

JUSTICE 1 COMMITTEE AND JUSTICE 2 COMMITTEE (JOINT MEETING)

Tuesday 4 May 2004
(*Afternoon*)

Session 2

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CONTENTS

Tuesday 4 May 2004

	Col.
ITEMS IN PRIVATE.....	217
BUDGET PROCESS 2005-06.....	218

JUSTICE 1 COMMITTEE 17th Meeting 2004, 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)
*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 17th Meeting 2004, 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)
Margaret Smith (Edinburgh West) (LD)

*attended

THE FOLLOWING GAVE EVIDENCE:

Colin Boyd (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)
Stephen Woodhouse (Crown Office and Procurator Fiscal Service)

CLERK TO THE COMMITTEE

Alison Walker

SENIOR ASSISTANT CLERK

Douglas Wands

ASSISTANT CLERK

Douglas Thornton

LOCATION

The Hub

CLERK TO THE COMMITTEE

Gillian Baxendine
Lynn Tullis

SENIOR ASSISTANT CLERK

Anne Peat

ASSISTANT CLERK

Richard Hough

Scottish Parliament

Justice 1 Committee and Justice 2 Committee (Joint Meeting)

Tuesday 4 May 2004

(Afternoon)

[THE CONVENER *opened the meeting at 14:08*]

Items in Private

The Convener (Miss Annabel Goldie): I welcome everyone to this joint meeting of the Justice 1 Committee and Justice 2 Committee. Agenda item 1 is consideration of whether to take item 3 in private and whether to take any discussion of a draft report in private at any future meeting. Is that agreed?

Members *indicated agreement.*

The Convener: I have received apologies from Michael Matheson, and I understand that Mike Pringle will join us but that he might be late.

Budget Process 2005-06

14:09

The Convener: We proceed to agenda item 2, and on behalf of the committees I welcome the witnesses from the Crown Office and Procurator Fiscal Service: Colin Boyd, the Lord Advocate; Robert Gordon, the chief executive; Norman McFadyen, the Crown Agent; and Stephen Woodhouse, the director of resources.

Members have various questions to pose; if you wish to make any introductory remarks, you are welcome to do so, but if you wish to proceed to questioning, that is fine by us.

The Lord Advocate (Colin Boyd): I have a few introductory remarks to make, if that is all right with you. Thank you for giving us the opportunity to address the committees on the budget.

As everyone is aware, the Crown Office and Procurator Fiscal Service received a large uplift in the budget in the most recent spending review. That increased investment has been a key part of what I believe has been the successful modernisation of the department, which is bearing fruit, as we are able to make efficiency savings in 2004-05 and 2005-06. The increase in efficiency makes it easier than it was in the past for the department to absorb work load pressures and new initiatives, and it is the key to better service in the criminal justice system as a whole—for us, it represents fewer adjournments, fewer witnesses and victims being brought to court unnecessarily, and speedier justice. It also helps our criminal justice partners, particularly the police, through postal citations and other initiatives. I believe that the 2005-06 budget is sufficient and that we will be able to spend it in a way that further improves the quality of our service and encourages increasing efficiency in the criminal justice system as a whole.

I read the *Official Report* of the evidence that was given by Mr Woodhouse and others. In the light of that, and in the light of the request that was made, we submitted a note to the committees. Our submission, which represents a considerable effort on our part, responds to the proper concerns that the committees expressed and aims to ensure that they have a proper basis on which to reach a decision.

The Convener: On behalf of the committees, I express our thanks not just for the submission of that information but for your promptness in making it available. It has been extremely helpful. Thank you for your introductory remarks.

Margaret Smith (Edinburgh West) (LD): The committees recognise that the Crown Office and

Procurator Fiscal Service faces a large change agenda, resulting from both the substantial increase in the 2002-03 budget, to which you referred, and the Normand, Bonomy and McInnes reports. What is your assessment of the progress on implementing that change agenda?

The Lord Advocate: We are a considerable way down the road. There are two change agendas in the Crown Office and Procurator Fiscal Service, which are running in parallel. The first agenda, which is internal, started in March 2002 with the publication of the Pryce-Dyer report, bringing in Robert Gordon and Norman McFayden and building up the management capacity in the Crown Office. As you will be aware, from then on there have been considerable structural and managerial changes and, importantly, there has been a cultural change in the way in which the organisation runs and the way in which it deals with people, particularly victims.

In parallel with that, there is the change agenda from outside, which is partly legislative and partly administrative; the Bonomy, McInnes and Normand reports form an important component of that. On the Bonomy report, the Criminal Procedure (Amendment) (Scotland) Bill is a significant step, and we have been doing a considerable amount of work to get ready for it. That includes, for example, changes to the way in which we run the High Court unit and the way in which advocate deposes work.

The report by Andrew Normand is about building better partnerships and the need for more joined-up thinking in the criminal justice system as a whole. Pilots are under way in local criminal justice boards. Moreover, the national criminal justice board has met twice. That work is now getting under way and we will make our contribution to it.

The McInnes report has just been published and we will respond to it during the four-month open consultation period. However, I think that it has the potential to benefit the criminal justice system and the Crown Office and Procurator Fiscal Service hugely.

14:15

Margaret Smith: I want to focus on what might seem like quite a small part of a very large change agenda. You have changed your structure to better reflect your working partnership with the Scottish police forces. Has that been successful?

The Lord Advocate: Yes, it has been very successful. I feel that, in many ways, the structural changes have helped to prompt a cultural change. From conversations that we have had, I do not think that there can be a single chief police officer—or, indeed, many police officers on the ground—who does not recognise the difference

that the changes have made. For example, in all the areas outwith Strathclyde, area fiscals have been relating to chief constables while in Strathclyde and particularly in Glasgow we have made changes to the office to ensure that each of the Glasgow divisions has its own procurator fiscal's office—or perhaps that should be the other way around. That has been important, because it has allowed more joined-up thinking, better cross-cutting initiatives and more targeting of resources. As a result, approaches to persistent offenders, police stand-by arrangements and so on have all gone a lot more smoothly.

Pauline McNeill (Glasgow Kelvin) (Lab): Thank you for the information that you have submitted. On page 3 of your submission, under the heading "Efficiency savings", you refer to

"Fixed penalties for no car insurance and failure to identify driver offences".

Is that a policy change?

The Lord Advocate: No. Westminster amended the legislation to allow fixed-penalty notices to be given for not having car insurance and for failure-to-identify-driver offences. As such offences have been routinely prosecuted, we believe that we will make considerable savings in that respect.

Pauline McNeill: It is helpful to know where that change came from. Given that driving without insurance is still quite a serious offence, I wonder whether the public will be concerned about such a move. Indeed, I would be concerned if cases did not come to court and were simply broadly categorised as they are in your submission.

The Lord Advocate: Amendments to the Road Traffic Act 1991 have allowed that situation to happen. I express no opinion about the method, other than to say that I believe in fixed-penalty notices and fiscal fines. The more offences that we can divert out of a very expensive and formal court process, the better. In any event, I did not introduce the policy; it is the result of amendments to Westminster legislation.

The Convener: Marlyn Glen will ask the next question. Before she does so, I should say that we have a lot to get through in this evidence session. I ask members to keep their questions concise and the witnesses to keep their answers brief without putting any constraints on information.

Marlyn Glen (North East Scotland) (Lab): What are the implications for the COPFS's 2005-06 budget and the 2004 spending review of the McInnes report's recommendations, assuming that they are implemented?

The Lord Advocate: The recommendations will have no implications for the 2005-06 budget, because we are not yet able to respond to the report. Beyond that, there will be implications as

far as start-up costs are concerned. However, even if legislation based on the recommendations were to come on stream later, we would not look for any large changes until the next spending review.

Jackie Baillie (Dumbarton) (Lab): In the past, we have asked you whether you were concerned that your budget was on a relatively flat line. I recall that you were confident that the efficiency savings that you were making, especially through information technology, would deal with that issue. As you will have read, there is evidence of significant operational problems with phase 1 of the future office system—rather than making it easier to mark cases, the system would appear to be making the process take significantly longer. What are you doing to deal with that problem? It strikes me that there are software difficulties.

You have estimated savings worth £1.58 million, with 80 staff going in 2004-05. Given the operational problems, is there a danger that your savings target will not be met? If so, what impact will that have on your budget?

The Lord Advocate: I have read the newspaper reports about supposed operational problems. I make it clear that no cases will be lost as a result of the introduction of FOS, which makes it much easier to track cases and allows legal managers to know at any point what stage a case has reached. That is a huge advantage.

No backlogs are building up that would prevent us from meeting targets. The reports that I have read, which suggest that the system is making it more difficult to mark cases online, are exaggerated. Some reports have indicated that it takes up to half a day to mark a case, whereas it takes five minutes or less to mark a simple speeding case using FOS.

It is true that no new IT system ever runs as smoothly as one would like. We tested the system, in so far as that was possible, using a virtual office and rolled it out when we reckoned that it was ready. The fact that the system is being rolled out over a period of time allows us to respond to issues that arise. Problems that have been identified have been, and are being, addressed. I believe that the system offers us substantial benefits, not just in efficiency savings but in far greater accuracy of marking, greater management control of the work load and the ability to transfer cases electronically to other offices to deal with short-term work load issues in an office. The overwhelming response from lawyers is that they are enthusiastic about the system. Of course, frustrations build up and will be evident from time to time.

We believe that we will open up 80 posts in the first phase and 30 others later. We do not believe

that those figures will change as a result of the problems that the member has identified. In any event, savings will be made in other areas that can deal with any short-term difficulties.

Jackie Baillie: So you anticipate achieving the savings target of £1.58 million that has been identified for the next financial year.

The Lord Advocate: Yes. The savings of £1.58 million are set out in paragraph 14 of our submission and form part of the total cash savings of £2.4 million and the total savings of £3.86 million, taking into account efficiency savings.

Mr Stewart Maxwell (West of Scotland) (SNP): I want to pursue the issue that Jackie Baillie raised, regarding the savings that are identified in the submission. Does the figure of £1.58 million relate to the same savings as the figure of £1 million that was cited at the joint meeting of the Justice 1 Committee and Justice 2 Committee on 27 April?

The Lord Advocate: When Mr Woodhouse gave evidence, he was referring to work in progress. Work was being done to identify precisely the extent of the savings that could be made. In the light of what the committees said and as part of our response to the spending review, we have given particular consideration to the issue.

The £1.58 million represents the total savings less the 11 posts that would be transferred to other areas such as the victim information and advice service. Paragraph 13 estimates the savings as £1.76 million, but in order to produce a net figure we take off the figure for 11 of the posts to bring it down to £1.58 million.

Mr Maxwell: So there are 110 posts, but 99 are going. Is that correct?

The Lord Advocate: Yes. Savings will be made from 110 posts as a result of FOS and we are using the opportunity to reassign the other 11 posts.

Mr Maxwell: So the current figure of 1,525 full-time posts will drop by 99 posts.

The Lord Advocate: The total staff figures will drop by 99.

Mr Maxwell: The £1.58 million does not appear to take into account the figures for items on page 2 of the Crown Office submission, such as the cost of phase 3 of the future office system and other future office system developments, which come to £1 million, and the on-going annual costs of £300,000 a year, making a total of £1.3 million. Is it fair to say that the £1.58 million might represent the savings accrued from the loss of posts, but that given the initial costs, certainly in the first year, of £1.3 million, the cost savings in the first year will be less than £300,000?

The Lord Advocate: No. Page 2 of the submission shows the capital spend on information technology. The £5 million operating costs are shown in paragraph 11. The £300,000 is the marginal cost of operating FOS. As you will understand, we have always had a computer system; before FOS it was called SOS 6—the standard office system 6—which is still operating and which we still have to use. When I read your exchange with Mr Woodhouse about the £1 million, I could see where you were both getting confused. The £1 million related to the recurrent costs of operating the whole technological system. We have now broken down the costs.

Mr Maxwell: I accept that the £300,000 relates to recurring costs and the £1.58 million is a recurring saving. I started my question by saying that I was referring to the initial year. There is a £1 million cost for FOS plus, in the first year, a £300,000 operating cost.

The Lord Advocate: Those are capital costs; they are not recurrent.

Mr Maxwell: I know that they are not recurrent, but they are costs. Do you accept that you have to spend that money?

The Lord Advocate: A capital investment is being made in order to save money.

Mr Maxwell: Let us move on. Do you accept that the £1.58 million should be £1.28 million, if we take out the £300,000?

The Lord Advocate: No, because the efficiency savings of the future office system relate to the posts. The £300,000 is the recurrent cost of operating FOS.

Mr Maxwell: I am sorry if I am being obtuse. Perhaps I am misunderstanding, but is it correct that you are saving £1.58 million every year in the implementation of FOS, because you have to cut posts?

The Lord Advocate: FOS allows us to cut posts that we would not be able to—

Mr Maxwell: The effect of introducing FOS is to save £1.58 million.

The Lord Advocate: No. The effect is to save £1.76 million. We have netted that figure down, because of the 11 posts that will be reassigned.

Mr Maxwell: I am sure that you are not trying to suggest that the 11 posts that you have not got rid of are a saving. Do you accept that the saving is £1.58 million and not £1.76 million?

The Lord Advocate: The 11 posts are a saving, because we can redeploy them elsewhere. We would not be able to redeploy them if we were not able to make the investment and the savings. In order to show the savings, we netted the figure

down. In fact, it would probably have been better to put in the figure of £1.76 million savings as a result of FOS, because we could not have used the posts without the FOS investment.

Mr Maxwell: Yes, but you are retaining those 11 people.

The Convener: I am sorry, Mr Maxwell, but I think that we are straining at a gnat. Will you clarify what your point is?

Mr Maxwell: I am trying to understand the headline figure of £1.58 million in relation to the other on-going costs, as opposed to the on-going savings. I accept that there is a saving of £1.58 million, but there are also on-going costs in relation to the initial expenditure, irrespective of whether it is capital or revenue expenditure, and in relation to FOS from contract or maintenance programmes, which I assume is the £300,000. There seems to be no estimate for how long the system will last or for replacement costs, which must be included in future replacement of the system.

14:30

The Lord Advocate: Perhaps somebody else can answer the technical questions on replacement costs, but I can certainly ensure that that information is provided.

To return to the original question, FOS is something that we have to implement to make the Procurator Fiscal Service efficient and reliable. It gives us a saving of £1.76 million, and 11 of the posts that have been saved will be redeployed, mainly into VIA; we would not have been able to do that had we not had FOS.

Nicola Sturgeon (Glasgow) (SNP): Will you outline generally what your objectives will be for this year's spending review? In that context, will you need to build in some degree of contingency against the possibility—however remote—that the anticipated level of efficiency savings will not be achieved? If so, what would be an acceptable contingency margin?

The Lord Advocate: The first part of that question was on our approach to the spending review. As you can imagine, the process is complex. We consider first of all what the work load is likely to be over the next few years and what our requirements are for operation—for example, we have examined what the civil recovery unit will require. We are focusing on serious crime, on the High Court and on realising the savings from the implementation of the Bonomy report. We are trying to anticipate to some extent the start-up costs that will result from the McInnes report in the coming year and to maintain and expand VIA, which is important.

Those are the costs that we anticipate. We are also looking at how we can make a difference with other criminal justice partners, such as the police and the Scottish Court Service. The contingencies are part of that, but there are also contingencies in relation to further savings that we believe we can make but which we have not yet costed. We have outlined some of those contingencies in paragraph 15 of our submission, and there will be others. It would not be appropriate to say precisely what the contingencies are at this stage, as they are work in progress.

Nicola Sturgeon: Could you provide us with further information on that at a later stage?

The Lord Advocate: It would be inappropriate for me to conduct negotiations about the spending review with the committees.

Nicola Sturgeon: I am not asking you to do that; I am asking whether you will be able to make the information about the contingencies available when it is appropriate to do so.

The Lord Advocate: We will be able to do that after the spending review.

Karen Whitefield (Airdrie and Shotts) (Lab): You may be aware that we took evidence last week from the Association of Scottish Police Superintendents and the Association of Chief Police Officers in Scotland. In their evidence, the witnesses highlighted the improved working relationship between procurators fiscal and the police, but they voiced concern about the fact that they still had experience of some cases being passed to procurators fiscal and marked "no proceedings". Does the Crown Office have a view on the issue? What action are you taking to ensure that cases are not marked "no proceedings" simply because of the financial constraints that are placed on the service? Do you have any mechanisms for monitoring the number of such cases to ensure that, wherever possible, that number is reduced?

The Lord Advocate: Very few cases have been marked "no proceedings" because of delay in the fiscal's office and none that I am aware of has been marked "no proceedings" because of lack of resources. There have been issues in the past about the timeliness of reports coming to the fiscal from the police. We have been working hard with the police to reduce that number, which is coming down. Those cases are almost entirely in the minor category of offending.

We monitor the number of cases that are marked "no proceedings". That monitoring will become better with FOS because of the information that the system will give us. I am not aware of any specific cases in which the police have expressed concern that a "no pro" decision has been the result of any delay, lack of resources

or anything of that nature. If they have expressed such concern, I would certainly be interested in knowing about it.

Karen Whitefield: The police witnesses' concern was that cases could be marked "no pro" because of the sheer volume of work, particularly when there are joint initiatives between the police and the Procurator Fiscal Service. Such initiatives can result in a number of prosecutions, but a few cases may fall by the wayside because of the volume of work that fiscals have to deal with as a result of the initiatives. The witnesses were keen to raise awareness of that and to ensure that proper steps were in place so that, wherever possible, those initiatives proved successful.

Chief Superintendent Buchan used the example of drinking in the streets in Lanarkshire. Although that might not be at the top of the list of priorities for the Procurator Fiscal Service or for the police, it is often an important issue for people in communities. They want to know that someone who is lifted for drinking in the street will be prosecuted.

The Lord Advocate: That is an important part of the cultural change that has taken place in the Crown Office and Procurator Fiscal Service. A few years ago, initiatives would be taken by the police and the first that the fiscal would know about it would be when reports came of people appearing in custody. That is largely a thing of the past now. I am not saying that it never happens but, because of the closer working relationship between the police and the procurator fiscal, if the police are going to take such an initiative, I would expect them to alert the fiscal so that they can discuss how it might operate. The fiscal can also consider what other resources he or she may have to deploy to meet those demands.

The Convener: The evidence that we heard suggested that the police, in an endeavour to provide reassurance to the local police area, would engage in an initiative, which would no doubt be welcomed by the local populace. However, we got the clear impression that there was no conjunction between that decision and that activity and the Procurator Fiscal Service. If I understood the evidence correctly, I think that that meant that, although people were processed into the police office and charged, that did not translate into prosecutions.

The Lord Advocate: I would have to look at the specific complaints before I could answer that. All I can say is that the police are now encouraged to tell us when they undertake an initiative, so that we can respond properly and effectively. Clearly, we do not know ourselves when an initiative is going to take place. However, if the police are contemplating one, they should get in touch with a fiscal before they embark on the planning.

Through joint planning, we can ensure that sufficient resources are in place.

On the broader point, the Crown Office and Procurator Fiscal Service makes significant attempts to engage with local communities. Police officers and fiscals go out and speak to sections of the community—for example, ethnic minorities—about certain issues or speak to local communities more generally. Such engagement represents a huge cultural change.

The Convener: I infer from your answer that, if consultation does not take place between the police and the local fiscal's office, the police might go out on an initiative that would not lead to prosecutions because the fiscal's office might be overwhelmed by the volume of work.

The Lord Advocate: If I may say so, that puts a bit of a gloss on the issue. We will always do our best to respond. My point is that joined-up working by the various agencies means that the police must engage with us when they plan their initiatives so that we can ensure that sufficient resources are in place and that we can respond to the initiative. If the police forget, or do not bother, to engage with us on initiatives, we will still do our best to respond. However, that is not how we or the police want to work.

Margaret Mitchell (Central Scotland) (Con): On an issue that is related to cases that are marked "no proceedings", you said that, where appropriate, you would seek an increase in fiscal fines and fixed-penalty notices. If someone makes an initial payment and then defaults, is there a mechanism for collecting the fines?

The Lord Advocate: You would have to ask the Minister for Justice about that issue, because fine collection is not my responsibility. The McInnes report suggested establishing a fines collection agency with enhanced powers. I would have expected that, as well as increasing fiscal fines, we would seek to increase the effectiveness of fine collection.

Margaret Mitchell: Do you know whether there is currently a mechanism for fine collection?

The Lord Advocate: There is a mechanism for collecting fines, but that is not my responsibility. I would not want to mislead members by saying what the mechanism is, because I might get it wrong.

Margaret Mitchell: My question is specifically about collecting money from fixed-penalty notices and fiscal fines, rather than about other fines. Your definitive answer is that you do not know what the mechanism is.

The Lord Advocate: I did not say that that was my definitive answer. What I am saying is that I am reluctant to get drawn into telling you in

evidence what the fine collection mechanism is because that area is not my responsibility and I do not want to make an error about it. What I can say to you is that, in relation to increasing fiscal fines, there is an issue about the effectiveness of fine collection. As members will know, the McInnes report said that there should be a fines collection agency with enhanced powers. I would expect that to be part of any package that included enhanced fiscal fines.

Margaret Mitchell: As you said, if the McInnes report's recommendations are followed through, there will automatically be an increase in fiscal fines and fixed-penalty notices. I would have thought that budgetary implications would mean that you would look at how the fines are recovered just now and try to ascertain whether there is a problem with outstanding debt and whether, in fact, there is any mechanism for collecting fines after an initial payment has been made.

The Lord Advocate: We have not costed, or looked at, the savings from McInnes because we do not yet know what the response to Sheriff Principal McInnes's report will be. Part of that response will be the following through, or not following through, of the recommendations on district courts. Another part of the response will be the level to which fiscal fines are increased. For example, £200 will have a very different effect from £500.

14:45

Margaret Mitchell: It would clearly be useful to know whether those fines are collected now, after initial payment has been made.

The Lord Advocate: I am sure that you can put questions to the minister on that.

Margaret Mitchell: So we can ask the minister if you are unable to tell us.

The Convener: I think that the question would be appropriate for the minister. I do not want to extend the meeting unnecessarily. The Lord Advocate has made his position clear.

The Lord Advocate: I am certainly happy to go away and find information for you on the present level of fine collection, but the information will come from the Justice Department, of course.

The Convener: It would be helpful if you would be the agency for producing information for us.

The Lord Advocate: Well, as you appreciate, it will be based on what the Justice Department explains to me.

Pauline McNeill: I wanted to ask some questions on the transfer of business from the High Court to the sheriff court. As we already know, that will result in an increase of roughly 7

per cent in the number of cases in the sheriff court. What impact will that additional 7 per cent of cases have on your legal staff?

The Lord Advocate: There are two impacts. First, fewer cases will go to the High Court, so work that was set for the High Court will not now be required. Secondly, more prosecutions will be carried out by fiscal staff in the sheriff court.

Pauline McNeill: Have you assessed whether fiscals will have additional burdens? They will now be prosecuting cases with sentences of up to five years. I accept the point that has been made by the Procurators Fiscal Society that those sentences do not necessarily mean that the cases are more complex. However, the cases are more serious. I would have thought that that would lead to some impact, somewhere in the system, on the type of work that your legal staff do.

The Lord Advocate: I am happy that the fiscal staff are well able and well qualified to prosecute the cases. In the sheriff court at present, they are prosecuting cases with sentences of up to three years, so they have experience of prosecuting before sheriffs and juries. Training opportunities now are greater than they have ever been in the Crown Office and Procurator Fiscal Service. Ms McNeill will be aware that some fiscals have gone on secondment to become advocate deputes. I think that two are full time and a number are part time. They are therefore gaining experience of prosecuting in the High Court.

Pauline McNeill: I should make it clear that I am not questioning the policy at all. I accept that fiscals have lots of experience and that the change represents a good opportunity. However, there must be some impact somewhere. For instance, do you expect that some legal staff will work longer hours as a result of working on the different cases? Will additional training be needed?

The Lord Advocate: I wonder whether I might ask the Crown Agent to reply.

Norman McFadyen (Crown Agent): There are two aspects. First, we have, of course, increased the number of lawyers in the department over the past two years. There has been an emphasis on solemn work—which is the jury work, whether at sheriff and jury or at High Court level. We have more prosecutors than we have ever had, which affects how hard people have to work.

Secondly, we are committed to advocacy training. We offer advocacy training—ideally at a relatively early stage—to entrants to the service. We have also started to develop advanced advocacy training, which a number of our more experienced deutes have undergone in recent months. We will continue with that programme. We are taking dual action: we have more

prosecutors and we are concentrating on training in advocacy and other skills.

Pauline McNeill: Does the Crown Office accept that there will be an impact on the legal staff who will be taking on cases that can attract sentences of up to five years? Surely the stakes are higher if a more serious crime is involved.

Norman McFadyen: The challenge is greater but, from talking to legal staff at all levels in the department, I know that most of them relish that challenge and are desperately anxious to have it. Prosecuting cases before a jury is the work that we all love doing most—it is what every prosecutor wants to do.

Pauline McNeill: I made it clear that that is my view, too. I do not disagree with a word that you have said, but the question that I am trying to get at is whether your existing training is adequate to cover the new arrangements. If the Crown Office's view is that the policy will make no difference to procurators fiscal, I find that difficult to accept. If you are saying that it just so happens that the existing policies and training schemes are adequate to cover the extension, I have no difficulty with that.

The Lord Advocate: Of course the policy has an impact. The Crown Agent's point is that we have been planning for the policy for some time. The expansion of the number of legal staff was in part designed with that in mind. The expansion of training in the Crown Office was also done in part to ensure that we have the right mix of training. There are other strands, such as the changes that we have made in the way in which we prepare cases for the High Court, which in some respects is more rigorous, and in the way in which we prepare sheriff and jury cases, which is now more abridged than it was in the past.

Pauline McNeill: Has all the business now transferred from the High Court to the sheriff court, or will it come down in stages?

The Lord Advocate: The jurisdiction of the sheriff court increased on 1 May—as from now, sheriffs will be able to impose sentences of up to five years.

Pauline McNeill: Does that mean that all the business was transferred on that date?

The Lord Advocate: There was no transfer of business. We have been gearing up to prosecute cases in the sheriff court rather than in the High Court, but there was no physical transfer of business on 1 May from the High Court to the sheriff court.

Maureen Macmillan (Highlands and Islands) (Lab): In answer to Margaret Smith's question about the change agenda, you spoke about targeting persistent offenders. The annual

evaluation report states that the Executive has
“prioritised the need to tackle persistent offending.”

What does that mean for the Crown Office and Procurator Fiscal Service?

The Lord Advocate: A number of things are happening as a result of that. One is that local initiatives to target known persistent offenders have been taken up between the police and the Procurator Fiscal Service. In some areas, the police can write down the names of the top 15 persistent offenders and can target those offenders. For us, the policy means that we roll up cases to ensure that sheriffs deal with them as a package. Again, FOS allows us to do that better than we did before.

Maureen Macmillan: Could you explain a bit more how the police would target persistent offenders and how cases would get rolled up in a package?

The Lord Advocate: The police can identify a number of persistent offenders, who are targeted in a way in which other offenders might not be. When those persistent offenders are charged, the procurator fiscal will have a tag on them to ensure that other cases are rolled up in a package, so that, when the offender appears in court on a complaint, other charges will be part of that. When the sheriff is dealing with the offender, they will be able to see, in a way that might not have been apparent before, a pattern of offending over a period of time. Previously, if the offender committed an offence after having been released on bail in connection with another offence, different complaints would come to the court at different times. Sometimes, not even the offender would know what offence he was appearing in court for on that day. I am told that all the research shows that the quicker that one gets people into court and the sooner that one deals with all the complaints against them, the better it is in terms of disposal.

Maureen Macmillan: Is the targeting having any impact on reoffending? When people realise that they are being targeted, are they less likely to commit crimes?

The Lord Advocate: I am not sure that I am the best person to answer that question. It is certainly true that ensuring that the offences of persistent offenders are dealt with as a package is a better way of working than the treadmill approach that seems to be taken in relation to some offenders. I have no doubt that research will be done to determine whether the policy has an impact on reoffending and, if so, the extent of that. At the moment, however, all I can say is that, considering the matter as dispassionately as I can, I believe that the policy is a better way of working and is more likely to tackle reoffending than the previous way was.

Bill Butler (Glasgow Anniesland) (Lab): The Crown Office’s written submission states that, since March 2002, it has

“Improved communication with staff and levels of support to staff to ensure the efficient prosecution of crime”.

Last week, however, representatives of the Procurators Fiscal Society told us of their concern that they had not been as fully involved in discussions about the implementation of the change agenda with the Crown Office and Procurator Fiscal Service as they would have liked to have been in order to ensure that the interests of staff were taken into account. Can you assure us that the Procurators Fiscal Society’s concerns are being addressed? Do you think that improvements could be made to the relationship between the Procurators Fiscal Society and the COPFS in the interests of allaying the concerns that we were told of last week?

The Lord Advocate: I will ask others to say something about the communication between management and the Procurators Fiscal Society. All I can say is that, when I have gone to senior civil service seminars, which have taken place twice a year since Robert Gordon and Norman McFadyen have been in place, the Procurators Fiscal Society’s secretary has either been there or has been invited to be there—I do not think that she was present at the last seminar. At that level, the society is fully aware of what is going on and has the opportunity to discuss it. There are also far better communications—newsletters and e-mails, for example. On the particularities, I can perhaps ask Robert Gordon to say a word about relationships with the Procurators Fiscal Society.

Bill Butler: That would be helpful. You said that the Procurators Fiscal Society was fully aware, but can Mr Gordon say whether it is fully involved? The society did not seem to think so.

15:00

Robert Gordon (Crown Office and Procurator Fiscal Service): It is certainly our ambition to involve the society fully. In addition to what the Lord Advocate has said, our head of personnel meets representatives of the Procurators Fiscal Society and the Public and Commercial Services Union—the majority of our staff are members of the PCS—on a monthly or bi-monthly basis. Beyond that, the Crown Agent and I, and other senior managers, have regular horizon-scanning discussions with the Procurators Fiscal Society and the PCS.

Bill Butler: What does that mean?

Robert Gordon: We go through the issues on the agenda and hear views back. On top of that, there is a lot of ad hoc contact, involving picking up the phone, on specific issues. I met the PCS

representative only the other week—such meetings are a fairly common occurrence. It has been said previously—last year, perhaps—that there was less engagement than there might be. I have sought to address that perception.

Bill Butler: What other improvements have the Procurators Fiscal Society and the PCS sought that have perhaps not yet materialised and that you would be seeking to achieve?

Robert Gordon: Examples are the regular dialogue, flow of information and communication with the trade unions, as well as directly with all our staff. We keep seeking to improve the direct communication. At the moment, monthly briefings go out to everyone. Those are followed up by local meetings to discuss issues and to get feedback. We are constantly seeking to refine that process because, as everyone is probably aware from different contexts, although one can think that one is communicating well, the people on the other end might not feel that they are being communicated with or being given the opportunity to feed back. We are trying to improve that.

Bill Butler: Where in particular could improvements still be made in communication and in building up relationships? Given what the Procurators Fiscal Society said to a recent meeting of the justice committees, there must be areas in which it would wish to be more fully involved. Are you aware of those areas? Could you outline them for us?

Robert Gordon: As the Lord Advocate said, we are in a period of fundamental change—a significant number of changes have been made over the past two years. The trade unions were fully involved in the development of the Pryce-Dyer report, which was the basis for most of those changes. We could perhaps have consulted more on the detail of the implementation of those changes—that is something that I would seek to address going on from here.

Bill Butler: How would you seek to implement those changes?

Robert Gordon: By having even more of the regular meetings with representatives of the trade unions and by encouraging managers at other levels—the area fiscals, for instance—to have regular dialogue with staff. I am happy to go away from here and have further discussion with the Procurators Fiscal Society about where it is specifically—reflecting what was said to the justice committees—and where we are falling down. There is no lack of will on our part to engage on the specifics and on the general issues—for instance, where the change agenda is going next. We talked about Price-Dyer being a two-year-plus programme of reform, but change is with us always and we will have to think about the further

changes, such as the issues that the Lord Advocate has been alluding to and those that will come out of SR2004. I am very happy to engage in a productive dialogue with both trade unions.

The Convener: I think that Bill Butler's concern, Lord Advocate, is an echo of a concern that arose during the previous budget scrutiny. It is not a new difficulty that is emerging. That is what is causing members some unease. If a weakness was identified last year, we would very much have hoped that by now it might have been acted on and the situation might have improved. We will leave the matter with you to consider.

The Lord Advocate: I would like to add that there has been a considerable sea change in relations between management and law officers and staff since I became Lord Advocate and, indeed, since Robert Gordon and Norman McFadyen came in. I think that the trade unions recognise that—indeed, I know that they do. I think that we have made considerable strides since I became Lord Advocate.

The Convener: I have a final tidying-up question, which follows from Mr Maxwell's line of questioning. There is a point to be clarified. In your 2005-06 budget, which is outlined in paragraph 2 of your paper, where in the table does the £300,000 per annum that is described as "operating costs arising from FOS" appear?

The Lord Advocate: Perhaps Stephen Woodhouse can reply to your question.

Stephen Woodhouse (Crown Office and Procurator Fiscal Service): The figure is in paragraph 11, under "Maintenance of software". The £1.4 million includes the £300,000 additional costs for FOS.

Robert Gordon: Maintenance includes licence fees as well as actual maintenance.

The Convener: There is another point that I was unclear about. In relation to the distinction between capital and revenue expenditure, the £1.58 million on capital for information technology was mentioned. What timespan is involved? When is the renewal point for that investment?

Stephen Woodhouse: I am not sure whether we have one for FOS—we are only just putting it in.

Robert Gordon: As members can see, there is an on-going programme of investment in IT. FOS is planned in four phases and will have a life of between five and 10 years. However, given the changes that we have discussed today relating to McInnes and so on, more will have to be spent on the system to keep it up to date. As we acquire more experience in the use of FOS, there will be another developmental phase, as happens with most computer systems. I think that there will be

on-going tweaking, adjusting and improving and we will no doubt have a FOS 2 at some point in the future—I think that that will be around five to 10 years away. A lot will depend on the amount of change and the requirement for the system's development. I think that the investment appraisal was done on a basis of around five years, although Stephen Woodhouse will correct me if I am wrong.

Stephen Woodhouse: That is correct.

The Lord Advocate: FOS is a platform that can be built on, like the previous platform—the standard office system, which was the Scottish Office system and which has gone through various developments and phases. The process is the normal process through which one would deal with investment in technology.

The Convener: As members have no other questions, I thank you all again on behalf of the justice committees for attending the meeting. You have been very helpful.

Our next witness is the Minister for Justice. I do not think that she will be joining us for a few minutes, so I am happy to suspend the meeting for five minutes.

15:08

Meeting suspended.

15:14

On resuming—

The Convener: I welcome the Minister for Justice, who is accompanied by Mr Jim Gallagher, head of the Justice Department, and Ruth Ritchie, who is from the Scottish Executive's justice finance team.

The minister is up against a couple of difficulties. The first is our old friend time constraints, so we sympathise with her on that. Secondly, the minister has recently been subjected to some dental work, so she may want to speak as little as possible. I am sure that members will be sympathetic to her uncharacteristic taciturnity.

The Minister for Justice (Cathy Jamieson): Do not make me laugh, convener.

The Convener: You are welcome to make some introductory comments, if you wish.

Cathy Jamieson: I appreciate the pressure of time, so I am happy to move straight to questions.

Nicola Sturgeon: Given the minister's current difficulties, I feel guilty asking such an open-ended question, so I apologise in advance. Will the minister set the scene for us by briefly outlining the ministerial priorities for 2005-06? Is she satisfied

that the current expenditure plans are adequate to meet those priorities?

Cathy Jamieson: I welcome the opportunity to do that and I will try my best. It is not that I cannot speak, but I may need to slow down at some point.

As you will be aware, the Executive's overall priorities are laid out in the partnership agreement. Within that, the Justice Department wants to take forward certain issues that are laid out in the background note that was provided to the committees. It is perhaps worth registering that funding for several areas that we identified as priorities—for example, tackling antisocial behaviour and dealing with youth justice—sits in the budget lines of other portfolios, such as education and communities.

15:15

Some matters that we have identified as being areas in which we want to do further work were discussed in committee last week, when members heard evidence on how we are reducing reoffending—we had a parliamentary debate on that last week, too. However, it is worth putting on record again our commitment on the number of police officers. Last week, the justice committees heard a fair amount of evidence about the funding position and overall numbers of police. We want to continue to improve on that position to ensure that officers are freed up for front-line duties. That is what the police want and it is certainly what we want. We have exceeded our target for the number of whole-time equivalent police staff.

The background information that we provided also identifies other issues that are linked to the partnership agreement commitments, such as our commitment to improve access to justice more generally. It is worth remembering that issues that do not necessarily use large amounts of finances are nonetheless important in ensuring that we are able to continue to deliver services to people.

Nicola Sturgeon: I have two brief supplementary questions. First, if the contract with Reliance Secure Task Management is not rolled out as originally planned, will that have an impact on the Scottish Prison Service's budget for next year? If it will, what will be the extent of that impact?

Secondly—we will ask later whether the Executive has any plans to accelerate the end of slopping out, so I will not ask that just now—where would the money come from if the Scottish Executive became liable for compensation payments next year as a result of the Napier judgment?

Cathy Jamieson: I am aware that the committees will consider the Reliance contract in

further detail later. However, it is important to understand that the Scottish Prison Service was provided with additional resources to allow that contract to go ahead. There is still a lot of work to be done to ensure that the contract delivers, so it would not be appropriate for me to suggest what might happen to budgets if that contract were not to work. My intention is to make it work.

Nicola Sturgeon: Is there contingency for that in next year's budget plans? Clearly, if the task is not undertaken by Reliance, the police and Prison Service will be required to do it, as they did previously.

Cathy Jamieson: Additional funding of £11 million has been provided for the Scottish Prison Service budget over each of two years. Contrary to some erroneous reports in the press, in which the full picture was perhaps not understood, that money was not given to Reliance as start-up costs.

Jim Gallagher (Scottish Executive Justice Department): It is worth explaining the background to that. As the minister said, additional resources were added to the budget line for the Scottish Prison Service; that is recorded in the budget documents. In effect, through the contract, the SPS is taking on responsibility for escorting prisoners who were previously escorted by the police. As members will recall, one objective behind setting the contract was to free up police officers so that they could do other work. The resources that have been released will remain inside the police grant-aided expenditure line. The resources that have been made available to the Prison Service are additional to the resources that it already had.

Cathy Jamieson: We are considering the range of issues that the Napier case raises and we are examining Lord Bonython's judgment in detail. We are considering short-term and longer-term implications. We have a stated commitment to working towards ending slopping out. As people know, that is estimated to end about a year after the second new prison has opened. We need to obtain the appropriate planning permission to make progress on the new prisons. We intend to continue with that and we will consider what else needs to be done.

Nicola Sturgeon: I understand that. Colleagues will return to the matter later. I am asking whether, if the Executive is liable down the road for compensation payments to prisoners, those payments will come from the justice budget or from the Executive's contingency fund. That is a general question about where the money will come from.

Cathy Jamieson: With due respect, I will give a fairly general answer. We would have to consider

the impact of such payments. At the moment, we have one case, which we are examining. We are aware of other cases that may come forward, so it would be wrong of me to pre-empt what might happen.

Nicola Sturgeon: So, such payments may become a liability on the justice budget.

Cathy Jamieson: The potential always exists for liability on the justice budget. Depending on the scale of the liability, I would discuss the situation with my colleagues.

Bill Butler: Good afternoon, minister. When you gave evidence to the committees last October, you argued that the justice budget should not be considered in isolation, and that other Executive budgets—you mentioned education and communities—also contribute to tackling crime. Given that, the committees would like to have a feel for the total amount the Executive plans to spend in 2005-06 from all relevant budgets, so that we can assess whether tackling crime has the priority the Executive says it has. Will you assist us by providing such cross-cutting budget data for 2005-06 and previous years?

Cathy Jamieson: You have made a couple of requests that we might be able to deal with on different timescales. Following the evidence that Jim Gallagher gave last week, preliminary work was undertaken to draw together an examination of funding throughout departments. That will consider what is spent not only on pre-school education and the child care strategy, but what is spent on integrated community schools—which should have an impact on the crime and antisocial behaviour agenda—and on youth justice, the children's hearings system, communities and community regeneration, and drug treatment and rehabilitation. We have preliminary figures, but I suspect that they need a bit of tidying up. They could be made available to the committees in the short term.

We can certainly provide figures for the longer term—say, the previous five years—but because responsibilities have moved around departments or portfolios year on year, those figures would come with several caveats, which would have to be explained. That would mean that the figures would take more time to produce. However, figures for the 2005-06 budget can be provided.

Bill Butler: I am grateful for that. It is obvious that the Executive has acted on what the committees wanted for the short term, although the figures must be refined. We will also dig back as time progresses and we will receive more information; I am grateful that that is being seen as possible. Could the minister or Mr Gallagher give us a timescale for digging back and obtaining more refined figures for our consideration?

Jim Gallagher: The work could have about three stages. In a week or so, we could give the committees some reasonably rough and ready figures. If the committees will give us a little time, we might some weeks after that be able to see what we have missed or what we need to correct in those figures.

We might also take those figures back over a longer time. We have experience of doing that in another context, so we know that that task would take months, rather than weeks.

Bill Butler: How many months do you estimate it would take?

Jim Gallagher: The task would take months rather than years—I would say a single figure of months.

Bill Butler: So we are talking about nine months.

Jim Gallagher: Yes.

Bill Butler: I am very grateful for that information and for those answers.

The Convener: It sounds more like a pregnancy.

Jackie Baillie: I want to make a general point on the back of Bill Butler's question. Everyone accepts that different Executive departments contribute to tackling crime, but it is not a formal Executive cross-cutting priority. Should we change that?

Cathy Jamieson: It is interesting to break some of this down. For example, some of the Enterprise and Lifelong Learning Department's work on the new futures fund relates to crime. Moreover, Jim Gallagher was almost asked about rural development at the previous meeting. I think that there are various areas in which significant issues must be taken account of and to which contributions should be made.

That said, I know that the committee has expressed an interest in scrutinising spend across programmes rather than across portfolios. I suspect that that would require a shift in how budget information was presented to the committees. At the moment, we are trying to present the information in the required format. If we must present it in a different format, we can do so. I do not think that it would do any harm to consider the matter on a cross-cutting basis, because other departments' policies clearly impact on certain areas.

Colin Fox (Lothians) (SSP): I am tempted to ask you whether you had a jag or gas at the dentist.

In response to Bill Butler's question, you drew comparisons between programmes and portfolios

year on year. The committees are keen to have figures that give us an idea of the trend within budgets, and the Executive is on record as saying that it is considering providing consistent time-series budget data over 10 years. What progress have you made in compiling those data?

Cathy Jamieson: The Minister for Finance and Public Services has examined that approach across the Executive and I understand that the data will be available shortly, although I do not think it will take as long as the time that Mr Butler managed to extract from Mr Gallagher.

Colin Fox: So we are talking about less than nine months.

Cathy Jamieson: I certainly expect that. It will be a very short timescale.

Colin Fox: A very short timescale? My goodness.

The Convener: This is heady stuff.

Mr Maxwell: The expenditure plans in the 2005-06 budget for the police and fire services in particular obviously take into account some, if not all, of their work. Given that terrorist activity has increased markedly in recent months, and in the unfortunate event that work on that issue becomes necessary, is there sufficient money in the emergency services' budget to allow them to carry that work out without having to divert funds from their day-to-day business?

Cathy Jamieson: As the member knows, we made additional moneys available to the fire service to upgrade some of its equipment. We have also put additional funding into police forces, particularly in order to combat terrorism. That has not gained a huge amount of publicity, but nonetheless Willie Rae acknowledged last week that we have continued to keep the matter under review.

Jim Gallagher: It might be worth adding that that expenditure can be separated into two elements. The first element is for anti-terrorist work that the police service carries out. Although that is a reserved matter, it is funded out of Scottish ministers' budgetary provision and police grant-aided expenditure. As Willie Rae pointed out last week, that investment has been substantially increased and is reflected in the AER documentation.

The second element is expenditure to increase the capacity of all public services—not only the emergency services—to prepare them not for a terrorist incident but for consequence management in the unfortunate event that an incident is not prevented. In that respect, we have invested a lot of money in equipment and training. As the minister has pointed out, we have already equipped the fire service with heavy rescue gear.

Moreover, people in the national health service, the fire service, the police service and across the public sector have been given protective clothing and have been trained in wearing it and in using other equipment that will enable them to cope with, and operate in, hostile environments.

Mr Maxwell: I accept what you are saying. There has been additional investment in new equipment—chemical suits, and so on—and in training to use that equipment. However, the representative bodies, and the Fire Brigades Union in particular, are less convinced that the amount of money that has been invested in that equipment and training is sufficient. Do you think that the amount of money that you have provided so far has been enough?

15:30

Cathy Jamieson: If people are asked what they would do with more money, they will always come up with a number of answers. You will be aware of the agenda to ensure that the fire service and the other public services are efficient and make the best use of resources. In short, my answer is that the current settlement is a fair one. I am aware of some of the issues that people have raised, especially concerning pressures on pensions and pressures that may be coming down the line in the future. It is important that we continue to talk to the various representative bodies to try to sort out some of those problems.

Ultimately, we do not have an unlimited supply of resources. In talking about anti-terrorism measures, it is also important to bear in mind the fact—as Jim Gallagher has rightly pointed out—that some of the other kinds of disaster and civil contingencies planning need to be thought through. There will be other areas, not just terrorism, in which we need to ensure that we have the correct equipment and staff who are appropriately trained.

The Convener: We are doing well for time. If we keep up this pace, the minister will depart early. It would take a major blow for us to get behind at this stage, so I had better not tempt fate.

Margaret Smith: The Scottish Executive has rightly prioritised the need to tackle persistent offenders. What does that mean in practice? The Lord Advocate gave us the example of rolling up charges. What other specific actions have you asked criminal justice agencies and other partners to take to target persistent offenders, and what are the implications of that priority for the 2005-06 budget and the 2004 spending review?

Cathy Jamieson: The 2005-06 budget plans are laid out. When we started the consultation on reducing reoffending, it was interesting to see that no single part of the criminal justice system had as

its main priority the reduction of persistent offending or reoffending, although we have a target for that in relation to youth justice, where we are considering the most persistent offenders. One of the difficulties in setting numerical targets is that we have to have a fair idea of what the baseline position is. In the youth justice system, that was somewhat straightforward to quantify. A definition was set and we could identify around 700-800 young people who met the criteria.

The problem with reoffending or persistent offending in the adult system is that often the people who end up receiving fairly minor sentences for petty offences commit volumes of those offences and come back into the courts system. The charges are not rolled up, the offenders go through the various forms of community sentence, perhaps end up in prison and come back out into the community without any statutory supervision. It is questionable whether the present system actually changes their behaviour.

The issue that the 2004 spending review raises is whether we need a more joined-up approach across the various agencies to ensure that they share some common targets in respect of identifying and reducing the rate of reoffending. That is something that we highlighted during the consultation process. In the longer term, the spending review highlights not just the question of whether there is a better way of organising the structures and practices that deal with offenders, but the question of whether there is a better way to use resources. As I pointed out in the parliamentary debate last week, despite significant increases in criminal justice social work spend and the spending on community sentencing, we have not seen a corresponding drop in, for example, prisoner numbers, as might have been expected. More people are going to prison for longer because of serious offences. We need to take a hard look at that in the spending review process.

Margaret Smith: I agree with much of what you say, minister. I refer you to a submission that we have received from the Association of Directors of Social Work. It states:

“Taking account of general inflation, wage rises and the development of new service areas such as Drug Treatment and Testing Orders, it is unlikely that the broad range of core and non-core Criminal Justice Social Work Services will see a level of growth commensurate with significant service development.”

The submission goes on to say that, although there has been an 8 per cent increase, an even greater portion of the total justice budget is needed if the service is to progress as you suggest it should. Can you comment on that?

Cathy Jamieson: As I said in the debate last week, there is a serious question about whether

we need more of the same or whether we need to organise things differently. Having examined the matter in some detail—although we will have more work to do when we have received the consultation responses—I suggest that more of the same will not necessarily produce the outputs that we want. Therefore, although I have every respect for the views that the ADSW submitted, I think that it is important to address the situation on a joined-up basis. At the moment, no single organisation has reducing reoffending as its target. We need to look at that. We have also to ensure that we set targets that show the trends as much as the absolute numbers. That is an issue that committee members raised when I gave evidence previously.

Maureen Macmillan: I was going to ask the minister about targeting of persistent offenders, but that question has been well and truly answered, unless there is anything else that she wants to say. You said that youth justice is setting targets although other agencies are not.

Cathy Jamieson: It is only fair to point out that, within the youth justice system, that has not been done without difficulties. We had to define what we meant by a persistent offender within the children's hearings system, which was how the fast-track children's hearings programme began. That system was designed to target those whom we had identified. There is an issue about not just the number of individuals, but the volume of offences they commit. At the risk of going on for too long, I suggest that one of the interesting things that we will have to look at, in relation to fear of crime, is the fact that many of the offences that the public are concerned about are persistent low-level offences—which nonetheless have an impact on people's lives—that involve repeat offenders, whether in the children's hearings system or the adult system. We need to focus more of our time and energy on that kind of cyclical problem.

Maureen Macmillan: I would have thought that, if the Crown Office and Procurator Fiscal Service is able to spot the persistent offenders and deal with them by rolling up offences, there would be an opportunity for other agencies to get involved as the persistent offenders are flagged up.

Cathy Jamieson: That would be extremely helpful and would do a number of things. It would enable individuals to be faced with the consequences of their behaviour when they appear in court on six charges that have been rolled up, instead of their making six different appearances with each charge being dealt with individually. It would also prevent difficulties in court programming. The youth court is an example of how charges can be rolled up beneficially.

Mike Pringle (Edinburgh South) (LD): Good afternoon, minister. I am delighted that you have

not slowed down yet. After my question, you will have only five questions to go.

The criminal justice system is facing a lot of change. We have received some reports, we await other reports and there are reports that have yet to be compiled, which we will get in the future. Is it the Executive's objective that those reports will result in savings over time? How much do you think that saving might be? If there are savings, when will we get them? In implementing measures in the various reports, will we have to spend now and in the short term to save later? Will that have an impact on the budget for next year?

Cathy Jamieson: You asked a number of questions there.

Mike Pringle: I know. I am sorry.

Cathy Jamieson: If we calculated how much criminal activity costs across the whole range of the taxpayer's concerns, ultimately, the aim would be to try to reduce criminal activity to the point at which it is not costing the taxpayer so much. However, we have to be realistic and we have to recognise the extent of the problem and that some areas will require investment in the short term in order to save in the longer term. That is the approach that we have adopted. We have tried to ensure that any moneys that are released through that remain in the system to make other improvements. It is not a question of saying that we want efficiencies in order to take money out and put it elsewhere.

Jim Gallagher: I sympathise with Mr Pringle, who is trying to keep in his head that endless list of reports and improvements.

We can think of the matter in terms of how cases go through the system. The Crown Office and Procurator Fiscal Service today gave the committee evidence of substantial investment in the service—members will be aware that that was happening at the back end of the previous session and the beginning of the current session. That investment has led to big changes. Parliament has just considered stage 3 of the Criminal Procedure Amendment (Scotland) Bill, which will reform procedure in the High Court, and ministers are consulting on the next big chunk of work, which is reform of the summary system—the bulk end of the justice system. The report of Sheriff Principal McInnes's committee sets out an agenda for that reform. It is possible to see how the work is divided into separate chunks, which are broadly consistent with each other.

Mike Pringle: Given all the reports, is the budget for next year okay?

Cathy Jamieson: If you are asking whether the budget for next year is sufficient to enable us to do what we need to do, the answer is yes. We

considered the matter in the context of the year ahead, but we are also in the process of a spending review, during which I want to examine closely what we get for the money that we spend. It might be that in some instances there are better ways of doing things in order to get more for that money.

I recognise that that makes it difficult for the committee to compare figures year on year. There is a danger of getting into a situation in which everything is broken down into such small amounts of money year on year that a reduction in one figure is perceived as a problem, although that reduction might free up money to be used elsewhere on a matter of greater priority. I am sure that everyone has a view on what those priorities should be.

Pauline McNeill: One of the many changes to the criminal justice system is the extension of sheriffs' sentencing powers to five years. As a result, an accused person who would formerly have been automatically entitled to representation by counsel will no longer have that right. As you know, there have been exchanges with the Scottish Legal Aid Board about the matter and the board has undertaken a review, the outcome of which remains to be seen. Currently, no case that is shifted down to the sheriff court as a result of the new legislation will automatically attract representation by counsel. However, such cases should still be able to attract counsel if that is appropriate. Will the Executive have an open mind about the legal aid budget?

Secondly, there might be a gap in skills and solicitors might not be prepared to take on cases that are moved to the sheriff court. Will the Executive monitor the situation?

Cathy Jamieson: Committee members will be aware of the extent of legal aid funding. I have to manage a situation in which the budget is demand led, and criminal legal aid has to be paid for. If the budget continues to rise exponentially there will inevitably be knock-on effects on other areas. We have undertaken a review to ensure that we get the best value for money and that people get the representation and advice that they need in criminal and civil cases.

Pauline McNeill raised a specific point about the cases that will move down to the sheriff court. It is important to stress that we will not necessarily be able to identify the cases in the sheriff court that would have been dealt with in the High Court in the past: it will not be as straightforward as saying, "Those people would have been entitled to counsel in the past". However, I recognise that the point has been raised with the Law Society of Scotland and others and that in some cases we will need to ensure that people have the correct level of representation.

On your second point, the Executive will obviously keep an eye on the matter.

Jim Gallagher: As the minister said, when the system changes we will not be able to say, "This case would formerly have been dealt with in the High Court." In cases in the High Court that attracted a relatively short sentence—the sentence that a sheriff might now impose—representation by counsel was the only possible representation, because solicitors did not have the right of audience in the High Court, although they might have been entirely capable of dealing with the case. The question is not one of an automatic right of access to counsel in a certain class of case, but of getting the appropriate representation for the case, which sometimes might be counsel, but on other occasions might be a solicitor. It would be perfectly competent to do that.

Pauline McNeill: As long as the point is acknowledged. I do not disagree, but it would equally be wrong to shift 20 per cent of High Court cases that would have attracted senior counsel—or junior counsel at the very least—because, if the current legal aid rules were to apply, nobody, apart from the current exceptions to the rule, would attract a higher level of representation. I hope that you accept that there is some arrangement in between that needs to be looked at.

15:45

Cathy Jamieson: That is why we have said that we will keep a close eye on the matter.

The Convener: We know that there will be an exodus of experienced police officers in 2009-10. The Association of Chief Police Officers in Scotland gave us evidence that it proposes to deal with that exodus through accelerated programmes of recruitment for 2006-07 and 2007-08. Will the cost of those programmes be one of your priorities for this year's spending review?

Cathy Jamieson: I hope that we have a good working relationship with ACPOS; we have kept in close touch with the association on priorities to ensure that its comments and views are fed into the system. We have made a commitment on police officer numbers, and I expect that that will form a significant part of the basis of discussion in the forthcoming spending review. However, I am also aware that there have been concerns about pensions. We have worked closely with ACPOS to solve the peak that is coming at us quickly, but the peak that will come further down the line—in 2009—will be for future spending-review discussions.

The Convener: On that peak, will you assure the committees that the costs of meeting that augmented pension obligation will not be borne out of the operational police budget?

Cathy Jamieson: I cannot pre-empt what will be discussed in future spending reviews, but we have been able to deal with the peak that is coming in the short term by taking account of it in our funding of the police, and that sets the agenda for how we intend to continue working with the police on the matter.

Jim Gallagher: For the avoidance of doubt, convenor, the 2005-06 provision for the police GAE, at which you are looking at the moment, is certainly sufficient to pay for the necessary increase in pensions and to maintain officer numbers at the level that the minister has set.

Karen Whitefield: Communities want high-visibility policing, but that desire creates a tension for senior police officers between managing the services that they deliver and responding to communities' concerns that police officers should be out on the streets. Will you assure the committee that any civilianisation of particular jobs within the police service will result in officers who are freed up returning to front-line duties, and that any money that is saved as a result of the police collaborating in a common services agency, or other initiative, will be spent on the police budget, not on any other part of the Scottish budget?

Cathy Jamieson: The evidence that the police gave last week highlighted clearly the tension between the chief constable, who might aspire to spend any additional resources that he might have on improving systems and technology, and the operational police, who would prefer to see what I think was described as yellow jackets on the street. That tension will always exist, but there is a particular tension between the need to continue to combat serious and organised crime through, for example, the Scottish Drug Enforcement Agency and the need to ensure that, at the same time, we have reassurance policing—officers out on the beat—and are able to respond.

There is no doubt that the police face significant demands from the public, as was exemplified last week. My view, and certainly the view of the police and the trade unions that I have spoken to on the matter, is that some of the additional jobs that are done by police officers could be done by civilians, thereby freeing up police officers' time so that they can go out and about on the beat. That is the emphasis of the civilianisation programme, which has already had results in Strathclyde, and to some extent in Lothian and Borders, and on which ACPOS will continue to work.

Karen Whitefield: On the budget savings—

Cathy Jamieson: Any savings that have been made so far have been ploughed back into the wider justice and police agenda. Common services are important, because if savings can be made by the eight police forces working together

instead of doing things individually, that should free up resources that they can use for front-line or community policing.

Karen Whitefield: I move on to the fire service. I am sure that you will have seen the press release that the FBU put out this afternoon in response to some hypothetical questions which the committee asked the Chief and Assistant Chief Fire Officers Association. The first thing that I want to ask you is whether the Scottish Executive intends to reduce the fire service budget by 10 per cent, because I do not think that that is the case. I think that that idea was in a hypothetical question that the committee put to CACFOA.

My second question is about the written evidence that we received from CACFOA, which raised two points of concern for the committee to consider: first, that

"Fire Central Government provision has reduced",

and secondly that there is a shortfall of more than £34 million, or 13 per cent, in the fire GAE. How do you respond to those concerns?

Cathy Jamieson: On the first question, there were a number of hypothetical scenarios and people were asked, "What would happen in this particular situation and what would it mean?" That does not necessarily mean that those things will happen. We all have to consider a range of scenarios when we are thinking about future budgets.

On your second point, I think that either Ruth Ritchie or Jim Gallagher has the exact figures. However, on CACFOA's suggestion that it needs another £34 million to meet pay, pensions and other costs, we do not recognise that figure. We recognise that there will be additional costs in financing the June 2003 pay and modernisation agreement, and we have been in discussion with CACFOA about transitional funding. Members will recall that at my previous appearance before the committee we talked about the fact that the Executive would put some transitional funding in place. The employers and the FBU will meet again soon to finalise stage 2 of the pay award, and the Executive has made it clear that we will meet the reasonable costs that are involved in that. The employers know that the pay agreement has to be self-financing in the longer term, but the idea that there is a cash crisis, which has been suggested in some quarters, is not something that I recognise.

Mr Maxwell: The committee was told by ACPOS that it is satisfied that the level of police GAE for 2005-06 will meet its costs. However, it is clear from the evidence to which Karen Whitefield referred that CACFOA is not satisfied with the amount of money that it has received. Is CACFOA correct to say that fire service pensions are dealt

with in a different way from police pensions? If not, why does it seem to believe that that is the case?

Cathy Jamieson: The letter that CACFOA sent to the committee suggesting that there would not be enough money to pay for pensions in 2005-06 does not reflect the position as I understand it. There has been further correspondence with CACFOA on the subject, and it has been clarified that the pensions element of GAE for 2005-06 is, in fact, slightly greater than the fire service's estimated requirement. CACFOA has acknowledged that. The confusion may have arisen partly because people were asked to comment on a hypothetical scenario. Work has been done to try to clarify the situation.

Mr Maxwell: I am not sure that that is the case. I understand that there has been separate confusion about the hypothetical situation, but it seems that that is not the point to which CACFOA is referring in the letter that we received. The letter clearly refers to a shortfall in pension provision for 2005-06. Are you saying that there has been further correspondence on the back of that to clarify the matter?

Cathy Jamieson: Yes.

Mr Maxwell: Has CACFOA withdrawn the comment?

Cathy Jamieson: My understanding is that there has been further correspondence and that the point has been dealt with.

Jim Gallagher: That is correct. The association estimated that the requirement for the pension element of the fire service GAE in 2005-06 was—if my notes are correct—£45.4 million. The provision that has been made is £46.9 million. As far as we are concerned, there is sufficient allowance in the fire service GAE for pensions. We do not intend to treat fire service pensions differently from police pensions, because they are on exactly the same basis, which is to say that they are both pay-as-you-go pension schemes with a first charge on the local authority budget.

Mr Maxwell: Has CACFOA accepted that point?

Jim Gallagher: I understand that that is the case.

Pauline McNeill: I want to ask the minister about the SPS plans to build two new prisons. The SPS submission states that it is awaiting planning permission for the developments at Addiewell and at the present Low Moss prison site. What guidance, if any, is the Executive giving to the SPS about the new build? Is the Executive encouraging a public sector build? Anything that you could tell the committee would be useful.

Cathy Jamieson: It is worth putting a couple of points on the record. When the prison estates

review was carried out and the need for two new prisons was identified, views were expressed about the potential for public sector involvement. It has been stated that the first of the prisons will be built by the private sector, but that the public sector will have the opportunity to bid for the second prison through the bridging the gap project. That situation has not changed. I recently ensured that people were aware of that, as there seemed to be dubiety about the matter. The bridging the gap team continue to work on the matter. Our objective is to ensure that we get the right service and that public money is put to good use.

Pauline McNeill: I raise the issue because there is no mention of it in the Executive's submission. In the past few months, all members have had the opportunity, through prison visits, to talk directly to the chief executive of the SPS. The SPS submission gives the position as I understand it and we have no more direct official information about the plans. Was the decision to build the first prison through the private sector entirely the SPS's?

Cathy Jamieson: The Executive decided that the first prison to be built would be built through the private sector. It was decided that one of the prisons would be built through the private sector and that the public sector would have the opportunity to bid for the second prison.

Pauline McNeill: I understood that to be the case. However, we are not clear whether the first prison is going to be at Addiewell or Low Moss—that may depend on planning permission. Will the prisons come on stream at the same time? I would have liked a push for the first build to be a public sector prison so that the public sector could get in early doors, although I realise that there are issues about the expertise that needs to be built up.

Cathy Jamieson: I would love to know exactly when the planning permissions will be granted and when the process will be completed. Obviously, there is due process to go through with the local authorities that are involved. The expenditure that will be required in the short term for the first prison is accounted for in the SPS's budget. As has been announced, the first new prison will go ahead in the private sector. The issue of which site will be used depends largely on the planning permission process.

Colin Fox: What is your best estimate, as we sit here today, of when we can expect slopping out to be eradicated from Scottish prisons?

Cathy Jamieson: I am going to be careful about what I say at the moment as, obviously, people are considering Lord Bonomy's judgment closely. I can say only what has been said before. It is estimated that, in relation to the plan of work that

is on-going, slopping out will have ended about a year after the second of the new prisons opens.

16:00

Colin Fox: Are you aware that journalists have said that they have been briefed by the Executive and told that it will be 10 years before slopping out is eradicated?

Cathy Jamieson: Briefing always goes on and differing views and opinions are given out. I am being careful to say what has already been publicly stated by the Executive. There are a number of issues that must be taken into account. Without wishing to stray too far into inappropriate territory, I say that we must recognise the number of people who are in our prisons and the amount of money that is being invested in building the new house blocks. The equivalent of £1 million a week is being put into upgrading the prison estate. Obviously, if we were to change from that course, that would have an impact on other areas of our work.

Colin Fox: Will you be disappointed if it takes 10 years? Do you think that there are any measures by which that date could be brought markedly nearer?

Cathy Jamieson: The sooner we get the two new prisons built, the sooner there will be an impact.

Colin Fox: Earlier on, in response to Nicola Sturgeon's question about the Napier case, you said that you could not put a figure on the number of cases that are behind Napier. What is your best estimate?

Cathy Jamieson: I am not going to give a best estimate until all the work is done. That would be wrong. I do not want to mislead people.

Colin Fox: Is it the case that the Scottish Prison Service is paying prisoners compensation for slopping out?

Cathy Jamieson: I am not sure what you mean.

Colin Fox: You probably want to avoid the word "compensation", but is it the case that there are people in prison today who, as a consequence of having to slop out, are getting a payment from the Scottish Prison Service as a provision against the possibility that they might take legal action against the Executive in future? Are you aware of circumstances in which prisoners are being given money by the Scottish Prison Service in compensation—if I can use that word—for having to slop out?

Cathy Jamieson: I do not recognise your comments about the Scottish Prison Service paying compensation.

Colin Fox: If I were to forward to you a letter with the details that I have on the matter, could you reply to me?

Cathy Jamieson: I certainly will do so.

The Convener: How many cells are without integral toilet and sanitation facilities?

Cathy Jamieson: Somewhere between 18 per cent and 20 per cent of the prison estate is without facilities. I think that there are just over 6,000 places in the estate.

Jim Gallagher: We have now reached a level at which between 82 per cent and 83 per cent of our cells have access to night sanitation. As the minister says, there are just over 6,000 cells.

Cathy Jamieson: That figure will increase to 86 per cent by the summer.

Colin Fox: Are we talking about 800 cells without sanitation?

Jim Gallagher: Off the top of my head, it is about 1,200—that is roughly 20 per cent of 6,000.

Colin Fox: And the best that we can do is 10 years?

Cathy Jamieson: No. Based on current plans, the best that we can do is about a year after the two new prisons open. That is because, at the same time as upgrading the existing facilities, we have to be able to move people around in order to accommodate the work that is being done. As I said earlier, the most helpful thing would be an ability to get work on the two new prisons moving as quickly as possible.

The Convener: Jackie Baillie, do you want to ask a question?

Jackie Baillie: Unsurprisingly, all the questions have been covered.

The Convener: That has never stumped you before.

Jackie Baillie: No, but the minister has given extremely full responses.

The Convener: Minister, thank you for coming before us, particularly in light of your diary difficulties.

16:04

Meeting continued in private until 16:42.

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