ask members to try to restrict their questioning to about three minutes each, if that does not cramp their need to press for detail.

15:00

Michael Matheson: I will ask about the central Government fire service budget. I am sure that the minister agrees that we have a highly professional fire service in Scotland. One of the ways in which our firefighters maintain their competence is through a considerable amount of training. The minister is no doubt aware that the fire service is moving towards an integrated personal development concept, which is all about maintaining firefighters' competence. Given that substantial training will be required for that, why will the Government's budget for the fire service decrease over the next three years?

Cathy Jamieson: The introduction of the integrated personal development system will obviously have implications, but because not all the work on the various elements of that has been completed yet, it is not possible to quantify the costs at this stage. So far, we have managed to incorporate any costs that are associated with the IPDS in existing budgets. In the longer term, that might not be sustainable. The projected costs need to be available for us to consider for the next spending review. I expect to put in an appropriate bid for the longer term at that stage.

Michael Matheson: Are the figures in the draft budget up to 2005-06 therefore in effect provisional figures?

Cathy Jamieson: The figures do not take account of the additional costs that will, once they are identified, be required for the introduction of the IPDS. I commit to examining the costs of the IPDS once they have been quantified and to making a bid for that money in the next spending review. That has been our plan. We have tried to do as much as we can in our current allocations, but we will attempt to be more specific on those costs in the future.

Michael Matheson: What will be the time scale for that?

Cathy Jamieson: The next spending review will be in 2004, so we will soon be preparing the figures for that. It is important that we have an accurate costing at that stage.

Michael Matheson: I understand that there are budgets for such matters as advertising campaigns for fire safety. Given Scotland's appalling record in that area, can you explain to me why there is a reduction in that budget? It is a problem that we should be trying to address.

Cathy Jamieson: That should be seen in the context of the Executive's overall policy on evaluating advertising and its effectiveness—we must evaluate. I agree absolutely about the overall fire safety record, which we want to improve; indeed, that is central to the legislative proposals that we will bring forward. However, we must also ensure that we strike the right balance of spending. We must assess whether advertising campaigns on their own are necessarily the best way forward or whether advertising should be done in conjunction with the move towards there being greater focus on community fire safety and localised work. I certainly want to consider that.

Mr Maxwell: There are clearly costs that you cannot estimate at the moment—the IPDS is one of them—but some costs have arisen recently, such as the 16 per cent pay rise for whole-time firefighters and the pay rise for retained firefighters so that they are paid an hourly rate that is equivalent to that of whole-time staff. Also, the pension time bomb that exists in police pensions also exists in the fire service. Given all those factors, are the figures for future GAE for the fire service sufficient?

Cathy Jamieson: It is worth remembering what the GAE increases are. GAE will increase by £9 million in 2003-04 and by £25 million in 2004-05 over the baseline of £223 million. The 2002 spending review provided for salary and pension increases, but it was recognised that additional needs had to be paid for from expected savings through modernisation. However, given the pressures that are likely to emerge, we will consider short-term transitional funding where necessary. I have already discussed that with the appropriate people.

Mr Maxwell: The Chief and Assistant Chief Fire Officers Association and the Fire Brigades Union might dispute the idea that current GAE is sufficient. Do you agree with them that that might be the case? If so, will you be willing to reconsider GAE in the light of developments?

Cathy Jamieson: I appreciate that CACFOA and the FBU have said that they do not believe that GAE will be enough and have pointed out the estimated cost of firefighter pensions, the pay deal and other matters. However, we have provided a substantial increase and I have given a commitment to consider what we might be able to do with the transitional arrangements. It was always part of the package that some savings would be required to be made from modernisation—nothing has changed on that. It is important that we continue discussions with the people who deliver the service in order to ensure that we make the right changes so that we can provide the best service. That is what people are interested in.

Mr Maxwell: Will you quantify the share of the money that is to come from modernisation savings rather than from overall budget increases?

Cathy Jamieson: No. I will not put a figure on that, because further discussion has to take place.

The Convener: Legal aid is a demand-led part of the budget. The budget shows a fall in real terms over a three-year span, yet in 2002-03, we had an overspend of £10.3 million and in the current year, £9 million has been set aside for another overspend, so why has the budget line for legal aid not been adjusted to reflect an apparent upturn in demand?

Cathy Jamieson: I have a table that might be helpful; I apologise for not circulating it in advance of the meeting. We have prepared figures to collate the pattern of spending in the past 10 years and I will happily give that to committee members. In 1999-2000, we had an underspend of £7.9 million; in 2000-01, the underspend was £1.351 million; and in 2001-02, the underspend was £3.15 million. In 2002-03, we had a massive overspend. As people will appreciate, part of the problem is that that budget is demand led, so we must find the money to deal with that. Demand has been unpredictable, so I will consider whether we can improve predictions of pressures; however, we must do that in the context of some of our plans to review the legal aid system so that we ensure that we get the best value from that and that people have access to the system at the right time and in the right places.

The Convener: That happens against the backdrop of current High Court reforms, the possibility of summary justice reforms—that depends on Sheriff Principal McInnes's report—and the Vulnerable Witnesses (Scotland) Bill, which may improve procedures in the court process but could increase the work load of criminal defence agents, for example. Has any attempt been made to quantify the impact of those measures, which place increased procedural obligations on accused persons and their advisers?

Cathy Jamieson: That is why it would not be correct to set a speculative figure without considering the implications in more detail. The budget is demand led, so we can examine it in more detail and try to predict it better but, as you are well aware, we have no control over what comes through the door.

In the budget, I do not want speculatively to tie up an amount of money under the legal aid heading, only to discover at the last minute that it will not be required. That could prevent that money from being utilised for some of the other processes to which members would want us to give priority.

As I have indicated, there are two aspects. We need to get better at predicting what the likely implications are, but we also need to examine the system to find out whether it is providing the best service and the best access to justice. I am concerned that the way in which the system operates at the moment means that there might be people out there who are not getting access to legal advice and representation when they should be benefiting from it.

Jim Gallagher: It might be worth adding that, although it is possible that one of the two bills that the convener mentioned—the Vulnerable Witnesses (Scotland) Bill—will add complexity to court process in some respects, Lord Bonomy's assessment was that simplifying the High Court process might make things easier and might stop us wasting legal aid money on having counsel turn up to be not used.

The Convener: Maureen Macmillan is next. We are pushed for time, so let us have tight questions.

Maureen Macmillan (Highlands and Islands) (Lab): I will move on to community legal services. We are supposed to take some of the costs out of the legal aid budget. What progress is being made on that—will community legal services make savings in the legal aid budget?

Cathy Jamieson: The funding of those services still comes under the same broad budget headings. We have still to pay for community legal services from the budget line, whether or not they come under the demand-led element of legal aid. I think that it is correct to say that, if we increase spending on community legal services, we will still have to pay for that under those broad budget headings.

Jim Gallagher: That is right. It is worth remembering that the work on community legal services, which is being developed under the legal aid umbrella and elsewhere, is almost all about civil legal aid—in other words, it is about helping people with disputes, such as housing or consumer disputes. Much of the growth in demand is in criminal legal aid, in relation to which we are not expecting changes such as community legal services to make a big impact. That growth is down to how many people are going through the courts and what kinds of processes they are going through, which takes us back to Lord Bonomy's report and Sheriff Principal McInnes's work.

Mrs Margaret Smith (Edinburgh West) (LD): In the evidence-gathering meeting that we had last week, the committee received evidence from the ADSW and SACRO on the relative effectiveness of non-custodial sentences and prison. It was claimed that community sentences result in a reoffending rate of 40 per cent, as compared to a reoffending rate of 60 per cent after custodial

sentences. It seems that such alternative sanctions not only help to lower reoffending—which, as the minister has said, is one of our targets—but are cheaper, so why is one of the targets in the Justice Department's list to provide 6,300 prisoner places by 2005-06? That represents a drop of only 100 from the present figure. Would not more extensive use of community disposals reduce the prison population well below that number and produce better value for money, as well as a safer community?

Cathy Jamieson: It is right that we have a commitment to consider appropriate alternatives to custody; I am keen to explore how we can use such alternatives more effectively. They are not seen as soft options, but as smart options, which it is right to take in certain circumstances.

Members will be aware of the pressures on our prison system. In some cases, we have Victorian buildings that almost fail to serve their purpose. We require to invest in bringing those buildings up to standard. In early September, there were 6,744 prisoners in the daily prison population and it is projected that that number will continue to rise. When we talk about the figure of 6,300 places, we are talking about modern places that are fit for purpose.

We must recognise that, increasingly, people are spending longer in prison. We can take action on remand—for example, by not having as many people on remand in prisons such as Barlinnie. We can examine the effectiveness of short prison sentences and we can consider alternatives. We should continue to assess the work on taking fine defaulters out of the prison system, so that they do need to be locked up. However, the current projections for those who are serving fairly lengthy sentences mean that we will still need that number of prisoner places.

15:15

Mrs Smith: I appreciate what you say, minister. SACRO has told us that it is happy for restorative justice to be one of the priorities but that it does not think that that is reflected in spending plans and that it is unclear in the budget how that would be paid for. SACRO gave us figures to support its argument that, if the Scottish Executive were serious about growing the capacity of community disposals, it would save considerable amounts of money if, for example, it imprisoned only those who were a danger to society, and removed from prison those who are serving sentences of less than six months. It estimates that the cost of community disposals would be £2.5 million compared to a cost of £16.5 million for prison places. The question is about how we can grow capacity, whether in restorative justice or other community service placements.

Cathy Jamieson: There is an issue about capacity but there is also an issue about ensuring that resources are used to enable the best possible outcomes. One of the reasons why we want to consult on having a single agency, for example, is that we believe that that would bring all the services under the auspices of an organisation that would have flexibility with regards to funding, which would allow it to respond to need. It would also be a way of delivering our desired outcomes.

Clearly, we have to be able to provide prison places for those who are given long-term sentences. We have to consider what we do in relation to supervision of people who are released into the community on licence. I know that SACRO also raised the issue of throughcare. The budget allows not only for statutory throughcare but for access to advice and assistance to be made available on a voluntary basis to those who would not be required to have it by statute.

I am committed to expanding the capacity to deal with restorative justice and to get more community service places but we must also address the fact that, in some cases, community sentences are not seen to be credible and are therefore not being used. That is why it is important that we have an overall strategic approach to the matter. For the first time, we are joining up all the various bits of the justice system in order to get the outcome that you want.

Jim Gallagher: It might be worth adding to that that the spending plans in the documentation show much greater growth in community justice spending plans than in prison service spending plans. That is a reflection of ministers' choices about priorities.

The Convener: Maureen Macmillan wanted to pursue a line of questioning that might have been answered by what has already been said.

Maureen Macmillan: Yes, but I would like to pursue that matter a little further. I think that the capacity for throughcare in the budget is falling. I understand what you say about its being demand led and I acknowledge that you mentioned the possibility of using more voluntary throughcare. However, SACRO believes that the area is still under-resourced and suggests that even a measly £2 million would go a long way towards sufficiently resourcing throughcare in our prisons. I am sure that the minister agrees that we must endeavour to support ex-offenders so that they do not reoffend.

Cathy Jamieson: I am happy to clarify that point. In 2003-04 the funding for the voluntary and statutory components of throughcare amounted to £2.5 million. That has been increased to £6 million for the following year, to provide an enhanced

service for those who are subject to statutory supervision on release, and to address the needs of those who require supervision on a voluntary basis. In cash terms, that funding is sustained into the next year. The calculation is that there is a 140 per cent cash increase and a 136 per cent real-terms increase in just a year. That is an important signal about how seriously we take the issue. The resources are there to allow us to deliver.

The Convener: Mr Fox has promised to comply with my request for brevity.

Colin Fox: I promise I will be brief. Minister, you said that, in November, there were 6,744 prisoners. I know that you are conscious of the need to stop slopping out and are aware of the issue of the two new prisons and so on. However, given that you said that alternatives to custody should be considered where appropriate, do you agree that greater pressure needs to be brought to bear in relation to the use of non-custodial sentences, especially in the light of the increase in the prison population and the other pressures that I mentioned? Do you accept that greater urgency is needed than there has been so far?

Cathy Jamieson: There are two issues in what you have said. You rightly raise the issue of conditions in prisons, which you have previously raised with me. We must address that issue. Irrespective of what we do in relation to alternatives to custody, there will always be people who require to be punished, albeit that that might be unpalatable in some quarters. Furthermore, there will always be people who require to be removed from their communities to make those communities safer. The right resources and the right programmes in prisons should be made available. The issue is partly about upgrading the physical quality of the prisons estate, but is also about ensuring that programmes tackle people's behaviour.

The other issue relates to credibility and people's understanding of what alternatives to custody are about. I repeat that we are not talking about soft options; we are talking about smart options for many people in many circumstances. Alternatives to custody will be the right approach to get people into programmes in their communities without their being required to be away from their families or employment, for example, and to get them back on the straight and narrow.

We have achieved the right balance in the budget. Difficult choices must always be made, but we have achieved the right balance between investment in the physical estate and programmes on the one hand, and alternatives to custody on the other hand. We have a job to do in evaluating and proving what works and what is effective. In past years, we have not been as good at that job

as we are becoming. For example, accreditation of programmes is important, as is monitoring and evaluation to ensure that we get a return on the resources that are made available.

The Convener: I am not aware of any other questions that members want to ask. Therefore, on behalf of the justice committees, I thank the minister and her colleagues for attending the meeting and for being so explicit in their responses to questions.

I welcome the Lord Advocate, Colin Boyd, and his colleagues: Robert Gordon is chief executive of the Crown Office and Procurator Fiscal Service and Stephen Woodhouse is its director of human resources. Norman McFadyen is the Crown Agent. Lord Advocate, please feel free to give a few introductory remarks, if you are minded to do so.

The Lord Advocate (Colin Boyd): I do not have any introductory remarks to make. The budget priorities paper has been circulated to members and I know that they want to ask me questions about it. I have nothing further to add at this stage.

The Convener: I am obliged. On behalf of members, I thank you for the paper, which was a great help. We have been doing well in keeping to a timetable. If we try to adhere to the commendable example that we have set, we can be pleased with ourselves.

Bill Butler: I will try not to let you down, convener.

The Lord Advocate will be aware that between 2002-03 and 2003-04 the Crown Office and Procurator Fiscal Service enjoys a significant injection of resources, but thereafter the budget provision is almost exactly flat in real terms. It goes from £87.9 million to £87.6 million and then to £88 million in 2005-06. Are you confident that no further injection of resources is required over that time span?

The Lord Advocate: What the large injection of funds has given us is increased management capacity and investment in the future, as it were. In particular, there will be investment in the future office system, which is a new technology system that should have the effect of freeing up many of the current support staff jobs and will therefore allow us increased capacity in terms of legal staff and people who do front-line jobs, such as precognition officers. The investment should also allow us to have a more efficient service. I hope that it will enable us to reduce the cost of inefficiencies such as citation of witnesses to trial diets that do not take place.

The investment should give us the ability to respond to increased pressures. If the pressures are such that we are short of resources, I would

clearly have to consider whether to return and seek more funding to enable us to respond. It is difficult to give an accurate assessment now of what the demand might be in years 2 and 3—particularly in year 3. I am currently confident that we can meet the projected demand.

Bill Butler: So you are content with a flat-line budget?

The Lord Advocate: As I say, it is important to ensure that what we get from the investment during those years is the ability to redirect resources from support staff into more legal staff, more precognition officers and so on. The first point is that it is important to realise that aim and the second point is that the factor that is least under our control is what demand will be in year 3. Demand has fluctuated over the past few years and how it might move from now on is difficult to gauge.

Mr Maxwell: I will follow up on that point. By coincidence, many members of the committee visited Glasgow sheriff court yesterday. I do not know about other members, but I felt that the sheriffs there were clear that they felt that the resources that are going into the Procurator Fiscal Service and perhaps also those that are going to the police are insufficient. They used as examples problems with citations, with witnesses' not turning up, with papers' being late from the Procurator Fiscal Service and with delays from the police and the Procurator Fiscal Service in getting cases to the courts. It seems to me that they still felt, despite the considerable extra resources that have been injected into the system in the recent past, that more resources will be required in future years. That seems to be contrary to what is in the budget and it contradicts the comments that you have just made that you will have to wait and see. They seem to feel that they already see the problem; they believe that resources will have to be increased.

The Convener: The comments that were made yesterday were made principally in relation to summary criminal court procedure.

The Lord Advocate: We are currently in the middle of a period of considerable change. As members know, the Glasgow office has been reorganised into four divisional offices. That has had a considerable benefit in marrying us up with the police divisions.

The feedback that I have received from the police, members of the Scottish Parliament and others is that that has been wholly beneficial. We are working closely with the police to improve their reporting times to us. On the court side, I am aware that difficulties were experienced with the citation of witnesses before the summer. Those difficulties have been overcome, although residual

difficulties might still be in the system, but I will speak to sheriffs later this month and listen to their concerns.

We are seeing a considerable improvement in the Glasgow office's work. A significant number of new deputies has been recruited—about 20 in the past three and a half years, which has taken the complement up to about 80. Given that resources are going into Glasgow, that work is being undertaken to ensure that we have team working and that the future office system is being introduced, it is difficult to say that yet more resources are needed. We must and do use resources in a smarter way. Considerable effort is being expended on that.

15:30

The Convener: As a matter of courtesy, I will bring to your attention a matter that I raised with the Minister for Justice when she appeared before the committee this afternoon, which arose from our visit to Glasgow sheriff court yesterday. It is possible that police coverage in the courts will change because of the new arrangements for the private procurement of personnel to escort people from prison to court. That will affect prosecution personnel in courts directly. You might want to consult your colleague the Minister for Justice on her response.

Colin Fox: I will follow up Bill Butler's line of inquiry on the flat lining of the budget. Your budget has had a considerable increase, which I am sure helped morale in the service. In the next few years, the budget will level off, but pretty soon the Bonomy report and the McInnes report will be published, to follow the review of criminal justice objectives. You have said:

"Together these 3 reviews will pave the way for the most radical improvements in our criminal justice system for over 20 years."

We have a flat-line budget to implement those radical improvements. Are you confident that the existing budget can provide the amounts required or will you wait for the conclusions of those reviews and ask for extra money next year?

The Lord Advocate: I reiterate my response to Bill Butler about investment in new technology freeing up support staff and enabling us to redirect resources towards having more lawyers. I have been trying to find the relevant point in the budget to show that we have increased resources to meet the Bonomy provision.

We do not have the McInnes report yet, so it would be premature to say that we need more resources for that, because we do not know what he will say and ministers will have to consider their response to the report. I speculate—perhaps I should not speculate—that McInnes might help to

reduce costs, for example, by suggesting that greater scope exists for diversion from prosecution or by increasing summary sentencing powers. That might have an impact on the number of cases that go on indictment.

Under the heading "New resources" on page 40, the draft budget says:

"additional resources of £0.43 million in 2004-05 and £0.65 million in 2005-06 have been made available to fund the development of improved information technology systems"

to

"support ... the operation of the High Court consequent upon the recommendation in the report by Lord Bonomy."

That has already been done.

Colin Fox: You are confident that you will absorb the Bonomy report's conclusions, but we will have to wait and see about the McInnes review. Your general picture is that there is no real danger of the service being subject to extra demands and of morale in the service becoming lower than it is now or has been in previous years. Are you satisfied that that will not happen?

The Lord Advocate: In the past, where there have been extra demands, we have not ensured that we have gone looking for extra resources. If demand outstrips what we can do, we will have to go back and look for more money. All I can say to you is that, based on the picture that we have at the moment, I am reasonably confident that we can fulfil demand, but if detection rates and the amount of crime keep rising, we might have to seek more resources. However, it would be wholly wrong of me to sit here and say that we need more money. The strong likelihood is that we will not, but that requires us to ensure that we get the savings from the investment that we are making now.

Nicola Sturgeon: I will continue on that point without labouring it. I appreciate that you cannot give accurate assessments of demand in future years, but surely it is possible to make some predictions by looking at other areas of the budget. Surely it is possible to make a guesstimate or two. If we take the substantial increase in real-terms resources that is going to the police over the next three years and couple it with the police commitment to increase detection and clear-up rates, the logical conclusion seems to be a further increase in work load for the Crown Office and Procurator Fiscal Service. Surely you can look ahead on that basis and say that it is likely that, if the police resources are working in the way that they are supposed to and the police are delivering on their targets, your work load will increase. In that context, does a flat-line budget not stretch credibility a wee bit?

The Lord Advocate: As I said, if we realise savings from working out inefficiencies and investment in new technology, the budget is not flat line in that we will be able to redirect resources.

Predicting what will happen with reports that come to the Crown Office and Procurator Fiscal Service is difficult. For example, in the past, we have received more resources when more police officers have been taken on. It is true that we would consider the numbers of police officers. We have done that in structuring the budget.

You mention predicting that the police will be able to detect more crime. It is true that they will do that, but detection will be patchy in some cases. For example, I have read that the detection rates in Edinburgh have fallen substantially. No one would have predicted that. It is difficult to be confident about how reports to the service will go.

Nicola Sturgeon: It is a bit odd to be basing the budget of the Crown Office on an assumption that the police will not improve detection rates or that those might worsen in some areas. The difficulty is whether what the substantial injection of cash between 2002 and 2004 has enabled you to do will generate sufficient savings to pay for what appear to be substantial extra burdens—the Bonomy and McInnes reviews and the results of the increased detection to which the police are committed. We might have to come back to that issue, because I do not think that we can get much further today. It seems to me that there is a potential problem looming in that, but I am not sure that you can say much more beyond what you have already said.

Robert Gordon (Crown Office and Procurator Fiscal Service): The full impact of the substantial investment over the past year and this year has not really been felt yet, as there has been investment in information technology that will make a significant impact. Capacity will be freed up. We have also been recruiting many new fiscal deutes.

An issue that the Procurators Fiscal Society might have raised is that there are many young and inexperienced people around. That issue is being resolved month by month as people acquire more experience and can take on more work. As the Lord Advocate said, there is a huge amount of inefficiency in the system, but week by week and month by month, we are working away to eliminate it. The costs that we incur by, for example, citing witnesses to come to trials that do not happen and then citing them again are quite enormous. There is apparently a flat-line budget in real terms, but we think that there is a huge potential for squeezing out efficiency gains from the system.

Karen Whitefield: I want to ask about front-line services. Much of the recent investment in the

Crown Office and Procurator Fiscal Service has been used to implement the recommendations of the Pryce-Dyer report. You have provided us with statistics showing that you have been able to recruit additional deutes, paralegal staff and administrative staff. Last week, we heard evidence from the Procurators Fiscal Society that, at the front line, procurators fiscal continue to struggle and feel the pinch. Do you intend to recruit more staff?

The Lord Advocate: At the moment, we are just trying to absorb the staff that we have. Reference has been made to experience and training. Much of what procurators fiscal say to senior management of the service and ministers concerns the burden of having to train and supervise the training of younger members of staff. However, as Robert Gordon said, the situation will improve and burdens will lift in time.

People in the offices are feeling the sheer impact of change. I accept that that can be an unsettling experience, but I think that the refurbishment of offices, the new technology that offices will receive, the new working practices and the new team working—which we have received positive feedback about—will help to relieve many pressures that people still feel in the system.

Karen Whitefield: How quickly will changes impact across the board so that you can respond to the Procurators Fiscal Society, which said last week that it believes that its members are continuing to feel the pinch?

The Lord Advocate: That depends very much on individual offices. A programme of office refurbishment is in progress, which involves moving to open-plan offices. Giving people a better work experience in itself will be an important element in helping to relieve pressures.

On how quickly changes will impact throughout the country, it would be foolish of me to say that things will take another year, two years or whatever. Certainly, the programme is well under way and I am confident that people will begin to feel that things are improving—indeed, people are already feeling that things are improving.

Robert Gordon: We have been recruiting procurator fiscal deutes as fast as we can. Thirty new deutes joined us in September, although some of those to whom we offered jobs did not come, so we are recruiting to fill the outstanding places. At the moment, Edinburgh is about eight deutes light, mainly because people have moved on to other positions in the fiscal service. We are trying to recruit there, but at the moment we are using ad hoc support to fill in. On Friday, I went to Hamilton and Airdrie in Lanarkshire, where all the posts have been filled. People were buoyant, in spite of having to cope with a very heavy work

load and, in the case of Airdrie, having to relocate to a new office within a fortnight, because of a firebombing.

15:45

The Convener: In its evidence, the Procurators Fiscal Society commented on the degree of consultation by and discussion with the Crown Office and Procurator Fiscal Service on the allocation of resource. In its inquiry in the previous session, the Justice 2 Committee raised the whole question of morale and staff difficulties in drawing management's attention to resourcing issues. I wonder whether you are satisfied that suitable mechanisms are in place. I have listened to what Mr Gordon has said about an attempt to improve staffing levels, which is welcome to the committee. Are you satisfied that mechanisms are in place to allow the fiscals to feel connected to the process of allocation of resource within the service?

The Lord Advocate: That is an on-going process. I am certainly satisfied that a lot of effort is being put into engaging with our staff in a far more positive way than has been the case in the past. As of right, more or less, the trade unions now attend the senior management conference that takes place twice a year, at which a whole range of management issues are discussed, including resource issues. The minutes of the legal and policy forum are now disseminated to all members of staff, so that they can see what is going on at the higher levels of management. I know that Robert Gordon and Norman McFadyen have been going to offices round the country to speak to individual members of staff, both legal and non-legal. As far as I can see, that engagement by senior management with members of staff is a big change from what happened before.

Although I am not saying that everything is necessarily as good as it should be, as there are certainly ways in which we can continue to increase the flow of information to, and engagement with, members of staff, I would say that the situation is far better than it ever was before the changes that were implemented in March 2002.

The Convener: To avoid any unfortunate suggestion that the consultation process that you have described has been tokenism, can you point to a facility, apart from the twice-yearly meetings, that allows the fiscals to make an input. Are they asked to make an input on what they consider would be an appropriate bid for budget?

The Lord Advocate: Others may wish to contribute, but my view is that, within the individual offices and areas, there should be discussion about the level of staffing that may be required

and what is appropriate. It is at that level that staff should be engaged in what is being done. I do not think that there is a formal consultation of trade unions by management on where money should be allocated and which offices should get it. I personally think that that is a management function. I am responsible to the Parliament for that process. It is certainly important that members of staff, whether they are members of unions, should feel engaged in the process of contributing to the future of the service.

Maureen Macmillan: We do not want ever again to find ourselves in the position where fiscals would write to us anonymously, or would speak to us but not write to us, because of the pressures that they were under. We want an assurance that when people think that there are things that need changed they will be able to speak out without fearing for their jobs.

A significant amount of money is going into the Procurator Fiscal Service. What steps do you intend to take to measure the effectiveness of the changes?

The Lord Advocate: We do that in two broad ways. The first is that we have set ourselves targets. We can measure ourselves against those targets and if we do not meet them, we can measure how far adrift we are of them. That is one way of doing it.

The second way is to consider the feedback that we get from our partners in the criminal justice system. For example, the feedback that I get from chief police officers about how the service is responding is very positive. Likewise, our feedback from victims through the victim information and advice service is far more positive than it has been. We take into account the number of complaints that we get in our postbag.

One of our targets is to be taking action on 75 per cent of criminal reports within six weeks by the end of March 2005, and within five weeks by the end of March 2006. We have an interim target to take action within seven weeks on 80 per cent of criminal reports and we achieve that on 77 per cent of criminal reports. We think that we are well on course to meet the targets of six weeks by the end of March 2005 and five weeks the following year.

I do not know whether this is of interest to the committee. Given the question, I think that it is probably important that the committee knows more about the targets, but I do not wish to take up your time needlessly.

We have a target of 80 per cent of sheriff and jury indictment cases being served within nine months. That target is to be met by the end of March 2005. We were at 71 per cent in 2001-02, 74 per cent by 2002-03 and the performance this

year to date is 84 per cent. If we maintain that for the rest of the year we will exceed the target.

In the High Court we have a target on indictment bail cases that has been set in order to try to match the Bonomy proposals. The target is to serve bail cases within 10 months by 1 January 2005. That is an exacting target for us. We currently have a nine-month target. Our performance against that is 51 per cent in 2002-03 and 63 per cent in the fiscal year to date, so we have some way to go on that one, although those figures relate to a nine-month target rather than a 10-month target. That said, the figures show that there has been a marked improvement in our performance.

I am told that the figures for the Glasgow office, for example, also show marked improvements against targets. We are measuring our performance against those targets. The figures that I have given are, of course, only interim figures and we will have to see how they come out at the end of the financial year, but we are pleased that so far we are meeting or coming up to meeting the targets.

Maureen Macmillan: Thank you, Lord Advocate. That sounds good to me.

Karen Whitefield: In your answer to Maureen Macmillan, you demonstrated effectively the importance of targets and how they can be used to benchmark success or otherwise. They give us an indication of where we are going. The draft budget for 2004-05 contains a number of targets, but because they are so mixed it is difficult for the committee to judge where you were in April 2002, before the substantial injection of cash for implementing the recommendations of the Pryce-Dyer report. Did you give any consideration to benchmarking where you were in April 2002 and reporting in yearly steps on how you have been able to improve on that, so that we could see the developments and improvements in the service as they happened?

The Lord Advocate: That is a good question. I am not entirely sure that I know the answer to it. I will ask Robert Gordon to answer it.

Robert Gordon: The question is apt. We will provide the committee with details of where we were and show you the extent of the improvement.

Mrs Smith: Page 40 of the draft budget indicates that the Crown Office and Procurator Fiscal Service has set up a criminal confiscation unit and a civil recovery unit. It also says:

"Monies recouped can be targeted on community initiatives."

How exactly will the money flow? Who will take decisions regarding where and how the money is spent? Do you have any estimate of what sums will be involved?

The Lord Advocate: Although the units are part of the Crown Office and Procurator Fiscal Service, the moneys that they recover do not feature at all in the COPFS budget because they are not part of it, so what I tell you about is not my ministerial responsibility. There is an agreement that the moneys that are recovered through the new powers in the Proceeds of Crime Act 2002 will be split 50-50 between the Treasury and what is called a recovered assets fund, which is used to target the effects of drug use in communities.

I must say that I am not entirely clear which minister is responsible. I do not know whether Cathy Jamieson, Margaret Curran or even the First Minister takes the decisions. I know that, last year, £250,000 went to Greater Glasgow Primary Care NHS Trust to deal with homelessness among drug users. Beyond that, I am not entirely clear. I think that, this year, the fund is likely to be about £500,000. I should point out that that is before the full powers of the Proceeds of Crime Act 2002 have come into effect. My recollection is that the cash seizure powers came into force in about March of this year—we are really only in the early stages. I think that the criminal confiscation powers came into force earlier—at the turn of the year, from recollection. The civil recovery powers also came into effect in March.

Mrs Smith: Perhaps we could try to find out through the clerks which minister is responsible for the recovered assets fund.

The Convener: You mentioned the kitty with, you think, £500,000 in it. Will half of that go to the Treasury?

The Lord Advocate: No. That is the recovered assets fund, which is half the total sum to date.

Robert Gordon: Obviously, the amount of money that is recovered is building up. The £500,000 represents what was brought in before the new powers came into force, so in 2004-05 we will benefit from the recovery of assets this year. That sum is likely to be more, given how cases are being dealt with.

16:00

The Convener: Are you content with the arrangements for disposing of those sums? Those are the fruits of your earnest endeavours. Should you not be allowed to hang on to them?

The Lord Advocate: Do you mean that the Crown Office and Procurator Fiscal Service should have those sums? The arrangement is quite a neat way of putting back into the community what has been taken out of it by people who abuse the community by indulging in drug use. We know the misery that that causes. There is something just—perhaps I am using the word loosely—about

ensuring that the money that comes from the misery that those people cause is taken from them and redirected into the communities that have been badly affected by that misery.

In civil recovery, we are using restraint powers before an order is obtained from the court to release sums of money. The same is true in criminal confiscation, where restraint powers are being used under the Proceeds of Crime Act 2002. Sums of money are coming more quickly from cash seizures, but even they require court orders. As we have operated the system only from March to early October, the sums of money that have been transferred to the Treasury and the recovered assets fund are modest.

Michael Matheson: Is the 50 per cent split between the Treasury and the fund a policy matter or is it set in the relevant legislation?

The Lord Advocate: I do not know.

Norman McFadyen (Crown Agent): We can clarify that later, but I understand that such funding goes to the Treasury as a matter of course. As a concession, the Treasury has agreed that it is appropriate for a proportion of that money to be ploughed back through the recovered assets fund. Ordinarily, assets that are confiscated by the state go to the Treasury. I do not think that the situation arises from statute, but we can check that.

Michael Matheson: You suspect that it is a policy matter.

Norman McFadyen: I think so.

Michael Matheson: It would help if you could clarify that.

Norman McFadyen: We will do so.

Maureen Macmillan: Will the communities where the money is seized benefit from it, or will it go into a pot for the whole of Scotland and be shared? For example, would money return to the Northern constabulary area if it had been seized there?

The Lord Advocate: Money does not necessarily go to the area from which it came. In the past, sums have been directed where ministers have found a need and a vehicle that can use the money appropriately. I referred to Greater Glasgow Primary Care NHS Trust. I presume that that vehicle was available and that the trust had a project that could do with money to address homelessness and drug use in the city of Glasgow. However, no attempt is made to ensure that because £250,000 came from Glasgow, £250,000 should go to Glasgow.

The Convener: The draft budget indicates that your department contributes to the Executive's cross-cutting initiative of closing the opportunity gap through a faster clear-up rate for persistent

criminals. Is that an aspiration or is it something that you can quantify? If so, how do you quantify it and what can you tell us about it?

The Lord Advocate: We can tell you what we are doing on that. First, on persistent offenders, the future office system—our IT system—gives us the capacity to roll up cases in a far more effective way than has previously been the case. With a paper-based system it is sometimes difficult to ensure that cases are married up and that sheriffs see the full extent of the offending at one time.

Secondly, we can contribute through locally-based initiatives, and by working with the police to target persistent offenders. In Linlithgow, for example, the police had a list of the top 10 persistent offenders that they wished to apprehend and prosecute. There was an agreement between the police and the local fiscal about how that would be done. My understanding is that that has been very effective. A similar project in the Gilmerton and Inch areas of Edinburgh was also successful. In Kilmarnock, there was an agreement that young offenders would be reported to the fiscal within 48 hours. Young offenders are very often also persistent offenders and targeting that behaviour is important.

We are contributing to the youth courts and the drugs courts, which contribute to the wider objectives of the Executive in tackling—broadly-speaking—antisocial behaviour. I do not mean in terms of the antisocial behaviour bill, but behaviour that is perceived as being a particular nuisance to communities. We are determined to engage far more with local communities. Last night, for example, I heard about a fiscal in Glasgow who appeared with the local divisional commander and the reporter to the children's panel on a public platform. They were listening to the views of the community and acting as a group. That is the kind of initiative that is important in contributing to cross-cutting exercises.

The Convener: On behalf of the committee, I thank you, and also Mr Gordon, Mr McFadyen and Mr Woodhouse, who have contributed in varying degrees as required. Your collective response has been very helpful to the committee in assisting its consideration of the budget process.

We will have a short break before we resume in private.

16:08

Meeting suspended until 16:21 and thereafter continued in private until 16:57.

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