

JUSTICE 1 COMMITTEE AND JUSTICE 2 COMMITTEE (JOINT MEETING)

Tuesday 2 November 2004

Session 2

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CONTENTS

Tuesday 2 November 2004

Col.

ITEMS IN PRIVATE.....	253
BUDGET PROCESS 2005-06.....	254

JUSTICE 1 COMMITTEE 33rd Meeting 2004, Session 2

CONVENER

*Pauline McNeill (Glasgow Kelvin) (Lab)

DEPUTY CONVENER

*Stewart Stevenson (Banff and Buchan) (SNP)

COMMITTEE MEMBERS

*Marlyn Glen (North East Scotland) (Lab)
*Mr Bruce McFee (West of Scotland) (SNP)
*Margaret Mitchell (Central Scotland) (Con)
*Mrs Mary Mulligan (Linlithgow) (Lab)
Margaret Smith (Edinburgh West) (LD)

COMMITTEE SUBSTITUTES

Brian Adam (Aberdeen North) (SNP)
Helen Eadie (Dunfermline East) (Lab)
Miss Annabel Goldie (West of Scotland) (Con)
Mike Pringle (Edinburgh South) (LD)

*attended

JUSTICE 2 COMMITTEE 29th Meeting 2004, Session 2

CONVENER

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

DEPUTY CONVENER

*Bill Butler (Glasgow Anniesland) (Lab)

COMMITTEE MEMBERS

*Jackie Baillie (Dumbarton) (Lab)
*Colin Fox (Lothians) (SSP)
*Maureen Macmillan (Highlands and Islands) (Lab)
*Mr Stewart Maxwell (West of Scotland) (SNP)
*Mike Pringle (Edinburgh South) (LD)

COMMITTEE SUBSTITUTES

Ms Rosemary Byrne (South of Scotland) (SSP)
Cathie Craigie (Cumbernauld and Kilsyth) (Lab)
Kenny MacAskill (Lothians) (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)

CLERK TO THE COMMITTEE

Alison Walker

SENIOR ASSISTANT CLERK

Douglas Wands

ASSISTANT CLERK

Douglas Thornton

LOCATION

Committee Room 2

CLERK TO THE COMMITTEE

Gillian Baxendine
Tracey Hawe

SENIOR ASSISTANT CLERK

Anne Peat

ASSISTANT CLERK

Richard Hough

Scottish Parliament

Justice 1 Committee and Justice 2 Committee (Joint Meeting)

Tuesday 2 November 2004

[THE CONVENER *opened the meeting at 14:39*]

The Convener (Miss Annabel Goldie): I welcome everyone to what is the 33rd meeting in 2004 of the Justice 1 Committee and the 29th meeting in 2004 of the Justice 2 Committee. The purpose of this joint meeting is to consider the budget.

I welcome to the meeting the Lord Advocate, Mr Robert Gordon and Mr Stephen Woodhouse. We thank the Lord Advocate for finding time to be with us. I know that you are an old hand at the procedure, which is that the committee will fire questions at you on the proposed budget for 2005-06, but is there anything that you want to say briefly before we begin the questions?

The Lord Advocate (Colin Boyd): No. I sent a letter, which I hope that members of the committees have read. Its purpose was to assist members and to prevent me from taking up too much time at the start of the meeting. I have nothing to add to what I said in my letter.

The Convener: Thank you for disposing of that.

We have received apologies from Margaret Smith. Pauline McNeill, who is the convener of the Justice 1 Committee, will join us, probably in about half an hour's time. I am aware that Marlyn Glen and Bruce McFee will need to depart at some point. I welcome to the meeting our adviser, Ken McKay.

Items in Private

14:41

The Convener: Item 1 on the agenda is consideration of whether we should take in private item 3 and any future consideration of the draft report on the draft budget 2005-06. Is that agreed?

Members *indicated agreement.*

Budget Process 2005-06

14:41

The Convener: Without further ado, we begin our consideration of the budget process. Members have indicated that they are interested in various areas of activity. I ask Maureen Macmillan to start the proceedings.

Maureen Macmillan (Highlands and Islands) (Lab): Lord Advocate, you know that the committees have been interested in your change agenda for the Crown Office and Procurator Fiscal Service. When you gave evidence to the committees in May, at stage 1 of the budget process, you said that your department was

"a considerable way down the road"—[Official Report, Justice 1 Committee and Justice 2 Committee (Joint Meeting), 4 May 2004; c 219.]

to implementing your change agenda. What is your most recent assessment of the position? What issues have emerged and how are they being dealt with? We are especially interested in the computer system. Have any unforeseen problems emerged since you last spoke to us and, if so, how are they being tackled?

The Lord Advocate: In general, we are well down the road with the change agenda, but I think that I pointed out on the last occasion on which I met the committees that we will probably never reach the end of the process of implementing a change agenda. Nowadays in public service, one must always be alive to the possibilities of improvement. It has been an interesting feature of our change agenda that new areas have opened up.

On the use of information technology and what has been called the future office system, phase 1 has now been rolled out throughout the country. Issues arose in relation to certain parts of the technology and the software, but they have been addressed. From all the accounts that I have had, the roll-out in Glasgow has gone much better than could have been hoped for. The Glasgow office is, of course, the largest.

We anticipate that we will roll out phase 2 of the future office system from about the spring of next year. Phase 3 involves technology that will take account of the Bonomy reforms and phase 4 will be associated with whatever version of the McInnes report comes in.

Maureen Macmillan: There have been no unforeseen problems—everything is going smoothly.

The Lord Advocate: I cannot remember off hand the problems that have arisen, but it is fair to say that they have not been insuperable and have

all been addressed as they have arisen. I am very pleased with the way in which things have gone.

I am particularly pleased at the feedback that we have been getting from members of staff. The Solicitor General for Scotland and I, along with the chief executive and the Crown Agent, have noticed that there has been genuine enthusiasm among the staff, some of whom had been rather cynical or sceptical. The staff's enthusiasm and dedication have helped in making the process work.

Maureen Macmillan: So you would say that the staff are now fully involved in the process of implementing change and are being consulted on it.

The Lord Advocate: Yes, absolutely.

14:45

Stewart Stevenson (Banff and Buchan) (SNP): Just to tie off the issue of efficiency savings, are you in a position to say by what approximate percentage the cost of case parking has been reduced as the result of phase 1 of FOS?

The Lord Advocate: The short answer is no. The efficiencies that are being achieved as a result of phase 1 have involved savings of 70 staff. We anticipate further savings in the next financial year.

The Convener: I have a brief bit of housekeeping to deal with. My clerk has asked me to remind members that, at paragraph 2.3 of the note by the adviser, there is a wee misdescription of the financial year at three points: 2008-09 should read 2007-08.

Jackie Baillie (Dumbarton) (Lab): I will stick with the subject of the future office system and the anticipated efficiency savings arising from that. I heard your response to Stewart Stevenson, Lord Advocate. Of the savings of 70 posts that you have achieved, how many were you expecting to achieve in 2004-05? Assumptions were made about savings in the budget and, as we indicated in our stage 1 report, we were keen for modernisation not to slow down simply because those targets were not being achieved. We recommended building in a contingency margin. I wonder whether that has been reflected in the budget.

The Lord Advocate: I understand the recommendation that was made. To answer the first point, if I have understood it correctly—please correct me if I am wrong—there has been no change in the anticipated staff savings. We have worked on the basis that there will be savings of 70 posts—I will no doubt be corrected if I am wrong. We do not have a contingency as such.

Obviously, we are a demand-led organisation. We try to anticipate what the future level of demand is going to be, and we respond to that. If we were to have a contingency, we would end up with the charge that we were not spending. There would also be end-year flexibility issues and so on, although EYF has now changed to CUP, whatever that stands for—central unallocated pot or something.

In any event, individual budget holders are expected to retain flexibility within their budgets in order to meet any unexpected pressures. If we were hit with something wholly unexpected, such as another Lockerbie, we would have to think about making a case for extra funding. We cannot keep a contingency just for that possibility.

Jackie Baillie: So if your savings are not realised for whatever reason, there is sufficient flexibility for that not to cause you any concern.

The Lord Advocate: That is right.

Jackie Baillie: Your budget has risen from £89.15 million in the current year to £101 million in 2007-08. Is there one thing that makes up the bulk of that increase? I see that the "Non-court" line has risen in particular. Is that increase for something specific, or is it to do with flexibility?

The Lord Advocate: It is the flexibility and the assumptions that have been built into the forward planning.

The Convener: Does Stewart Stevenson have a question?

Stewart Stevenson: My point has already been covered.

Mr Bruce McFee (West of Scotland) (SNP): On efficiency savings, I note from your letter that you anticipate

"£2.8 million of recurring annual savings in 2007-08."

First, are there any non-recurring savings in addition to that, for example, from any rationalisation of estate? Secondly, we are looking for an assurance that any efficiency savings will be retained within the department and not lost in the ether of someone else's budget.

The Lord Advocate: Any efficiency savings are ours, and that is an incentive to make them. As far as rationalisation of estate is concerned, we anticipate a £500,000 rationalisation of estate in Edinburgh, reducing the number of offices from five to three, but those are recurring costs because they were for rent.

Mr McFee: Is that over the full period?

The Lord Advocate: Yes.

Mr McFee: Given that your budget is rising, as Jackie Baillie said, from £89.15 million to £101.5

million in 2007-08 could you indicate whether your efficiency savings increase the amount of money available to you over and above what is in the budget, or is that is the ceiling?

The Lord Advocate: That is the ceiling. I should perhaps point out that part of the increase is taken up with capital increase, which is largely allocated to the refurbishment of the Ballater Street office in Glasgow.

Mr McFee: Could you repeat the first part of that sentence? I did not catch it.

The Lord Advocate: You were asking about the increase, part of which relates to the increase in capital costs because of the desire to refurbish the Ballater Street office in Glasgow.

Mr McFee: Yes, I understand that. That is why I was asking whether there was disposal of estate, but you clarified that by saying that there was simply the surrendering of leases.

Margaret Mitchell (Central Scotland) (Con): When you gave evidence previously, Lord Advocate, one of the issues discussed was the impact on your department of the shift of business from the High Court down to the sheriff court. What impact has that had on your staff?

The Lord Advocate: Of course, we prosecute in the High Court as well as in the sheriff court, so the work load is the same but is being prosecuted in the sheriff court rather than in the High Court. The difference is that, in the High Court, Crown counsel advocate deposes do the prosecution, whereas in the sheriff court, that is done by depute fiscals. The preparation of cases is the same—precognitions are done by Crown Office and Procurator Fiscal Service staff. Because the sheriff and jury and High Court procedure is the same as far as the processes go, there is an impact only in the sense that some more cases are being prosecuted by fiscal staff rather than by Crown counsel. As you have seen, there has been a large increase in the number of fiscals and lawyers over the past few years, so we are well able to cope with the increase in the sentencing powers of the sheriff.

Margaret Mitchell: So there is no real change, then. The fiscals have additional work, but you have provided extra fiscals to cope with that.

The Lord Advocate: Yes.

Margaret Mitchell: At the other end of the scale, is there a lessening of work for Crown counsel?

The Lord Advocate: There is a lessening of work, but in fact there have been more Crown counsel. You will recall that I reorganised Crown counsel into two parts—senior advocate deposes and trial deposes. The senior advocate deposes

concentrate on particularly serious and complex cases that require more than the usual preparation time—cases that might require the services of someone who is more experienced in advocacy work. The senior advocate deposes were also given more time to prepare cases.

We are already seeing the beneficial effects, the first of which is that, as a result of the advocate deposes being better prepared, the product is better. Secondly, because we are better prepared, the level of adjournments has reduced—at least we understand anecdotally that that is the case. Thirdly, because advocate deposes have had more time to consider pleas, more pleas are being tendered before the trial diet. Even if the advocate deposes are unable to achieve that, they have more time to discuss the agreement of evidence and so forth. Such front loading of resources for Crown counsel is helping the efficiency of not only the department but the court.

Margaret Mitchell: Has any discussion taken place about the possible implications of the McInnes review? If its recommendations went through, more business would transfer up from the bottom of the system, so to speak, to the sheriff court.

The Lord Advocate: I am not sure that that would necessarily be the case. McInnes is a package of measures that a fiscal can offer in lieu of prosecution. The proposals include, for example, an increase in the use of fiscal fines and the introduction of compensation orders. If McInnes were to be enacted in its pure form, as it were, I anticipate that there would be an overall reduction in the number of cases that go to the summary court. In any event, the procedures in the district court are the same as those in the sheriff summary court. The same level of preparation and the same processes are involved in each case.

Margaret Mitchell: What does McInnes mean for you?

The Lord Advocate: Frankly, it is a bit early to say. At the moment, what we have are only proposals. Indeed, I do not know what the Executive or Parliament's response to the proposals will be. Clearly, if the Parliament were to agree with McInnes on the proposal to increase the level of fiscal fines, for example, we would see a reduction in the number of cases that go to court and the prospect of greater efficiency savings.

Margaret Mitchell: Are you aware of a timetable for moving forward on McInnes?

The Lord Advocate: I do not know whether the committee is to take evidence from Cathy Jamieson, but it would be better if that question were directed at her, if you do not mind. I know

that discussions are on-going, but it is for her to say what—

Margaret Mitchell: So it is fair to say that, at this point in time, you have done nothing about, and have not taken cognisance of, McInnes.

The Lord Advocate: I would not say that we have done nothing. A certain amount of scoping work has been done to look at the various scenarios. In response to your question, I simply speculated that, if the Parliament were minded to increase the level of fiscal fines, there would be a reduction in the number of cases that go to court. The follow-on from that would be greater efficiency savings. It would depend on which other parts of the package were to be introduced.

Margaret Mitchell: I have one further question.

The Convener: I ask Margaret Mitchell to be brief, because she has had a fair chunk of questions.

Margaret Mitchell: The budget provides £1 million in 2006-07 and £2 million in 2007-08 for judicial pay and an increase in the judicial complement. What does that relate to?

15:00

The Lord Advocate: Those figures are from the Justice Department's budget.

Margaret Mitchell: So you do not know about them and you are not aware of whether they result from the Bonomy report or anything else.

The Lord Advocate: I know that an increase has been announced in the complement of senators in the High Court and the Court of Session from 32 to 34.

Margaret Mitchell: That is happening now.

The Lord Advocate: You will have to ask the minister for a response, because I do not know whether included in the figures is that increase or something else, and I do not have the figures in front of me.

Margaret Mitchell: The figures are in the budget, but they are nothing on which you have a view.

The Lord Advocate: I do not want to be unhelpful, but the matter is not my responsibility. If I responded, I would be speculating about the meaning of the figures. Officials co-operate and take account of the trends that they see. I know that officials have had much contact with the Justice Department and other relevant departments in setting the budget. However, if you are asking me what the figures mean, I cannot answer.

Margaret Mitchell: So you have no view at this point.

Mr Stewart Maxwell (West of Scotland) (SNP): The transfer of business was a Bonomy recommendation. Recommendations were also made about preliminary hearings and managed meetings in other parts of the Bonomy review. When that was published, the Justice 1 Committee was debating the ability of the Crown Office and all the different elements, including the court, to co-ordinate diaries. A technological solution—an electronic diary—was suggested. Given the future office system project, has that proposal been progressed in any way? When the Justice 1 Committee discussed such a diary, work on it had not started, although it was one of the proposed ways of achieving efficiency savings.

The Lord Advocate: The future office system is giving us the ability to do much with witnesses, for example. I cannot answer the question about co-ordinating the diaries of judges and defence counsel because I do not know the details of the discussions, but I know that they continue as part of the implementation package. I can say no more than that.

Mr Maxwell: Do you have any detail on the likely timetable for concluding those discussions? The proposal was sold to us as a great boon that would generate efficiency savings because co-ordination would mean that meetings were not cancelled and double bookings did not take place. All the extra managed meetings and preliminary hearings would be doable because of that technological advancement.

The Lord Advocate: Managed meetings are part of the package, as are early disclosure and other matters. It will be up to advocate deputes and counsel to arrange diaries so as to manage those meetings, whether they are face to face, by telephone, by e-mail or by another technological means. I am afraid that I do not have the details, so I cannot take that further.

Mike Pringle (Edinburgh South) (LD): The justice element of the Executive's programme is considerable. Quite a lot of new legislation, such as the Vulnerable Witnesses (Scotland) Act 2004, is coming through. Are you and your department satisfied that the budgetary implications of those bits of legislation have been fully accounted for?

The Lord Advocate: Yes. Assumptions have been built in for that act and other pieces of legislation. Funding has been made available for them.

Maureen Macmillan: I want to follow up on that point. I presume that, when you talk about being happy that there is sufficient funding, you are talking about the information needs of victims, vulnerable witnesses and so on. Am I right in

thinking that you are not responsible for the physical state of the court buildings, which represent another cost that, although not in your budget, could be in the Minister for Justice's budget?

The Lord Advocate: That is true. I do not have any control over the physical state of the buildings.

Maureen Macmillan: Have you any dialogue with the Minister for Justice on that issue?

The Lord Advocate: We have no dialogue on the issue at ministerial level although I am pretty sure that we have dialogue at official level.

Robert Gordon (Crown Office and Procurator Fiscal Service): To respond to that point, and to Mr Maxwell's point, I would say that a huge amount of work has been done to prepare for the introduction of the Bonomy reforms—for example, the work on vulnerable witnesses. There has been good co-operation among all the criminal justice partners.

Maureen Macmillan: So the Scottish Court Service is involved as well.

Robert Gordon: Yes.

Bill Butler (Glasgow Anniesland) (Lab): Committee members have noted that the Executive has set a target of

"A 10% reduction in the number of persistent offenders by March 2008."

Obviously, we will ask the minister about how the Executive will measure whether progress is being made. For the benefit of the committee, and for the record, I ask the Lord Advocate to outline what action his department will take to help to achieve that target.

The Lord Advocate: For the Crown Office and Procurator Fiscal Service, some of the reforms have been structural—aligning its areas with police force areas and, in Glasgow, with the divisions. That has helped to change the culture of the relationship between the police and the Procurator Fiscal Service, which in turn has helped to develop a climate in which we can target persistent offenders. Various local offices have done that. For example, in Linlithgow a kind of hit list was drawn up of the 20 most persistent offenders. That enabled us to roll together all the outstanding cases and get people in front of the sheriff. The sheriff was therefore not dealing simply with one or two individual cases but was seeing more of a pattern. The future office system is also enabling us to make such improvements because it highlights outstanding cases against individuals. We therefore have a two-pronged approach using future office system and enhanced co-operation with the police through local

initiatives. That approach will help us to play our part in meeting the target.

Bill Butler: I take your point about the two-pronged approach. Are there hit lists not just in Linlithgow but in other areas?

The Lord Advocate: Yes—I used Linlithgow simply as an example. Because we are targeting individuals, the work has to be done locally—agreements have to be reached between the Procurator Fiscal Service and the police—but, centrally, we are encouraging such developments. However, it is fair to say that individual fiscal offices and individual divisional commanders do not need a lot of encouragement because they want those developments anyway.

Stewart Stevenson: I want to consider the objectives and targets for justice and for the Crown Office and Procurator Fiscal Service. Bill Butler touched on the target of

"A 10% reduction in the number of persistent young offenders by March 2008."

Another justice target is for

"A 2% reduction in reconviction rates in all types of sentence by March 2008."

In addition, target 6 is for a reduction in the number of trial adjournments and target 7 is for better disposals. There is a Crown Office and Procurator Fiscal Service target of

"60% of Sheriff Summary and District Court cases to be disposed within 26 weeks".

Target 5 is to

"reduce by 10% the level of High Court trial diet adjournments"

and target 7 sets a time limit within which, in

"deaths which require further investigation, to conclude investigation and advise next-of-kin".

All those targets would appear, individually, to reduce the number of court hearings. The target to reduce the number of persistent young offenders, for example, ought to reduce the number of court hearings, as should those targets that improve the timetabling, especially in the case of the reduction in the number of adjournments. By how many will the number of court hearings be reduced?

The Lord Advocate: I do not think that that could possibly be said. It also depends on the number of cases that are reported to the procurator fiscal. Over the past few years, we have seen rises in the number of cases that are reported and a rise in the detection rate. That is good news from one point of view, but it means more work for us.

I cannot tell you the extent to which we will see a reduction in the number of court days. Over the past few years, we have also seen an increase in

the complexity of crime. Because we have put extra resources into that, more time has been spent in court on the big cases. Several high-profile, big cases will start between now and the end of the year, some of which may take a long time. We can sit here and speculate, but I do not think that it is possible to reach a conclusion about the profile in 2008.

Stewart Stevenson: Although I recognise the validity of everything that you say and accept that we are not dealing with a static situation even if we have no interventions, in both the justice targets and the Crown Office and Procurator Fiscal Service targets, there is a series of interventions, some of which are distinctly directed towards reducing the case load in courts and others of which, by seeking to reduce offending behaviour, should contribute to a reduction of the case load in courts. I put it to you that you must have some planning basis that incorporates the success of the initiatives, which you, as a member of the Executive, should assume. I am really trying to find out how robust your planning is.

Let me turn the whole thing upside down. Let us suppose that all the targets to which I referred deliver nothing. What does that do to your planning? How much more money and court time do you need? Although the service is demand led, the initiatives must deliver something to help you to manage that. I do not really know what your understanding of that is.

The Lord Advocate: You are right that we have made certain assumptions. For example, we have assumed a 6 per cent increase in the number of reports that are received by procurators fiscal in 2005-06, which will reduce to 5 per cent thereafter. We have also assumed a certain increase in the number of non-court disposals. We have seen a 12 per cent increase in the number of net petitions—that is, sheriff and jury cases and High Court cases—over the past few years, and we have assumed a continuing 10 per cent increase in that. We have not factored in—because it would be wrong to do so—the possibility of a 2 per cent reduction in reconviction rates. Nor have we factored in a 10 per cent reduction in the number of persistent young offenders.

Marlyn Glen (North East Scotland) (Lab): The committee would like an update on your department's efforts to recover assets financed from the proceeds of crime through the criminal confiscation and civil recovery units. Have any targets been set for the level of assets that the units hope to recover in the period up to 2007-08?

15:15

The Lord Advocate: We have not set those targets. I am aware that the director of the Scottish

Drug Enforcement Agency has a target, but that was set by him. I can tell you that £800,000 has been recovered in the past six months under the Proceeds of Crime Act 2002. Using criminal and civil powers, £2.96 million has been recovered since the Proceeds of Crime Act 2002 came into effect in the beginning of 2003. In addition, assets in excess of £17 million have been frozen by the civil recovery unit and the criminal confiscation unit. The financial crime unit, which deals with the confiscation of the proceeds of crime following conviction, has recouped £422,421 from drug dealers, money launderers and people convicted of fraud over the past six months. The civil recovery unit has recovered £368,511 in the past six months. Those two figures make up the £800,000 that I mentioned.

There has been a change in what happens to the funds. Previously, 50 per cent of assets that were recovered went into a recovered assets fund and the other 50 per cent went into the Treasury. As a result of an agreement between Scottish ministers and the Treasury, that has changed and, from 2006-07, the Scottish Executive will be able to recycle 100 per cent of the assets that are recovered from the proceeds of crime up to a limit of £17 million.

Mr Maxwell: When you say that £2.96 million has been recovered, does that mean that that money is in your back pocket, as it were, or that it is in the pipeline? I would expect that it would take a long time for the money to come through the system.

The Lord Advocate: The £2.96 million is money that has been recovered. I will need to clarify my understanding of the situation, but that is the amount in relation to which orders have been made. I am not personally involved in the recovery, so I would need to find out precisely what the figures are.

Mr Maxwell: So the £2.96 million has not yet been collected.

The Lord Advocate: I think that it has been, but I will clarify the situation and write to the committee with a definite answer.

Mr Maxwell: That would be helpful.

I welcome the fact that 100 per cent of the funds will be kept by the Executive and hope that they will be used in the justice portfolio for communities that are affected by drugs. I think that most of us would agree that that is where the money should be spent. Why do we have to wait until 2006-07 until we get to keep 100 per cent of the money? Why has a ceiling of £17 million been set?

The Lord Advocate: I am sorry but, as I was not involved in the negotiations on that, I cannot answer your question. On a previous occasion,

this committee asked me questions about the recovered asset fund so I thought that I should get up-to-date information on it in anticipation of further questions being asked. That is the information that I have given you. However, I did not ask questions about the matter that you raise. Perhaps I could add that information to the letter that I send the committee.

Mr Maxwell: That would be helpful. Do you know the average length of time that is taken from the start of the process to getting the money in? From discussions with members of the Irish Parliament it seemed to me that in Ireland they were getting to the end point much more quickly than we were.

The Lord Advocate: It would depend on which part of the process you are talking about. For example, a large sum of money has now been frozen, but in cases of criminal confiscation there has to be a conviction before we can recover money. Part of the delay is due to the trial process and, if there is an appeal, the appeal process. Civil recovery is relatively new, but I can tell you that Scotland has had the first completed recovery process—for a sum of about £10,000 from Stonehaven—and we have had other orders. What is happening here compares favourably with what is happening in England and Wales. It is probably too early to give you a figure for the average time, because too few cases have been completed for a meaningful appraisal to be made.

Mike Pringle: You mentioned the figure for assets that have been frozen—I did not catch whether it was £14 million or £17 million. In view of what you have just said, does that figure represent the assets that have been frozen while you are waiting to prosecute and which you are likely to get in if everyone is found guilty?

The Lord Advocate: The figure relates to both civil recovery powers and criminal confiscation powers. We can freeze assets. If we do not get a conviction there is always the possibility of attacking the assets through the civil recovery process rather than criminal confiscation process. The £17 million is a global figure that might come under either the criminal confiscation process or the civil recovery process.

Mr McFee: I have a short follow-up question. My understanding is that you freeze the assets when a case is coming up and you decide whether to go down the criminal or civil route. Roughly £3 million has been recovered or is on its way to us. How much of the £17 million has been unfrozen? What percentage of it are you not pursuing? If £17 million of assets have been frozen since 2003, are we saying that in every single case those assets have been recovered or are awaiting recovery?

The Lord Advocate: The £17 million is the amount that is frozen at present.

Mr McFee: Right. I picked you up as saying that there had been £17 million of assets frozen since 2003.

The Lord Advocate: It is since April, but £17 million is the amount that is frozen at present. We have been freezing assets since April and have frozen £17 million.

Mr McFee: Would it be possible to have that in writing? You are obviously reading it off.

The Lord Advocate: I undertake to write with a fuller explanation of the workings of the Proceeds of Crime Act 2002 and where we are with it and will cover the points that Stewart Maxwell raised about the agreement with the Treasury.

Mr McFee: I really wanted to discover whether there were circumstances in which the asset had been frozen but it was proving difficult to—

The Convener: We understand the seizure and confiscation element; we are less clear about what triggers the release of assets to the Treasury. Can you clarify that in correspondence?

The Lord Advocate: I can.

The Convener: Do you want to make any concluding remarks?

The Lord Advocate: No, thank you.

The Convener: On behalf of both committees I thank the Lord Advocate and his colleagues Mr Gordon and Mr Woodhouse for attending this afternoon.

I will suspend the meeting until the Minister for Justice can join us.

15:24

Meeting suspended.

15:31

On resuming—

The Convener: Good afternoon again, everyone. I reconvene this meeting of the Justice 1 Committee and the Justice 2 Committee. I welcome the Minister for Justice, Cathy Jamieson, and her advisers Ruth Ritchie and Jim Gallagher. Thank you all for coming before us. Minister, do you want to say anything by way of preliminary comment, or do you just want to get the interrogation under way?

The Minister for Justice (Cathy Jamieson): I thought that on this occasion we should have as much time as possible for committee members to ask questions, therefore I have not prepared a

statement in advance. I thought that you would want to move straight to questions.

The Convener: Clearly a duplicitous attempt to ingratiate the minister with the committee.

I will start off with a specific matter, but one that is significant for the justice budget as a whole, and that is the question of the contingent liabilities that have appeared in the Scottish Prison Service annual accounts for 2003-04. Those are contingent liabilities of £26 million for slopping out and £136 million for other cases that might arise under the European convention on human rights. The first issue that I want to ascertain is whether we know how those figures were computed and where they come from?

Cathy Jamieson: As you will be aware, the Audit Committee examined the issue in relation to Mr Black's report, in which he highlighted some of those figures. In that report, he drew the Audit Committee's attention to the fact that the 2003-04 accounts included the provision of £26 million and the contingent liability of £136 million to reflect the potential cost to the SPS of settling court cases from former and existing prisoners who claim that the conditions in which they were held or are being held breached or are breaching their rights under the ECHR. That was based on consideration of the judgment in Mr Napier's case. As Bob Black pointed out, it was right and proper that the SPS had a contingent liability in its accounts, but that does not mean that the Executive accepts that that sum of money will be paid out—far from it. Indeed, as you will be aware, some of the aspects of that judgment are being appealed through the proper processes.

Jim Gallagher (Scottish Executive Justice Department): Convener, might I add a technical point? The minister rightly distinguished between the provision of £26 million in the accounts—which is backward looking and scores, as it were, as expenditure although, as the minister said, it is not necessarily cash out of the door—and the £136 million, which is the contingent liability, that is, the thing that might happen.

The Convener: We accept that, but my first concern is to find out what instructed the figure of £136 million. For example, why not have a figure of £34 million or £210 million? There must have been some formulaic approach to bring forth that estimate of £136 million. The minister indicated that the SPS did some kind of calculation.

Cathy Jamieson: Obviously, the SPS considered the numbers that, in a worst-case scenario, could be involved and what the liabilities could be. It is important to recognise that it has been accepted that it was right and proper for the SPS to do that and to show that potential liability in its accounts. It is also important to stress that that

does not mean that we accept that the money is going, or will go, out the door.

The Convener: It seems to me that that situation confronts the Executive with a dilemma. Either the Executive says, "Well, we'll wait and see whether the ceiling falls in and if it does we will try to provide for it," or it says, "Well, something's bound to happen and we should make some responsible provision in future budgets." Now, which is it? Is the Executive sitting back and making no financial provision, or is it minded to accept that something ultimately may stick to the wall? Can you help the committee, minister, in understanding how the Executive is considering the matter?

Cathy Jamieson: It is not a case of either/or, nor is it a case of sitting back and waiting for something to happen. Committee members will have seen the additional funding that has been put in place for the SPS to address problems in the prison estate and noted the figure of £181 million, which I have quoted regularly. It is important to recognise that there has been sufficient investment in SPS funding. In the past, committee members have urged the Executive to take on board the requirement to upgrade and to end slopping out. It is our intention to do that. There are pressures and difficulties around that and it is right and proper that we have the contingent liability. However, we also have hard cash up front to deal with the problems.

The Convener: Again, just to clarify: I presume that the hard cash is partially to try to achieve an end to slopping out, which is a capital commitment.

Cathy Jamieson: That is clearly shown. We are putting in additional funding to ensure that we can ultimately achieve our goal of ending slopping out. The committee will be aware that it is difficult to give precise timescales for that, but we have indicated that we want to end slopping out about a year after the opening of the second new prison because, of course, we require to increase the number of places within our current prison estate. However, the two new prisons and the continuing upgrading of the existing prison estate are critical to achieving the goal of ending slopping out.

The Convener: Okay, so is there even an approximate timespan for that?

Cathy Jamieson: Some of the difficulty is that we require things such as planning permission for the new-build prisons. As soon as we have achieved that, we will be able to get the work up and running. I do not want to give a timescale that would allow people to hold the Executive to something that is not deliverable. I am sure that the committee would not wish us to state a timescale just for the sake of doing so. I would be

popular if I gave a timescale, but that might not be the right thing to do. That is why I prefer to say that, if we can get the movement, we can get the new places put in and can end slopping out about a year after the second new prison opens.

The Convener: There is also a specifically financial question. We understand the need to earmark money to meet capital commitments, but we remain unclear about the earmarking of money to deal with potential claims. You said that hard cash was needed to deal with problems. We understand that, in relation to slopping out, a lot of hard cash will be needed. However, is hard cash also part of the Executive's thinking in trying to provide for whatever element of the contingent liability might crystallize?

Cathy Jamieson: We would need to think about that. However, what I have tried to do with this budget in particular, and with the spending review, is to ensure that we get cash into the physical improvements in the prison estate. There is additional cash for doing that and that has been the focus of my attention. Of course, the Executive is aware that other things may well come in further down the line, but I have always been clear that I would not allow that to stop the work that needs to be done on the physical upgrading of the prison estate.

The Convener: So, there is no additional cash for the crystallization of contingent liability at this stage.

Jim Gallagher: It might be helpful if I distinguish again between the £26 million and the £136 million. The £26 million is hard cash. For any claim that arises that is analogous to Mr Napier's claim, the SPS has made provision for the payment of that cash in its accounts. The £136 million represents its calculation of what might happen in a worst-case scenario. The budget does not provide cash to deal with that, as it is only something that might happen.

Stewart Stevenson: To what extent does the split between the budgetary provision and the notice of contingent liability differentiate between remand prisoners and convicted prisoners? I understand that there is something in there. To what extent—if any—are those numbers affected by your ability to deliver a slopping-out-free estate? Are they unaffected by your doing that and looking backwards to the situation that prevailed? The Napier case has obviously already happened.

Cathy Jamieson: It is worth remembering that the Napier case was associated with the so-called triple vices. The basis on which the calculations have been made has taken into account those specific circumstances. I have made it clear that I want to see progress on ending slopping out irrespective of whether it is, ultimately, going to

cost the Executive money in compensation claims. It is the right thing to do to upgrade the prison estate, and it is the right thing to do to move towards ending slopping out. I am not sure that I entirely understand your question in relation to remand and convicted prisoners.

Stewart Stevenson: I am seeking the respective liabilities for the two categories. I am also seeking your confirmation that the ending of slopping out—which, I suspect, is a shared goal regardless of politics—does not affect those numbers, which reflect what has already happened rather than what is going to happen.

Cathy Jamieson: The numbers reflect the calculations that were done on the basis of the Napier scenario. I could not tell you off the top of my head how many remand prisoners and convicted prisoners they refer to.

Jim Gallagher: I think that I understand Stewart Stevenson's point. The triple vices to which the minister referred, which affected Mr Napier, included the fact that the regime meant that he spent a long time in his cell. He was, at that point, a remand prisoner. The regime that affected remand prisoners in Barlinnie at that time was certainly not particularly satisfactory. Therefore, in the £26 million that has been crystallized to reflect the liability going backwards for people who are in the same situation as Mr Napier and who are likely to be compensated for that, remand prisoners will be over-represented because they are over-represented in the triple vices.

Stewart Stevenson: While we are on the subject of slopping out, could I—

The Convener: We have a lot of questions to ask, Stewart. Keep it snappy.

Stewart Stevenson: The minister will expect me to ask this question. The Executive's statement said that it will end slopping out a year after the establishment of two new prisons.

Cathy Jamieson: Yes, that is the aim.

Stewart Stevenson: There is also a commitment to keep Peterhead prison open, where slopping out is carried out virtually throughout the prison apart from in 10 cells. When might you be in a position to say how the issues related to the long-term sex offenders at Peterhead might be dealt with in relation to slopping out?

Cathy Jamieson: I am not surprised that Stewart Stevenson has asked that question, as he has pursued the matter vigorously. I had the opportunity to visit Peterhead prison, which is in his constituency, in his company during the course of the year and looked at the facilities there. It is clear to me that we face specific pressures there because of the age and nature of the building and

because some of the remedies to upgrade physical conditions that have been possible at other prison sites have not been possible there. There is no getting away from the fact that we face certain challenges. In the meantime, we have tried to ensure that some of the other problems, especially around overcrowding and the pressures on the regime, do not lead to triple vices occurring at Peterhead.

I have asked the Scottish Prison Service to refresh the prison estates strategy. There are considerable amounts of investment going into new house blocks in a number of prisons at the moment. The SPS is to consider the other prisons that are not covered by that investment and to come back to me with some recommendations and plans for what could be done in the future. I expect that to come back to me by the end of the year.

15:45

Mike Pringle: If—hopefully when—you win the Napier appeal, I assume that that will not be the end of the matter. Presumably then you will not need the £136 million, so how much of the £26 million are you going to need?

Cathy Jamieson: I cannot pre-empt what the court might decide. There might be other cases that are not exactly the same as Mr Napier's coming through the system. It is important to restate that my commitment is that it is right and proper that we should appeal decisions, where we believe that that ought to be done. At the same time, we ought also to continue to work to improve the prison estate. That links to some of the things about which I am sure people will want to talk later, such as targets on reducing reoffending, getting people through the system, and considering alternatives to the prison system where that is the right and proper thing to do. It is difficult for me to say how much of that will be needed until we get some judgment from the court.

Jim Gallagher: It might be helpful to Mike Pringle to know that the payment that was made to Mr Napier was what might be described as a common-law fault payment rather than an ECHR payment. It is the ECHR issue that raises very important questions and that is what the Executive is appealing.

Colin Fox (Lothians) (SSP): Will you elaborate on the difference between the £26 million and the £136 million just so that I am clear? The £26 million is for cases that we know are in the pipeline. Is that fair?

Cathy Jamieson: How Jim Gallagher described the situation is as good a description as any. The £26 million is looking back to the possibility of

people who were in similar situations to Mr Napier making successful claims in court. The other amount is for what would be the worst-case scenario, if you like, in the future.

Colin Fox: Is it fair to say that the worst-case scenario would be if everyone who could pursue a claim did so and won?

Jim Gallagher: It would also include claims that relate to situations other than Mr Napier's. The £136 million is intended to represent ECHR cases that might arise other than just the particular case that Mr Napier raised about slopping out and the other triple vices.

Colin Fox: When you came to the committee last year, minister, you made clear your commitment to eradicating slopping out. Your commitment then was the same as it is today, which is that after the two new prisons have been built, plus one year, you hope to end it completely. I would be the first to accept that there has been substantial progress in the year since you said that. What progress do you anticipate making in the coming year? You are committed to ending slopping out completely but beyond that, we can make progress.

Cathy Jamieson: Since I last appeared at the committee, you will be aware that slopping out has ended at Barlinnie. That was a significant milestone in the process. New house blocks have opened in some of our existing prisons. I have announced that we are looking to create an additional 500 places within the prison estate and to ensure that the financial resources are there to back that up. The spending review shows that the financial resources have been put in place to back up that work. I expect that the on-going work in the prisons that are being redeveloped will be finished and that we will make progress towards the new prisons.

Pauline McNeill (Glasgow Kelvin) (Lab): I want to clarify the question of the worst possible scenario although, like Mike Pringle, I hope that it does not come about. Does it mean that the benchmark date is when the ECHR entered Scots law? Is the benchmark date 1999, or is it the date of the establishment of the ECHR? I can see the different routes and I understand the particular circumstances of the Napier case and that it was more than slopping out; it was about the conditions that he suffered while he was on remand. The worst possible scenario would be that everyone who could potentially claim that slopping out breached their rights under the ECHR made a claim.

Cathy Jamieson: We are working on the principle that the benchmark date is 1999.

Pauline McNeill: The suggestion by Napier's solicitors is that it was obvious to anyone that any

agency that had audited the question of potential breaches of the ECHR would have known that slopping out is a breach of someone's human rights. While I support the views of members of this committee who believe that we should end slopping out, I do not think that it was obvious that slopping out would be a breach of the ECHR, no article of which relates to the practice.

Was the SPS required to conduct an audit of ECHR issues when the convention was introduced?

Cathy Jamieson: My understanding is that all Executive departments and agencies were required to conduct such an audit.

Jackie Baillie: Most of the members of the justice committees are clear that tackling crime is a key priority for the Executive, so you can understand our disappointment at the fact that the Executive has rejected our plea that tackling crime should become a formal cross-cutting priority.

However, we are grateful for the table of figures that you have provided, which attempts to show something like a composite budget across the Executive up to 2005-06 with regard to measures to tackle crime. I note that the increase in that budget is much higher than the increase in spending across the Executive as a whole. In percentage terms, that is great news.

On that basis, could you be persuaded to continue to provide us with this kind of detailed information? Of course, I recognise that a lot of work goes into its production. Specifically, we would like the table that you have given us to be rolled forward to 2007-08. That would help us in our deliberations.

Cathy Jamieson: When I last discussed this matter with the justice committees, people were concerned to see that the Executive was genuinely making a financial priority of the crime and antisocial behaviour agenda and was not just prioritising what someone described as the rhetoric—I am not suggesting that you were that person, Jackie.

We tried to ensure that people were given a true picture of what is available. That is why, in providing the committee with additional information, we have tried to examine all the aspects that could have an impact on the area.

It is worth mentioning the fact that, following the portfolio realignments, the implementation of antisocial behaviour legislation is coming back onto the justice agenda. We will look for an opportunity to show in the justice budgets the money that is associated with that work. I will not say that there is no difficulty in producing the figures on a roll-on basis—obviously, it creates more work for members of staff—but it is a helpful

thing to do as it allows the committee to see where the spend is distributed across the Executive, even though tackling crime is not a formal cross-cutting priority.

Jackie Baillie: It is enormously helpful. It will undoubtedly provide a focus for those other departments who do not have it as their top priority and should be of use in your discussions with your colleagues.

I welcome the comments about the funding for the implementation of antisocial behaviour legislation. In the interests of clarity, however, I point out that the budget line relating to reducing reoffending seems to pop up in 2006-07. I assume that we are tackling reoffending at present and that there should be a budget line for it. Could you clear that up for us?

Cathy Jamieson: It is fair to say that I expect the reducing offending agenda to be one of the issues that is addressed across the justice portfolio. Therefore, people should not think that the amount of money that pops up in that budget line is the only money that is being spent in that regard. I felt that it was important that we identified some money that would enable us to take on some of the reforms that might be required around reducing reoffending, such as creating a more integrated service. However, the target that has been set means that all the different bits of the justice system need to work together and focus on reducing reoffending.

The committee has raised this issue before, but one of the difficulties that we have to deal with relates to the establishment of baseline figures on which to base our targets. People who were released from custodial sentences during 2003-04 will be monitored over the next couple of years to provide us with some of the baseline information that, frankly, we have not had before.

Jackie Baillie: I will discuss the detail of that with you later.

Stewart Stevenson: Table 1.08 deals with other current spending in the SPS, which includes spending on prisoners' food, medical services and so on. That funding flatlines from 2003 to 2008. Does the rise in the prison population indicate that you are trying to starve prisoners into submission? Does not the flatline spending commitment suggest that you do not have much confidence in your ability to reduce the number of the prison population or does it tell us something else?

Cathy Jamieson: No, it tells us that we expect the Scottish Prison Service to ensure that it is efficient in its provision and that it gives us good value for money. We expect the same of all Executive departments and agencies. Although Stewart Stevenson highlighted one expenditure flatline, we also have to look at the fact that the

lines for direct running costs and capital expenditure increase significantly over the same period. If we look at the foot of the table, we find that the total spend on the SPS rises from £290,189,000 in 2002-03 to £427,701,000 in 2007-08. We cannot be accused of starving the Scottish Prison Service of funds.

Stewart Stevenson: But do you not accept that that budget line relates directly to prisoner numbers? I trust that I have understood the accounts correctly.

Cathy Jamieson: Yes, but you will see that the footnote to the direct running costs, which form the top line of the table, says that the line

“Consists of staffing and other prison running costs.”

Footnote 2 refers to “prisoner related costs”. I would expect each prison to place an appropriate focus on ensuring that we get value for money in those areas.

Margaret Mitchell: The justice portfolio contains a great number of priorities. Indeed, I am reliably informed that there are 57 priorities for the three-year period 2005 to 2008, of which 45 relate to the 2005-06 budget. Is it realistic for all of them to be considered as priorities?

Cathy Jamieson: If we look at the overall priorities in the justice portfolio, we can see clearly that we are trying to solve some of the problems around crime and antisocial behaviour. We are trying to speed up court processes in order to ensure that we deliver access to justice for those who require it. The overall justice targets have a number of targets within them that help us to ensure that we are moving in the right direction. Broadly speaking, the various targets enable us to see whether the trends are moving in the right direction.

Margaret Mitchell: I understand that, but given the minister's new strategic role, would it not be better to have fewer priorities so that your strategy for the various elements of the justice portfolio can be seen more clearly?

Cathy Jamieson: If Margaret Mitchell looks at the priority areas for the targets in this spending review, she will see a commitment to reducing re-offending; improving the rate of clearing up serious crimes; enabling the Scottish Drug Enforcement Agency to disrupt criminal networks; getting more people into drug treatment and rehabilitation; and reducing the number of persistent young offenders. I have to say that the targets for some of those areas are quite stretching. The overall priorities set the general direction in which the justice portfolio should go. I hope that the document makes clear our general direction.

Margaret Mitchell mentioned my new strategic responsibility. One of those new areas of

responsibility is the strategic approach to the drug misuse agenda. Of course, some of the resources that enable us to do that work continue to be located in the Health Department budget line.

Margaret Mitchell: I am concerned that the setting of so many priorities might lead people to think that your approach is not strategic—people might think that you are firefighting.

Cathy Jamieson: Margaret Mitchell will have to forgive me, but she should look at the statements of priorities that are to be found throughout the justice portfolio section of the document. We have to ensure that each part of the justice system can deliver on its priorities. They need to contribute to our overall aim of ensuring that we enhance community safety, improve our crime clear-up rates, reduce re-offending and deal with the problems of persistent youth offending. Each of those areas is important in itself and each has to have its own set of priorities.

As I said, the overarching priorities are those that are laid out at the beginning of the justice portfolio section of the document, which is also the point at which we set our objectives and targets for the portfolio as a whole.

Margaret Mitchell: I ask the minister to turn her attention to the 12 priorities that are set out for 2006-07 and 2007-08. Is it possible to rank them?

Cathy Jamieson: I am sorry, which priorities?

Margaret Mitchell: I am referring to the priorities for 2006-07 and 2007-08 on pages 11 and 12 of the draft budget.

Cathy Jamieson: I am sorry, but I did not catch what you asked.

Margaret Mitchell: There are 12 priorities. Is it possible to rank them?

Cathy Jamieson: I do not know why we would want to rank them.

Margaret Mitchell: Because by definition a priority is something that you would want to do first or consider to be more important.

16:00

Jim Gallagher: It is fair to say that the priorities listed on pages 11 and 12, which are repeated under the sub-headings in each of the budget lines, are the things within those lines to which the minister has given priority.

Margaret Mitchell: Do all 12 have equal priority?

Cathy Jamieson: We have to reflect the fact that we have a partnership agreement and have said that we would deliver on a number of commitments. If the committee took the view that

providing the Scottish Prison Service with additional money was not a priority or that allocating the additional money for legal aid, for the police service, for the sheriff courts or for the pay, pension and modernisation costs in the fire service was not a priority, I would be grateful to hear about it. Those are the priorities that the committees and the Executive identified and it was my responsibility to try to deliver the resources.

Margaret Mitchell: I want to press you further. The last priority on the list is to roll forward investment in youth crime prevention. Are we to assume that that is the bottom of the list of priorities?

Cathy Jamieson: Absolutely not. I made that clear. I take the issue of dealing with persistent young offenders very seriously indeed. That is why we introduced the youth crime prevention fund and the intensive support fund in the first place. In this spending review round we have ensured that that continues beyond the timescale for which it was originally allocated.

Margaret Mitchell: I have one final question on the two new prisons to deal with the overcrowding that you mentioned. If early release is ended, will that have a significant impact on the prison population and will that be taken into account?

Cathy Jamieson: There are a number of areas in which it would not be appropriate for me to comment on the work of the Sentencing Commission. There has certainly been a lot of speculation and I have concerns about the current arrangements, which I certainly want to discuss with the Sentencing Commission. We have to acknowledge that we require a joined-up, integrated approach. That is why we have tried in this spending review round to ensure not only that there is money to upgrade the prison estate and to put in place the community penalties that are right and proper in some instances, but that the funding allows for the transition between prison and the community.

Of course I am concerned about the numbers in our prisons, although we must acknowledge that some of them are people who have received long sentences for serious crimes and it is right and proper that they are there. However, we must also reflect on the fact that if sentencers had available robust community sentences in which they had confidence, they might be more likely to use them. I cite the recent research that shows that drug treatment and testing orders are a positive example of a criminal justice intervention that is proving successful. That is exactly the kind of thing that we want to see our resources going towards.

Margaret Mitchell: We have been pressing for an end to early release for a considerable amount

of time. How do you see it impacting on the system?

Cathy Jamieson: You have to acknowledge that there is a difference between automatic early release for prisoners serving up to four years and the parole arrangements, which it would be premature to discuss without seeing the work that I have asked the Sentencing Commission to do before it presents recommendations to me.

Margaret Mitchell: I await that with interest.

The Convener: I call Colin Fox. We have quite a lot to get through, so members should keep questions fairly brief.

Colin Fox: I will be as succinct as ever. The committees' report on stage 1 of the budget process recommended that any efficiency savings achieved as a result of the reforms in the criminal justice system should be retained within the system. Will you assure us that that will happen?

Cathy Jamieson: I have already mentioned what we have done in relation to prisons. The savings are a question not of taking money out of the prison budget but of ensuring that people concentrate on being efficient so that some of the money that can be generated from efficiencies is used elsewhere in the system.

Colin Fox: I am mindful of last week's question in the chamber when there was a difference of opinion about what is an efficiency and what is a cut. Can you give us an idea of how much you expect or hope to achieve in annual savings in the department in the years to 2007-08?

Cathy Jamieson: I made it clear last week that I see a cut as being when money is taken away and something else is done with it. What we are asking people to do is to ensure that they are efficient, to aim for some targets and to produce savings that are regenerated and used again in the system. That is entirely different.

Colin Fox: Do you have an idea of how much you expect those savings to be?

Cathy Jamieson: I presume that you are talking specifically about savings in the Scottish Prison Service. It is well documented that the Scottish Prison Service has been asked to achieve a 5 per cent target, and governors and others are heavily involved in that.

Jim Gallagher: It is fair to say that there are programmes that are intended to produce greater efficiency across the justice services, and that the committee would expect the offices involved to be working on that. As the minister says, there is a specific programme in the Scottish Prison Service. It is not about cutting the totals, which are increasing; it is about identifying where resources can be redeployed within the service to meet the

objectives that the minister sets. The same is true for the Scottish Court Service, the police service and the other services covered by the justice portfolio. That is all part of the Executive's overall approach to efficient government, which I think you would expect us to pursue.

Colin Fox: I take your point and I understand the 5 per cent figure that has been given for the Scottish Prison Service, but I was referring to the department as a whole. Can you give us any idea about that?

Jim Gallagher: There is not an across-the-board percentage, because the circumstances vary from programme to programme, but ministers intend to produce their overall plan for efficient government quite soon. The justice contribution will be displayed in that, and we are still working on the numbers.

Mrs Mary Mulligan (Linlithgow) (Lab): The minister has already referred to persistent offending, prompted by Jackie Baillie. We all have a great interest in that and all welcome the fact that a target has been set for reducing the number of persistent offenders by 10 per cent by March 2008. I do not know whether the minister wants to comment on the fact that the target relates to young offenders. She said that there has been some difficulty in bringing about a baseline measurement from which one can go on to measure the achievement of the target. Will she say a bit more about that? Perhaps she could also give us an indication of how she defines what a persistent offender might be.

Cathy Jamieson: There are two separate issues there. First of all, we have specific targets relating to the youth justice system and persistent young offenders. I hope that the convener will allow me to note that I do not wish to pre-empt information that I shall be making available to Parliament in a statement later this week about some of the baseline figures. Some of the figures that we need to firm up for those targets are provided to us by the Scottish Children's Reporter Administration and others. Again, it is important to recognise that we have had a 10 per cent target for reducing the number of persistent young offenders in the system, but I want to roll that target forward for another couple of years from 2005-06 up until 2007-08. We now have a clearer definition, and I shall say more about that in my statement to Parliament on Thursday.

Mrs Mulligan: You said that the figures that we have in front of us show the spend from 2006 to 2007, but you have indicated that there is spend on that in the meantime. How will that be carried out and how will we see it coming through in the work that you are doing? Also, can you tell us what guidance has been issued to agencies on addressing persistent offending?

Cathy Jamieson: Again, I shall focus on targets relating to young offenders, because there are other issues relating to adults who go through the revolving-door process. The youth crime action plan introduced and provided additional resources for the fast-track children's hearings. It also ensured that, in each local authority area, there is a multi-agency youth justice team that is tasked with identifying the persistent young offenders in the area and ensuring that programmes are in place to deal with those young people. We have also introduced the pilot youth court in Hamilton. The results so far are encouraging, but I want to see how it works and to perform a proper evaluation before we decide whether we will take it further.

The baselines for the youth crime prevention fund and the intensive support fund in 2005-06 are £2 million and £1.5 million respectively. Additional money went into those at start-up for capital costs and to get some of the projects up and running. Now that they are in place, we want them to continue.

Mrs Mulligan: Will you be able to keep the committee up to date and give us further reports on how those are rolling out?

Cathy Jamieson: I do not wish to pre-empt what I will say later in the week when I give Parliament an update on some of work that has been done on the youth crime action plan, but it is my intention to keep people up to date on the issues.

Stewart Stevenson: I refer to table 1.03, on criminal injuries compensation. Given that the minister has plans to reduce offending, why in the period 2002-08 does the criminal injuries compensation budget flatline throughout, and why are we paying 11 per cent of the England, Wales and Scotland budget?

Cathy Jamieson: There are a couple of points. First, we have a service-level agreement with the Home Office. The Executive pays a percentage of the total United Kingdom cost of compensation payments made under the criminal injuries compensation scheme and the admin costs of the Criminal Injuries Compensation Authority and the appeals panel. The percentage is based on a rolling average of Scottish claims under the scheme over the previous three years. Therefore, the exact percentage figure is not known until the start of the payment year in question.

In recent years, that figure has ranged between 11 per cent and 13 per cent. To ensure that there is no shortfall in what is, essentially, a demand-led scheme, our spending proposals for 2005-08 reflect the maximum 13 per cent of the Home Office baseline for the scheme for that period. Obviously, we keep spending on that under

regular review, and we might require to make changes to the baseline as appropriate.

I hope that that gives a brief explanation of why the figures appear as they do.

Stewart Stevenson: Given that a comparison of the English and Scottish statistics that my researchers have done suggests—and I use that word advisedly—that we have only 6.4 per cent of the total number of cases, do the figures indicate that compensation is more generous in Scotland, which is not something with which I would necessarily be uncomfortable?

Cathy Jamieson: I am not sure that we can draw that conclusion. We would require to examine further information, which we would be happy to do.

Jim Gallagher: Stewart Stevenson will realise that, so far as the present compensation scheme is concerned, the level of compensation is fixed in regulations. The scheme is tariff based, and the tariffs are the same north and south of the border. In the scheme, there are some old cases that are under the previous non-tariff scheme, but it is unlikely that they have the effect that Stewart Stevenson suggests. I do not recognise the 6.4 per cent figure that his researchers have dug out.

Cathy Jamieson: We would be happy to examine Stewart Stevenson's figures, but I do not immediately recognise them.

Mr Maxwell: Last year, we discussed the police retirement bulge that is coming up in the next few years, which has been created by the significant recruitment of police officers in the 1970s and early 1980s. It appears from the spending plans for the period up to 2007-08 that there is provision for the additional recruitment of police officers to offset that bulge. In its evidence to us earlier this year, the police service told the committees that it wants to recruit an additional 100 officers in 2006-07, and a further 200 the following year. Will the spending plans meet those bids? If they will not, can you explain why?

16:15

Cathy Jamieson: The important point is that we have increased the budgets, as you have acknowledged, and are moving towards a position where the grant-aided expenditure, for example, will top £1 billion.

The cost of a probationary officer, including an allowance for the pension that he or she will get when they retire, is around £33,000. Using that figure gives us approximately 45 extra officers in the first year, rising to 135 in 2007-08. Over and above that, we have made additional resources available to a number of forces as part of the levelling-up process to introduce the new formula

for GAE. In 2007-08, the extra amount that is earmarked for that is £11 million. If we use those figures, that would equate to a further 330 officers. If we add all that up, we could potentially have 465 new officers. That is the basis of the sums.

Mr Maxwell: I accept your arithmetic.

You talked about levelling up. Some forces are concerned that the figures are being held down because they are getting no increase in their budget. Do you accept that there will be a fall in the number of officers in those areas if they do not get the increase that other areas are getting?

Cathy Jamieson: It is not a case of forces having their budgets cut. All forces will get a percentage increase, although some will get a larger percentage increase to take account of the new formula. That will be done over a period of time and we have made additional resources available to do that. That was one of the things that came out in the GAE review, which took a considerable amount of time to come to that conclusion because people were concerned to ensure that individual forces would not lose out and that numbers of officers would not drop. We have gone to great lengths to ensure that that does not happen.

Mr Maxwell: In the first answer you gave me, you said that the figure could potentially be 400-plus officers. Will you explain what you mean by "potentially"? That suggests that potentially it might not be that figure.

Cathy Jamieson: It could be more.

Mr Maxwell: It could be fewer.

Cathy Jamieson: It could be more. I am saying that the funding is available to achieve that and that there could be more funding because of the way in which the pension system works and the point at which costs are paid.

Mr Maxwell: Are you telling me that there is flexibility for individual police authorities to use the money elsewhere and that there might be variation in the number of officers?

Cathy Jamieson: It is important to recognise that it is for chief constables to decide on their area's operational policing requirements for the amount of funding that is provided. Everyone is clear that we have a record number of police officers throughout Scotland and we expect that those numbers will be maintained. We have put in place a budget that allows us to do that and to deal with the problems of the retirement bulge and recruitment. The committee was clear that we should address that issue and we have done so.

Mr Maxwell: I accept that there have been some moves towards that. The initial figures of 45 and 135 officers are not in dispute. Given the

demands on the police service, the money that you are giving it could and might rightly be used for other priorities within individual police authorities. Therefore, could not it be the case that the money would be used for those other priorities and that we would end up with the 45 and 135 officers that you talked about earlier rather than the 400-plus officers that you indicated? That would fall some way short of the 100 and 200 new officers that the police service said it required.

Cathy Jamieson: I am not sure whether you are suggesting that, as the minister, I should be directing the chief constables on their operations.

Mr Maxwell: I am not suggesting that at all. I am suggesting that the difference between 45 and 135 and the 400 that you have indicated is substantial.

Cathy Jamieson: I am saying that the resources have been put in place to enable the maintenance of the numbers at their present levels and to deal with the potential problems around recruitment and retirement. Of course, it is for chief constables to decide on operational policing requirements.

Mr Maxwell: I accept that and will move off that point. Let us talk about pensions instead. Obviously recruitment will have a knock-on effect and will create a retirement bulge in the years 2009-10 and beyond. Will you confirm that the money is in place to deal with what has been called a pensions time bomb? If it is not in place at the moment, will it definitely be in place for the next spending review?

Cathy Jamieson: I cannot pre-empt any future spending review, but in this spending review round we have put in place the right measures to deal with the problem.

Mr Maxwell: Are you saying that within the current spend, money for the pensions is in place?

Cathy Jamieson: Yes, it is.

Mike Pringle: I want to talk about Reliance and the escort service, which is being rolled out across Scotland and has budgetary implications. Will you give us details on that and on how it will impact on the police budget?

Cathy Jamieson: As an example, in Strathclyde, more than 100 police officers who were previously involved in escort duties have been freed up to take on other responsibilities. Are you asking whether the roll-out will free up officers?

Mike Pringle: I was wondering what effect it will have on the police budget.

Cathy Jamieson: None at all, because additional resources were given to the police to maintain officer numbers. Resources were put in place to deal with the prison escort service. Now,

officers are being freed up as a result of the service being rolled out. It has not rolled out across Scotland completely, and it will not do so unless and until the appropriate assurances have been put in place.

Maureen Macmillan: So it was new money that went to Reliance; it did not come from the police or the SPS.

Cathy Jamieson: Additional money was provided in the last spending review. Jim Gallagher will correct me if I am wrong.

Jim Gallagher: It was after the last spending review.

Cathy Jamieson: It was provided to ensure that the police did not have to reduce their budgets. Extra money was put in.

Maureen Macmillan: The last time you were at the committee to talk about the Reliance roll-out we discussed the use of video links for formal appearances at court, instead of prisoners having to go to court. Has anything more been done about that? For example, has a cost-benefit analysis been carried out? I know that there was a pilot. Do you have any thoughts on rolling it out? What are the cost benefits?

Cathy Jamieson: In response to previous work, I indicated that we would roll it out further and that has been taken forward. I want to keep matters in a number of areas under close review including the frequent occurrence of people having to appear in more than one court in the same town or city on the same day and the costs involved in transporting them to and from courts that might only be a few hundred yards apart. That is not necessarily the best way forward in the longer term.

Maureen Macmillan: So you will keep us informed about the process.

Cathy Jamieson: Absolutely.

Pauline McNeill: My question is about the police, but it is on a slightly different note. I notice that you have accepted the recommendations of the working group on revised arrangements for distributing police grant-aided expenditure. When Willie Rae came before us last year, he hinted that new arrangements were about to emerge. What will be the impact of the new distribution formula, and what advantages will it bring?

Cathy Jamieson: The new distribution formula will, for the first time, recognise the different pressures on different forces. Rather than just being population based, it will take account of issues such as pressures from city-centre policing, rural dimensions and crime rates, and will better reflect the situation. Some areas felt that the previous formula did not take account of those

points. As I said to members earlier, it was important to me that it was not a case of having winners and losers and a redistribution. We have ensured that additional resources will go in to deliver the formula in future, and that distribution will be levelled up over a period of time. The police were keen for us to do that, and we took account of that.

Pauline McNeill: I appreciate your earlier point that there is going to be plenty money in the budget, so I do not think that any force will notice the difference in this spending review. However, will there eventually be winners and losers, or are you going to keep putting money in? Surely the point of changing the formula is that, at some point, it will affect different forces in different ways.

Cathy Jamieson: The alternative for us would have been to take money from somewhere just now and put it somewhere else. Instead of that, we have said that every force will continue to get above-inflation rises, year on year, and that forces that, it is felt, require to get additional money under the new formula will get money over and above that. It is not a case of a force finding that its budget is staying flat until all the others catch up: every force will get an increase, with some getting bigger increases than others in order to level it out over a period of time.

Pauline McNeill: What is that period of time?

Cathy Jamieson: It takes us up to 2009.

Jim Gallagher: The spending review period that is displayed in the draft budget documentation takes us up to 2007-08, and the completion of the GAE redistribution, which was set up in the working group that has been referred to, will be in 2008-09.

Pauline McNeill: That is quite a long time into the future, but I presume that you will tell us at some point what will happen in 2008-09. I think that you realise my concern. It seems to be good news at the moment, but I am concerned that you might say in 2008-09 that you will no longer put in the additional resources and that the formula will operate differently. If that happened, there might be winners and losers after 2009.

Jim Gallagher: Obviously, it would not be right for the minister to pre-empt the spending review after this one, which will impact on that year. However, provided that the current baselines remain unchanged—unattacked—by the next spending review, it should be possible to complete the redistribution in that period without creating losers.

Pauline McNeill: We are focusing on the justice issue, but it is important that all MSPs understand the implications of the change. If we agree to the change in the formula—[*Laughter.*] Okay; we do

not really have any choice, because that decision has been made. If, in 2009, the Executive—whoever that might be—were to say that it was going to implement the formula that was agreed in 2004 but that it was not going to put in any extra money, there might be issues for the politicians who had accepted that formula, depending on the effect on their local area.

Jim Gallagher: As I said, the minister cannot pre-empt what the Executive—whoever that might be, as you said—might do in the next spending review. However, it is clear from the way in which the numbers work out that, if we stick with the baselines that we have in the current spending review, it will be possible to reallocate the resources in such a way that there will still be no losers.

Pauline McNeill: That is very welcome news, especially if the formula is going to take account of city centres. I represent a rather large city centre, so I welcome that reassurance.

Cathy Jamieson: I am well aware of the representations that you have been making.

Pauline McNeill: Did the Executive consider allocating an additional amount to the police grant-aided expenditure for 2005-06 to enable the new formula to be implemented immediately rather than from 2009-10?

Jim Gallagher: It would be nice if we had that much money. The new formula is being phased in over a number of years.

Cathy Jamieson: It is being phased in to ensure that progress is sustainable. That is important.

Bill Butler: The minister will be aware that the committee recommended in its stage 1 report that the Scottish Court Service's capital programme should be a priority in the spending review, to ensure that all courts—not just Parliament House—are fit for purpose. For instance, there should be wheelchair access and separate waiting rooms for prosecution and defence witnesses. It will come as no surprise to you that we are a bit concerned that the budget is at a lower flatline level of £10.334 million in each of the next three years, compared with nearly £15 million in the current year. Would you care to comment on the committee's concern on that point? Also, what are the objectives of the programme for the next three years?

16:30

Cathy Jamieson: Members will recall that, when we discussed those issues, a number of members reminded me—if I needed reminding—of the particular difficulties in certain court areas. Several people around the table are looking at me

now. The Scottish Court Service is close to completing a strategic review of the estate. It has an on-going programme to address issues around the Disability Discrimination Act 1995, such as security and, of course, health and safety obligations.

I am sure that I do not need to remind members that many of the court buildings are old—some date back to Victorian times—and many are listed, historically important buildings. That poses specific challenges. The majority of courts have ramps or level access, and lifts, stairlifts or some kind of platform lifts. We have tried to ensure that some facilities have induction loops and disabled toilets. We are also considering Sheriff Principal McInnes's review of summary justice. We have not taken any decisions on that yet. I am still considering the recommendations and the response to the consultation. It would be fair to say that we must consider the best use of our court buildings in the years to come.

Once the SCS capital strategy plans are finalised, we should be able to consider what can be rolled out over the next piece. However, we will not be able to transform all the court buildings in a short space of time. I know that that will come as a disappointment, particularly to some members. We must prioritise and consider which buildings require work to be done more quickly than others.

Bill Butler: Can you give a best estimate of when all courts will have at least minimal disabled access? You just said that the majority have some form of disabled access.

Cathy Jamieson: There are particular problems around the listed buildings. Once the strategy has been put together, I will be more than happy to provide the committee with further information on disabled access. However, it is a difficult issue and a challenge. We will have to consider the issue at length to ensure that we can improve the condition of our court buildings.

Bill Butler: I accept that, but can you tell us when the strategy will be ready so that we will know when you can give us information on disabled access?

Cathy Jamieson: Jim Gallagher may have a final date for that, but I certainly expect the strategy to come to us in the not-too-distant future.

Jim Gallagher: I would hope that that would be before the end of the financial year, but perhaps not before the end of the calendar year.

Bill Butler: I am obliged. Thank you.

Maureen Macmillan: I do not know that I can ask anything that Bill Butler has not already asked. However, the minister is aware of my concerns about the Highland courts, especially in relation to access for disabled people in one or two of the

courts. As the minister rightly said, the buildings are very old and I would have thought that they will be impossible to convert. The minister will also be aware that the High Court sits in Inverness in buildings that, I think, are unsuitable. I look forward to the publication of the strategy, but I wonder whether it will cover only the refurbishment of existing buildings. Are there plans for new builds?

Cathy Jamieson: In some instances, it may make more sense to consider new builds, but we would have to take account of restrictions on budgets. I know that Maureen Macmillan has a particular interest in the Inverness situation. Discussions have taken place with Highland Council, which would like to redevelop particular buildings in Inverness. However, it would be wrong of me to suggest that we have a solution to that problem just now.

Maureen Macmillan: Okay, thanks.

Mr Maxwell: Turning to the fire service, I wonder whether you are satisfied—I think that I probably know the answer to this—that sufficient provision has been made in the central Government fire provision and the fire GAE to ensure that the fire service can be restructured without any diminution of service or standards.

Cathy Jamieson: I will remind you of the figures. We are increasing the GAE allocation for the fire service for 2005-06 from the previously announced figure of £261.8 million to £276 million; additionally, that will rise to £282 million, then to £291 million. That means that by 2007-08 the GAE will have increased by 11.35 per cent over the previously announced figure for 2005-06. We have also allocated an additional £16.8 million in 2004-05 to assist fire authorities with up-front costs for modernising the service. Therefore, additional resources have been put in.

Mr Maxwell: I accept that additional resources have been put in, but I wondered whether certain outcomes from the Fire (Scotland) Bill and from other restructuring changes that the Executive intends to introduce are built into the figures. Are the figures reliant on there being a smaller number of control rooms, for example, and on other efficiency savings being made, or are they robust enough to deal with the outcomes, no matter what comes out of the Fire (Scotland) Bill?

Cathy Jamieson: A proportion of the additional fire GAE allocation will support the additional pay and pension costs for whole-time staff and pay parity for retained staff arising from the implementation of the June 2003 agreement. The additional funding will also be used to assist the Highlands and Islands fire board with the upgrading of local station facilities and the reclassification of staff from volunteer to retained

status. It also includes an across-the-board increase in GAE for general distribution to the eight fire authorities. I am confident that we are doing the right thing.

Mr Maxwell: My question was whether the money is in any way bounded by the outcomes that you expect from the Fire (Scotland) Bill. Specifically, do you expect to see savings in certain areas, particularly—most obviously and possibly most contentiously—through a reduction in the number of control rooms?

Cathy Jamieson: We have not yet reached a decision on the number of control rooms. As you are aware, recommendations have been made, and we are considering the responses to those recommendations. However, taxpayers and the public would expect us to operate whatever we are operating efficiently and effectively. Public safety is, of course, one of the paramount considerations in any decision that we take. The committee has raised the matter previously, and I gave a commitment that I would do my utmost to ensure that we make available additional resources to assist the modernisation process. That commitment has been delivered.

Mr Maxwell: I hear what you are saying. However, given that you have come up with figures, you must have taken a stab at what would be the likely outcome of the Fire (Scotland) Bill and the other changes in the fire service. “Modernisation” is the word of the moment. Given that you have based the figures on expectations, what are those expectations?

Cathy Jamieson: I return to the matter of efficiency. We have consistently made it clear that any pay rise above inflation, for example, such as the 16 per cent rise that was awarded to fire service staff, would be self-financing over a period of time. The agreement makes it clear that savings would be generated by modernisation of the service. We have ensured that there is up-front money to enable the fire service to modernise like any other service would, and I have said that we would assist the process.

I return to the point that additional resources have been made available, and that some of the modernisation is far from being about cutting services. In particular, the Highlands and Islands should be considered. I hope that members from the Highlands and Islands agree about the improvement in the service that was previously available.

Margaret Mitchell: One thing has occurred to me. As well as ensuring that the court estate is DDA compliant, has there been an assessment of the prison estate to ensure that it is DDA compliant for visitors? If there has not been a move to full compliance, has any contingency

funding been put in place for a possible challenge under either the DDA or the ECHR?

Jim Gallagher: All the justice estate—indeed, all the public sector estate—must address itself to DDA compliance. That is true in relation to prisons as well as to courts. However, to my knowledge, none of the justice agencies has made any provision for any contingent liability in relation to failure to meet the DDA.

Margaret Mitchell: Could there be a challenge?

Jim Gallagher: It is always conceivable that property that people think is DDA compliant will turn out not to be. At that point, there might be the possibility that liabilities will arise, but I am not aware of any at the moment.

The Convener: I thank the minister and her advisers very much for joining us. We now move into private session. I ask for the committee room to be cleared of members of the public.

16:39

Meeting continued in private until 16:56.

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