

JUSTICE 2 COMMITTEE

Tuesday 3 May 2005

Session 2

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JUSTICE 2 COMMITTEE

† 14th Meeting 2005, 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)

*Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD)

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Ms Rosemary Byrne (South of Scotland) (SSP)

Cathie Craigie (Cumbernauld and Kilsyth) (Lab)

Mr Kenny MacAskill (Lothians) (SNP)

Margaret Mitchell (Central Scotland) (Con)

Margaret Smith (Edinburgh West) (LD)

*attended

THE FOLLOWING GAVE EVIDENCE:

Donald Dickie (Safeguarding Communities-Reducing Offending)

Roger Houchin (Glasgow Caledonian University)

Douglas Keil (Scottish Police Federation)

Susan Matheson (Safeguarding Communities-Reducing Offending)

Roger McGarva (National Probation Service)

David McKenna (Victim Support Scotland)

Dr Andrew McLellan (HM Chief Inspector of Prisons for Scotland)

Professor James McManus (Parole Board for Scotland)

Bernadette Monaghan (Apex Scotland)

Angela Morgan (Families Outside)

Dr Mike Nellis (University of Birmingham)

Deputy Chief Constable Bob Ovens (Association of Chief Police Officers in Scotland)

Neil Paterson (Victim Support Scotland)

CLERKS TO THE COMMITTEE

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Tracey Hawe

SENIOR ASSISTANT CLERK

Anne Peat

ASSISTANT CLERK

Steven Tallach

LOCATION

Committee Room 1

† 13th Meeting 2005, Session 2—held in private.

Scottish Parliament

Justice 2 Committee

Tuesday 3 May 2005

[THE CONVENER *opened the meeting at 14:01*]

Management of Offenders etc (Scotland) Bill: Stage 1

The Convener (Miss Annabel Goldie): Good afternoon and welcome to the 14th meeting of the Justice 2 Committee this year. We will spend most of this afternoon considering the Management of Offenders etc (Scotland) Bill. I have received an apology for absence from Maureen Macmillan. I remind everyone to ensure that they do not have their mobiles or pagers switched on.

We move to item 1 on our agenda and I welcome the first of our four panels of witnesses this afternoon. I am pleased to welcome Dr Andrew McLellan, who is Her Majesty's chief inspector of prisons for Scotland, and Professor James McManus, who is chairman of the Parole Board for Scotland.

Gentlemen, you have been alerted to the fact that we have pressures on our time, so I hope that you will forgive me for suggesting that we dispense with preliminary statements. Committee members have various questions for you.

Jackie Baillie (Dumbarton) (Lab): Good afternoon, gentlemen. Will you give us an idea of what you consider to be the barriers to effective management of offenders? Will the establishment of community justice authorities help us to get over those barriers?

Dr Andrew McLellan (HM Chief Inspector of Prisons for Scotland): In the bill, there is an important but limited barrier, which is the connection that is made between prison and ex-prisoners on release. However, in efforts to reduce reoffending, that barrier is not the most significant one. The more significant barriers include criminal habits that are developed over many years, the corrosive effects of addiction, the destructive experience that some people have of education, limited access to jobs and the gamut of issues that are related to poverty. When we are trying to deal with reoffending, those barriers are more significant than those that are covered by the bill, which are still significant.

Professor James McManus (Parole Board for Scotland): I agree with much that Andrew McLellan has said. Much of the bill is predicated on the assumption that sentencing is directed towards stopping reoffending: it is not. In Scotland,

sentencing is about something else: it is about punishment. There is no direct link between punishment and stopping reoffending, which is proven by the number of punished people who reoffend.

The bill is therefore trying to graft on to a system that is about punishment a provision that is about serving the needs of society, stopping reoffending and stopping offending in the first place. That is a difficult thing to do, but the bill will take us forward by providing for co-operation and co-ordination in the process, which will be crucial to maximising the bill's impact—although I would not look for a tremendous increase in success as a result of the bill. If the bill can achieve a 5 per cent reduction in reoffending, it will be doing very well indeed and will provide a substantial service to society. The real causes of crime are things that we cannot control directly without our taking a much more structural approach to the problem.

The Convener: We have heard that progress is being made in our prisons in relation to transition into the community and throughcare. What is your assessment of the current situation?

Dr McLellan: The development and progress of what are sometimes called link centres and sometimes throughcare centres has been one of the most encouraging aspects of life in Scottish prisons in the two and a half years in which I have had an interest in the area. I am always encouraged to find that when visitors go to prisons they tend to visit link or throughcare centres, as they should. First, I am encouraged because they seek to address a hugely important issue that is central to the bill. Secondly, I am encouraged because there is key evidence from prisoners, prison managers and outside agencies—such as housing agencies and Jobcentre Plus—that in link or throughcare centres a positive and hopeful attitude develops in which agencies and prisoners recognise that they have a common interest. The atmosphere in the centres provides opportunities outside the immensely coercive atmosphere in which so much of prison life is carried on.

I am encouraged, although I have reservations; for example, I note that there is no health involvement in link or throughcare centres and, often, the extent of outside social work agencies' involvement has not been what I had expected. However, I do not want that to detract from the positive view that I have of link centres and throughcare centres.

The Convener: Will the bill build on that platform?

Dr McLellan: Yes. I am sure that that is its purpose. From what I perceive of prisoners and prison staff—I have no contact, apart from during inspections, with the outside agencies that I meet

and converse with—I am clear that they are determined that what has traditionally been called “the gap” should be diminished. Prisoners are not always positive about people trying to do good to them, but if they can be made positive in that area, the bill might well build on an existing foundation.

The Convener: For clarification, do you, in your response, distinguish between short-term prisoners and long-term prisoners?

Dr McLellan: I have not offered a response as yet, but I am happy to make such a distinction if you want me to.

The Convener: It is just that you said that generally things were improving. Clearly, you are heartened by that, but is that happening over the piece, or are there differences between the linkages in the short-term sentence regime and those in the long-term prison regime?

Dr McLellan: For a long time the Scottish Prison Service has invested more in long-term prisoners and throughcare at the end of their sentences. I would expect more serious engagement with them, as we find in Shotts, Glenochil and Perth prisons, whose link and throughcare centres are well developed. However, since I began in my role, the significant improvement has been in local prisons and prisons such as Edinburgh and Glasgow where, even 10 years ago, throughcare and link centres would hardly have been contemplated, but are now a significant part of the life of the prisons.

The Convener: Professor McManus, do you have anything to add?

Professor McManus: Again, I agree with an awful lot of what has been said. The notion of using link centres to promote social inclusion is a good one. The paradox, of course, is that they exist in establishments of social exclusion—the example par excellence of social exclusion is prison. To use prisons as vehicles for promoting social inclusion must be a rather expensive way of promoting social inclusion.

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): Will home detention curfew make an active contribution to reduction of reoffending as well as to aiding rehabilitation back into the community? Will HDC be more effective than keeping prisoners in prison for the duration of their sentence?

The Convener: Dr McLellan can go first, although Professor McManus may have something to add.

Dr McLellan: Whether home detention curfews work will depend on clear and sound risk assessments being carried out; they will be central. That said, there are good arguments for supporting some form of curfew as outlined in the

bill. First, if curfew is used in a protected environment—in other words, when the person has not simply been released and there is still a prison connection—it will be possible for prisoners to begin to take responsibility for addressing the important issues that we have talked about, such as health, employment, and housing.

Secondly, anything that can be done to lessen the damage of imprisonment to family relationships will be good for reducing reoffending. Thirdly, as I have said for two and a half years, high prison numbers do not contribute to reducing reoffending. As only a small number of prison places will be released by HDC, I do not want to place too much weight on that, but I welcome a reduction in prison numbers that is based on sound risk assessment and the principle of ensuring public safety.

The Convener: Will you clarify whether you think a significant number of prisoners will be released under HDCs?

Dr McLellan: The answer depends on what you mean by “significant”. I do not think that we are talking about thousands of prisoners. Our prisons are overcrowded by 1,200 prisoners. Perhaps I have misunderstood the proposals; your look suggests that I have completely misunderstood them.

The Convener: No; I am interested in what you say. The issue concerns the whole committee. Does the Scottish Prison Service have any projected figure for how many prisoners would be affected by the proposal?

Dr McLellan: I have no way of knowing whether the SPS has such a figure; indeed, it would not be my business to know that.

My final point to Mr Purvis is that, as I am sure he knows, comparable statistics from England suggest that HDC will not significantly reduce reoffending. A year and a half ago, I had the opportunity to visit prisons in Holland. While I was there, I spent time observing how electronic monitoring is carried out. In Holland, a different system is used—supervision is an integral part of the HDC process. There has been a significant statistical effect on reducing reoffending, but small numbers of prisoners are involved and the system is very expensive.

Jeremy Purvis: Before Professor McManus answers, I have another question for Dr McLellan. My colleague Mr Fox will ask questions on conditions, in which the committee is interested. In your role as chief inspector of prisons, you inspect the prisons, but how far do you go in inspecting associated issues, such as tripartite working and links with the Association of Directors of Social Work on throughcare? Is your role as inspector

limited to situations within prisons and the conditions of prisoners?

Dr McLellan: My role is limited to the conditions of prisoners and the treatment that they receive. Inevitably, in the course of my work I have conversations with all sorts of people, including Professor McManus. The purpose of such conversations is to help me better to understand the conditions and treatment of prisoners in prison.

Professor McManus: My first point on home detention curfew is about the process by which the decision is made on whether to release a prisoner on the tag. In the past few years, we have moved away from giving governors discretion over release dates; for example, we have taken away their power to award additional days, in order that we ensure full compliance with the Human Rights Act 1998 and that justice and fairness are seen to be done in the prison setting. The bill proposes giving the power for exercising such discretion back to governors. It is therefore crucial that regulations that are made under the bill provide a watertight algorithm that, in effect, makes those decisions for governors.

The alternative is a series of challenges. There are no direct proposals in the bill for a proper mechanism to appeal against the decisions. In one memorandum it was proposed that complaints should go through the normal SPS complaints system. Committee members will be aware that that complaints system is headed by a person who does not have a statutory existence and who has no power to make definitive decisions. Something must be done to regularise the process for making the decision in the first place to ensure that it works on rational criteria, which should be specified in regulations.

14:15

I welcome anything that reduces the prison population and gets people out as early as they can safely be out. That is crucial; this is not about getting them out for the sake of getting them out, but about getting them out when they do not pose an unacceptable risk in the community.

I also endorse the chief inspector's suggestion that tagging, electronic monitoring and home detention will not on their own achieve anything. The most successful schemes that I have seen, which have been in the southern United States, all started off by pretending that they could work by keeping the person in a house, but every single one of them had to give in and use some form of supervision to assist the person in addressing the issues that come up in the domestic situation and those that gave rise to offending in the first place.

Tagging and keeping the person in a place will not, on their own, achieve very much for

community safety, but if we add to that a process that provides supervision and assistance in addressing the issues in people's lives it can help and can have a marked effect on reducing reoffending. I welcome the proposal for a home detention curfew, but I do not see it as a panacea. Issues around it have not yet been fully addressed in the bill. Some of the issues can be addressed in regulations, but they first require proper debate and consideration.

Jeremy Purvis: We have heard from prison governors—you may have seen their evidence to the committee—that every prisoner is an individual and that circumstances will be unique to that individual. If the conditions that would be applied are to be appropriate and if the risk assessment is to be a proper assessment, they will be based on that individual. Therefore, cannot you see that there is an argument for flexibility to enable the curfew to be shaped around the individual, especially since—as I understand it—that would not affect the early-release time? It would, in effect, be in addition to the early-release time. A set formula on time-based release will not bring the flexibility that would enable a curfew to be shaped around the individual prisoner.

Professor McManus: We can work towards developing such criteria, however, as the Risk Management Authority is doing to a great extent. It is developing criteria that can predict—in so far as that can be done accurately—the risk of reoffending.

We would have to take into account the category of offender. For example, it is presumed that sex offenders will not qualify for the curfew, but what about people who commit domestic violence? Manifestly, they should not be considered for being locked up in the house, but they are not mentioned in the bill. In relation to groups such as that we should say, "No. This cannot be allowed." It would be perfectly safe to release other categories of offender very early in their sentences. Sometimes those will be extremely serious offenders, but they will have a low statistical probability of reoffending.

Colin Fox (Lothians) (SSP): I will press you on the two issues that you have raised. I will come on to supervision requirements shortly. First, what options is the Parole Board likely to consider when it imposes conditions on long-term prisoners who may be considered for home detention curfews? You mentioned domestic violence as an example of a category of offence that would be excluded. That suggestion has something to say for it. You hinted at other categories of offence in relation to which home detention curfews might be more likely. What approach would the Parole Board take in giving guidelines?

Professor McManus: The board, in accordance with the proposals in the bill, would not be involved at that stage. The board would make its usual parole or no-parole decision for the person at the 50 per cent stage. Regard may be had to the conditions that the board has recommended in deciding what conditions would be imposed on the home detention curfew.

I suspect that we are talking about very few long-term prisoners coming through to be considered for meaningful periods of home detention curfew. We generally make a decision eight weeks before a parole qualifying date. By the time the decision got through, there would be little opportunity for a meaningful period of home detention. It might be much more restrictive to move on to home detention curfew a prisoner who comes, for example, from the open estate, and who will have been home free of curfew all weekend, every second weekend, because he does not pose a risk. Suddenly, under the bill he would be out, but would be subject to a curfew and would wear a tag, which might be a retrograde step in reintroducing that person to the community.

We look for conditions that do two things. They must promote public safety and assist offenders in addressing outstanding issues that will enable them to settle safely in the community. The issue is about getting resources to that offender. Sometimes, a condition will ensure that the offender can jump the queue for drug treatment or drug advice. If a prisoner who is coming out of prison has managed to do something about his drug habit while he is in prison but suddenly has to go into a 12-month queue to continue that treatment outside, the chances of recidivism clearly increase. However, we are not imposing conditions in order to enable us to let an offender out. We first decide whether the risk can be managed in the community; only when we are satisfied that it can be do we start considering conditions.

Colin Fox: The Executive has estimated that 25 per cent of short-term prisoners on home detention curfew would be subject to social work supervision requirements. Does that sound like a reasonable figure? Perhaps both witnesses could answer that question.

Professor McManus: I would like every prisoner to be subject to some form of supervision on leaving prison, in order to give meaning to the whole sentence. Long-term prisoners are on supervision to their sentences' end date, so why should we write off half the sentence of short-term prisoners? Why not use that period to protect the public and assist the individual? The two things go hand in hand. If we used that period of the sentence profitably by building in supervision, we could achieve significant effects.

Colin Fox: That is what you would like to happen but, at the moment, the overwhelming majority of short-term prisoners do not get much supervision on release. Based on what is in the bill, do you think that the Executive's estimate that 25 per cent of short-term prisoners on home detention curfew would be subject to social work supervision requirements is sustainable?

Professor McManus: The supervision would have to be resourced much better than it currently is. Of course, there is an issue in respect of recruitment of criminal justice social workers throughout Scotland. However, if we can improve their efficiency through the other arrangements in the early part of the bill, we can improve the overall level and standard of supervision by involving social work and other agencies.

A crucial element that is missing from the current set-up and which might be missed in the new arrangements is housing. Dr McLellan has already mentioned the absence of health input. We need housing, health and employment to be part of the package. We also need the police to be much more involved in the package. I realise that involving the police is a bit of a problem, but the police service is the only agency that is tasked with crime prevention and as the model that we are talking about is primarily a crime-prevention model, involvement of the police would contribute considerably to the success of the new arrangements. The question is, given the police's constitutional position, how can we get them more involved?

Colin Fox: Do you agree with that, Dr McLellan?

Dr McLellan: I have not seen the arguments that led to the estimate of 25 per cent, so it is difficult to comment. However, I agree that it would be terrific if 100 per cent of short-term prisoners on home detention curfew were subject to social work supervision requirements, and I agree that 25 per cent is better than 24 per cent. Anything is better than nothing.

I suspect that, because many prisoners are determined not to engage in any supervision upon release and because of the resource implications, the figure of 100 per cent will never be achievable. I sometimes think that we should turn our attention in a different direction. Many ex-prisoners, particularly short-term, chaotic, miserable, despairing ex-prisoners need an auntie. They need somebody who will simply be interested in them.

Of course, that raises huge issues about risk assessment and so on, but I wish that we could find some way of releasing the public good will that exists towards people whose lives are in a mess in a way that would establish some kind of

voluntary support for people on release. I often think that the way in which the children's panels were set up in the 1970s is a model of how to engage the good will of people who want to help other people. I think that that sort of good will still exists. The arrangement should not be informal; it should be structured and supervised. Such an approach might first address partly the gap between 25 per cent and 100 per cent and, secondly, help to provide structure, habit and care in lives that have been unstructured and chaotic and that have never experienced care.

The Convener: I listened carefully to what Professor McManus said. Am I correct in saying that unless the supplementary facilities to which you referred are provided, the home detention curfew will simply be a mechanism for reducing the prison population?

Professor McManus: That is a fair assessment. Nothing else is being built into the system to assist people. A person might be detained in a nice comfortable home, but if they are detained in a horrible home the experience will be pretty awful.

Mr Stewart Maxwell (West of Scotland) (SNP): You expressed concern that power is to be passed back to governors and you suggested that that approach might be open to challenge. In health debates, we talk about "postcode prescribing"—I will borrow that phrase. Are you concerned about challenges in relation to postcode policing, or have I misunderstood you?

Professor McManus: Given recent evidence, if the system were postcode based no one would get out of prison, because certain postcodes are already grossly over-represented in the system. I am concerned, rather, about unstructured administrative discretion to determine the freedom of the citizen. In the past 20 years, every country in Europe has moved further away from an administrative framework for such decisions and towards a quasi-judicial framework in order to protect fully the rights of everyone involved. However, the bill would take a step back by giving prison governors responsibility, without giving them—as far as we know—the training and direction that would be needed to ensure that discretion was exercised fairly.

Mr Maxwell: Is the problem the return to an administrative approach or the fact that different governors might apply different rules—or is it both?

Professor McManus: I am sure that different governors will apply different rules. I do not suggest that governors will use the power arbitrarily or nastily. However, the process will be arbitrary unless it is strictly controlled; an arbitrary process will be abused.

Mr Maxwell: Do the witnesses have views on the new duties in the bill for risk assessment and management of serious and sex offenders?

Professor McManus: The bill is part of a growing package of attempts to control those groups. The Risk Management Authority has a role in that regard. During the past 10 years, most western European countries and the north American countries have struggled with and moved towards attempts to improve the level of control, given that there does not seem to be much that we can do by way of prevention.

I am worried that the approach is targeted at sex offenders, given that the statistical information shows that sex offenders are least likely to be reconvicted. We are missing out on other groups of offenders, such as armed robbers, who pose a serious threat to society and who are much more likely to be reconvicted than are sex offenders. The focus on sex offenders is understandable, but given the statistical likelihood of reconviction of offenders in that group, the models that we develop for risk assessment and risk management are likely to be rather skewed. I am worried that that might lead to over-control of the group and to an approach that will reduce liberty without increasing public safety. We must always balance public safety with liberty, but we are going too far towards over-control without being able to demonstrate a manifest benefit in increased public protection.

Mr Maxwell: Does Dr McLellan want to comment?

Dr McLellan: It is inevitable that the Scottish Executive is responding to what are perceived to be public concerns by increasing what Professor McManus rightly calls the control element. As chief inspector, I have no locus on that issue. However, I have a locus in that I hope that increased careful management will be matched by an increase in the careful preparation for release of sex offenders.

Every report that I have published on Peterhead prison has drawn attention to the depressing fact that sex offenders—about whose release the public have most concern—are those who get the least preparation for release. I welcome the bill, but there are central issues that go far beyond it. In the case of sex offenders, we must not just manage them, but engage with them to find a way in which they can be prepared to be released into a safer Scotland.

14:30

Mr Maxwell: Is it your view that continuing support is required for all prisoners, not just for sex offenders?

Dr McLellan: I have said that in discussion of earlier bills. The specific point that I am making is that, for a variety of reasons, sex offenders get less preparation for release than other long-term prisoners.

Mr Maxwell: Why is that?

Dr McLellan: Because, understandably, they do not have the opportunity for home release, which is a key part in the preparation of most—including violent—long-term prisoners. Neither do they have the opportunity to undertake work placements in the community before they are released, which enable long-term violent prisoners of other kinds to prepare for release.

The Convener: Is there anything that you would like to add, Professor McManus?

Professor McManus: No.

The Convener: There are no further questions from the committee. I thank you very much for attending the meeting. It has been very helpful to have you before us.

I welcome our second panel of witnesses. David McKenna and Neil Paterson are from Victim Support Scotland; Bernadette Monaghan is from Apex Scotland; Angela Morgan is from Families Outside; and Susan Matheson and Donald Dickie are from Safeguarding Communities-Reducing Offending. Thank you for being with us this afternoon. When we began to take evidence from our first panel of witnesses, I proposed, because of the pressure of time, that we dispense with preliminary statements. It is not our desire to alienate you or make you feel ill at ease, but there is a lot to get through and I know that committee members have questions for you. Is there a burning issue that any of you wants to comment on by way of introduction?

Witnesses indicated disagreement.

The Convener: Thank you. On the basis of where the questions come from and what they are about, I may decide that one organisation is better suited than another to answer them; otherwise, we might have a multiple chorus from “The Sound of Music” going on. However, please do not feel excluded. If you think that you really can offer something that is relevant to a question, please signal that you would like to reply to it.

Jackie Baillie: My first question is for Bernadette Monaghan—to single somebody out. What are the barriers to the effective management of offenders, and will the establishment of community justice authorities help to address any of those?

Bernadette Monaghan (Apex Scotland): That gets straight to the nub of it. I do not think that we have a system, as such. We certainly do not have

one that is joined up. We have to accept that, although sentencing has a very limited part to play, it still has a part to play—for example, mention has been made of sex offenders. The level and intensity of the supervision that someone gets when they come back to the community is dependent on the length of their sentence.

We should expect seamless transitions among the different agencies, but things do not always work like that. The bill will provide national direction by requiring all the constituent parts of the system to sign up to shared outcomes and goals, with a focus on reducing reoffending. Instead of just thinking about internal processes and management systems, people will need to think about what they can do to contribute to public safety and protection and to reducing reoffending. That is particularly good.

Given the provisions on national direction and the power to intervene, the national advisory body could have not just an advisory role but a management function to make the new community justice authorities accountable. That is good. On the other hand, we will have a much more devolved system, with much more responsibility being passed to the community justice authorities to determine their own affairs and to produce business plans. It should help that we will have a way of working that gives more responsibility to local agencies but provides national direction and accountability.

It is important that we get away from the notion that the criminal justice system can actually reduce reoffending. I believe that we can give people opportunities, but it is up to them to assess where they are at that point in their life and to make those decisions for themselves. It is particularly important that in the national strategy and with community justice authorities we go beyond simply considering how to challenge offending behaviour through programmes and take into account issues such as accommodation, shelter, family support, employment and access to health services. In future, all the different agencies at the local level need to sit round the table if we are to try to make inroads into reducing offending.

Jackie Baillie: Do you sign up to the view of Professor McManus, who told us that the bill might lead to a reduction in reoffending of something like only 5 per cent?

Bernadette Monaghan: That is difficult to say, as no one knows what will make a particular individual stop offending. However, we know that people have a much better chance of not reoffending if they have appropriate accommodation, family support, skills that will get them a job, a structure to their lives and access to treatment and health care for any addiction issues that they have.

It is extremely difficult to measure success in reducing offending behaviour. We certainly cannot look at reconviction data, but we might be able to measure, for example, whether people are in the community for longer periods in-between prison sentences and whether the nature of their offending is less serious and less frequent. I accept that we need targets and performance measures, but we need to be realistic and accept that whether people reoffend comes down to individual choice. We cannot change people, but we can influence their choices by providing them with a range of opportunities and support systems that we know will go some way towards helping them to move on in their lives.

Jackie Baillie: I think that none of the other representatives on the panel has a different view, so I will move on to my next question, which is for David McKenna. What size should community justice authorities be? Further to the point that Bernadette Monaghan made, what role should the new authorities have?

David McKenna (Victim Support Scotland): First, let me say that the bill is a welcome opportunity to improve the effectiveness and efficiency of criminal justice services in Scotland. There is material potential to impact on reoffending rates, to reduce the number of victims and to improve the confidence of our communities.

The key partners need to be consulted on the structures of the new authorities. Criminal justice social work departments, the Scottish Prison Service and others will need to consider what will work best for the communities that they serve. I welcome the fact that the Government has not been prescriptive about that.

I appreciate that the Government has identified several issues that it wishes to take further stock of and consult on, but it is important that the role of victims is not lost in our criminal justice system or in the community justice authorities. I hope that, in due course, there will be a role for victim representation within the community justice authorities themselves. I do not say that simply through a narrow or limited interest; I truly believe that if we are to build public confidence, if we are to reduce reoffending and if we are to make our communities safer, then victims, offenders and communities should not be regarded as the problem but as part of the solution. If you take action to reduce offending behaviour, you must also consider the impact of that action on victims and make provision for that.

I hope that, in due course, the importance of victims to our criminal justice system will be reflected in the make-up of the community justice authorities.

Jackie Baillie: Would you prefer that importance to be reflected locally, in the national advisory body, or both?

David McKenna: I am not trying to advertise Victim Support Scotland, but we are an effective and valuable service. We provide support in communities throughout Scotland. Organisations such as Victim Support Scotland could have a role in contributing both locally and nationally.

Jackie Baillie: I want to ask Angela Morgan similar questions. What size should the community justice authorities be; what should their role be; and, to pick up on David McKenna's point, should your organisation be directly involved with the new authorities or have some other kind of relationship with them?

Angela Morgan (Families Outside): We are not really in a position to comment on the size. From what we know from families who contact us, they are not interested in the structures of the organisations or in the titles or professional backgrounds of the people; what the families want is support and information that will let them help in the care, treatment and sentence management of their relative in prison. That is how they can maintain their relationship with the person in prison—although I should say that not all families can do that. Indeed, some of them are the victims of the crime.

The proposed system has great potential and we are pleased with the developments so far. It would be a missed opportunity if the community justice authorities set their boundaries to the limits of criminal justice bodies and to the limits of voluntary organisations that are perceived to work in criminal justice. A community example is HOPE—Helping Offenders Prisoners Families—which works in the west of Scotland with offenders and their families. I spoke to the director last week when I was preparing for this meeting. Of the various projects that the group runs, only one receives funding through a traditional local authority criminal justice stream. Other funding comes from sources as varied as the Community Fund, a social inclusion partnership, and economic development funding.

The community justice authorities will have to be manageable and we will have to think quite broadly. In our submission, I talk about the practicalities of families travelling to prison. Fundamental issues arise: how can people maintain a relationship if they cannot get to see their relative? There will have to be liaison, or some sort of synergy, between the new authorities and local transport planners. That will be made much easier by the local system that is being proposed.

You asked about the size and the role of the community justice authorities, but it will be the processes and the openness that will be important. You also asked about our involvement. We have been working very hard over the past couple of years to gain recognition for the role that families can play. That does not mean all families, and it does not mean that families will have a role all the time, but—in the way that David McKenna suggested—we do think that families can be partners in helping to reduce reoffending. All the evidence shows that to be true. We hope that that will be recognised in strategies through the work of the national advisory board.

Although good work has been done, particularly in the Prison Service, the situation is still vulnerable. Over the years, there have been good initiatives to support families to support offenders in and out of prison. However, those initiatives have fallen by the wayside when very committed people have moved on.

Jackie Baillie: Last but not least, I invite Susan Matheson to comment on the size and purpose of the community justice authorities and SACRO's role in them.

14:45

Susan Matheson (Safeguarding Communities-Reducing Offending): As the other witnesses said, there needs to be consultation on the size of the community justice authorities. They should assist us to some extent because we will have contact with fewer bodies, but we will need to have meetings with the 32 local authorities. That might mean more meetings rather than fewer, so the bill might not be cost neutral to the voluntary sector as the explanatory notes claim. Our staff will have to work flexibly across boundaries and we might need to restructure. We could not suggest a definitive size at this stage.

The community justice authorities will be advantageous. They will not affect our youth justice or community mediation services, but we will be able to deliver our criminal justice services more effectively because we will be in an environment in which people are required to share information and to consult us. That will be an improvement, because sometimes we are consulted and sometimes we are not.

Section 9 of the bill states that ministers must specify persons with whom the responsible authorities must co-operate. We think that ministers should include our staff and the staff of other agencies that are engaged in providing a service to, or monitoring, offenders. It is important for that to be made explicit.

Bill Butler (Glasgow Anniesland) (Lab): I move on to the related matter of managing the

transition from prison back to the community. Our first panel of witnesses—and Dr McLellan in particular—talked about the importance of the development of link centres and throughcare. How can the transition best be managed? Will the bill lead to improvements? Perhaps the witnesses from SACRO could comment first, followed by Apex Scotland.

Donald Dickie (Safeguarding Communities-Reducing Offending): It is fair to say that the Scottish Executive has already introduced some of the right measures to facilitate good throughcare. As well as the statutory changes that involve more intensive supervision of people who are released on supervision, phase two of the tripartite strategy, on voluntary assistance, is beginning to get off the ground. SACRO is heavily involved with one large authority in designing a service that is like a community link centre in the community rather than in prison. The idea is that it is a seamless service; people from the community go in and make contact with prisoners before they are released. They continue to give support and act almost as a case manager when the prisoner is released, helping them to sustain their interest in doing something about their life, changing their offending behaviour and getting them access to services in the community. The bill does not present any barriers to that work; if anything, it will encourage local authorities, community justice authorities and the Scottish Prison Service to help to make such schemes work properly.

Bill Butler: Will the bill help you to create a more seamless service?

Donald Dickie: Yes. I think it is fair to say that it will. As earlier panel members said, it depends on the willingness of prisoners—particularly on release—to sustain an interest. They might say that they want to do something when they are in prison, but it takes a lot of work to keep them motivated when they come out and return to their community, where, for example, drug taking might be rife. If all the agencies co-operate more effectively and share information, that should help us to work towards that goal.

Bernadette Monaghan: Sometimes, we set up services and try to squeeze people into them within the constraints that exist. For me, the SPS Cranston transitional care service is an example of that. We have experience of delivering that service in Edinburgh and Fife, and from talking to our staff I know that they get extremely frustrated with the idea of making three appointments for someone within a fixed period of 12 weeks.

When people come out of prison, they often go into hostels or bed and breakfast accommodation that is totally inappropriate. They find themselves out on the street at 9 o'clock in the morning with nothing to do but walk the streets. What incentive

do they have to sign up for services that we might think look extremely good on paper when we have not really thought about the kinds of people we are working with or their needs?

There is not the flexibility in the service to address their needs. It takes time to engage with people and to say to them, "There are benefits to you if you sign up to this service and we can help you." That is a different way of working from saying, "We've got to meet these targets within a certain timescale." We need flexibility and to be aware of the kinds of people and their multitude of problems.

Bill Butler: Will the bill help to improve engagement and the flexibility that you said was essential?

Bernadette Monaghan: I would like to think so. We have learned many lessons so far about throughcare and voluntary assistance. As Donald Dickie said, a lot of work is already going on in the Executive to look at that. However, I am not so sure that we have got the priorities entirely right. Our experience is that we have more success with older rather than younger people. We have learned many lessons that could feed into that work.

Bill Butler: How would you reprioritise certain aspects that need to be moved about in order to deal with the situation more effectively?

Bernadette Monaghan: I am not sure that I understand what you are saying.

Bill Butler: You said that the prioritisation seems to be slightly skewed, so how would you reprioritise?

Bernadette Monaghan: As a result of how services are sometimes funded, they have to be prioritised. Our experience in Edinburgh has been that we have more older clients who are at a point in their lives when they are fed up with their lifestyle and they want to access services and sort things out for themselves. We must have services that can respond to them at the right time and at the place that they are at in life. We need some flexibility to wrap the service around them.

Although I accept that we must have performance measures and targets, we also need flexibility to remember that we are dealing with people who have entrenched, complicated problems, some of whom do not fit neatly into the kinds of services on offer.

Neil Paterson (Victim Support Scotland): I offer a word of caution against viewing the bill as a panacea for fixing the throughcare paradigm. The bill sets out a framework that it is hoped will help people to work more closely together. However, the detail in the performance management framework that the Executive will set out and

which the authorities will be required to follow will need to take account of a couple of things that we touched on around the table this afternoon. One is the need closely to involve housing providers in the partnership arrangements. Most people in this room will be familiar with the recent social work services inspectorate report into the North Lanarkshire case from two to three years ago when difficulties in inter-council relationships were highlighted. I urge caution because we need to see far more detail before we can confidently say that we will move forward in the way that we all want.

Angela Morgan: I agree entirely with Bernadette Monaghan's comments about the individual approach. From our point of view, we would like to see much more recognition—although not for all people who come out of prison and not in all circumstances—that people come out into the context of a whole family whose situation should be considered.

In relation to the case that Neil Paterson just referred to, it was noted in the report recommendations that there had been a missed opportunity to involve the family in reintegrating and resettling. As regards risk management, there is a role for families that could be drawn on if that recognition existed.

Jeremy Purvis: Will each organisation comment on whether home detention curfews will contribute actively to the reduction of reoffending? Are there any comments in the light of the previous panel's evidence or concerns about the proposals? I ask witnesses to answer from right to left along the panel.

Donald Dickie: SACRO takes the view that you have already heard. There is really no evidence to suggest that the bill will have any impact on reducing offending or reoffending. There have been Home Office studies on the extensive schemes that operate south of the border, and their impact is described as neutral. They make virtually no difference one way or another. If that is the intention of the bill, it may be a bit of a disappointment.

The other stated intention of the Executive is to facilitate better integration of offenders on release, which SACRO is obviously most interested in doing in so far as community safety is concerned. You may hear more about the research that was conducted south of the border from a member of the next panel of witnesses. That research certainly seems to suggest that, although the prisoners quite liked it and their families did not mind it, there were serious problems in the administration of reintegration schemes that might even make good integration into the community more difficult rather than easier.

Simply releasing someone a few weeks earlier does not mean that they are going to integrate into the community more easily. In fact, in throughcare initiatives in Scotland, the Executive places much emphasis on pre-release arrangements, such as establishing contacts and other pre-release work. If there is a shortened period of time for pre-release arrangements, and if prisoners here do not understand the system and do not get good information about what is expected—as was the case in England and Wales—there could be serious problems. We recommend that the Executive makes a point of trying to address the difficulties that were experienced in England.

Based on experience south of the border, I believe that the bill will have some impact on slowing the increase in the prison population, but not a huge impact. The Executive's estimate is that 350 prison places would be affected, which is not a huge impact on the daily prison population of nearly 7,000 or thereabouts. There has been an impact in England and Wales, however, so we might see some reduction in the prison population here in Scotland.

Angela Morgan: The first thing that I would like to say is that it should not be seen as a cheap option. I say that from the experience that we have of how home leave works for families—or does not always work terribly well. Picking up on what Donald Dickie said, the research shows that the impact on families of a member of the family being imprisoned is not proportionate to the length of the imprisonment. The impact of a short sentence on the family can be as traumatic, particularly for children, as the impact of a long one. We want much more work to be done prior to release, even for home leave. Quite often, we get calls to our helpline from family members who say, "I was really looking forward to him coming out, but actually it's been the most awful weekend." When you think about it, that is not surprising, because expectations develop but things have changed; the children have grown up and the remaining partner has had to adjust. Without some work done with the prisoner and the family member who has remained outside, there is a risk that family relationships that have been maintained during the period of custody could break down once the person is released from prison, and we hear of examples of that happening.

Although we support the bill in principle, because it reduces the effect of separation, we reinforce what previous witnesses have said. Without supervision and support—not just for the person who has been in prison but for the whole family, where there is a family involved—we are concerned about how effective the bill will be and about further damage to families that are simply not robust enough to cope with the responsibility

that they are being asked to take for monitoring and helping somebody to adhere to a curfew.

Jeremy Purvis: The submission from Apex Scotland says of the curfew system:

"Targeted appropriately, it offers individuals the chance to re-build family relationships and engage with agencies that can address housing, health and employability needs, thus increasing the chance that they will not re-offend."

That is in a slightly different tone from the evidence of the previous witnesses.

15:00

Bernadette Monaghan: I feel quite optimistic about home detention curfew. Like any measure, it needs to be targeted properly, and my understanding is that it will be used for prisoners who are assessed as being relatively low risk and who, towards the end of their sentence, will be able to have a phased return to the community.

Any work that we do in prison has to be tested out, which can happen only when the prisoner is back in the community. We could spend a lot of money doing work in prison but not know whether it has any benefit until the prisoner goes back out to the context in which they live, as Angela Morgan said. My understanding is that, if an offender who is on a curfew reoffends, they will be returned to prison to serve the remainder of their sentence. For Apex Scotland, the home detention curfew simply means that the preparation for release that we would have done in prison will be done with people in the community as part of the curfew package. There can be flexibility in the package to allow offenders to attend appointments at Apex's local units and have their health issues sorted out. Rather than address such issues in prison, we will simply address them in the community as part of the offender's return to the community.

We need to reduce the prison population. Although 350 places does not sound an awful lot, it would free up space, staff resources and staff time to do good, constructive work with others who are in prison and need to be there. When we talk about people on home detention curfew, we are talking about people whose issues could probably be addressed in the community towards the end of their sentences. To me, that makes sense because, whether we like it or not, the majority of prisoners return to the community at some point, so we must find a way of testing out whether they are ready to return and whether they can sustain the benefits of any intervention that they had when they were in prison. The point is that it is not only a curfew; within the curfew package, it is crucial that offenders are engaged in constructive work to address the issues around their offending behaviour and tackle some of the problems in their

lives that need to be sorted out to give them a chance of not reoffending.

Jeremy Purvis: I would like to ask Mr Dickie about conditions on home detention curfew, but I also ask Mr McKenna or Mr Paterson to comment.

Neil Paterson: I will raise a couple of related but ancillary questions on home detention curfew.

Jeremy Purvis: It would be helpful if you had answers, too.

Neil Paterson: I might have.

The committee might be aware that the Criminal Justice (Scotland) Act 2003 introduced a statutory provision under which a victim of a crime for which the offender has been sentenced to imprisonment for more than four years will be notified of the prisoner's release and any associated conditions. The home detention curfew proposal highlights the fact that the four-year ceiling is quite high. Victim Support Scotland is concerned about the public perception of the proposal and how it might be received in communities. That is related to the fact that sentencing policy is complicated. It is fine for us, because we work with sentencing policy and engage with it daily, but the average person on the street does not understand it well, and home detention curfew is another measure that might add to that confusion and contribute to further problems with public confidence in sentencing.

The solution to that would be to extend the victim notification scheme in parallel with the introduction of home detention curfew so that, when prisoners are released on HDC, victims would be aware that that was happening and would have some written material that explained the rationale for the release and the conditions that were attached to it and which gave them a contact whom they could ask for advice if they had any related concerns. That is a plea to the committee to consider the proposal to extend the notification scheme in tandem with the introduction of home detention curfew.

David McKenna: I would go further than my colleague Neil Paterson does. The bill proposes that those who are released on home detention curfew will be subject to the standard conditions but, for most victims and communities, that is meaningless.

The real issue when we release people back into the community—under whatever scheme—is the need for the conditions to be set out clearly and for those conditions to address specifically the often legitimate fears and concerns of victims, their families and the community as well as the needs of offenders. The conditions should be communicated to victims, so that they are aware that someone has been released and know the general conditions under which the release has

taken place and that special conditions have been put in place, for example, to prevent the person from coming near their house, street, children or school.

I can never overemphasise this point: in a Scotland that, increasingly, lacks confidence in our criminal justice system, home detention curfew may be a positive way forward but it will not be perceived as such in our communities. It will be perceived as a soft option, and people will think that nothing is being done about the crime from which they are suffering. They will think that wee Jimmy—it is rarely wee Janey; all too often, it is wee Jimmy or wee Johnny—is back on the streets a few weeks after having been arrested for an offence. I am not saying that that is wrong; I am saying that our communities do not understand what is going on. They do not feel supported through the process or informed, and they do not feel protected or safe.

Unless we address those issues, we will not build public confidence or be effective in reducing offending, as our communities will not have the confidence to stand up to it.

Jeremy Purvis: I guess that I will have to be careful about the language that I use—including phrases such as get-out-of-jail-free cards, and so on.

Let us return to what Mr Dickie said about the link centre in a community setting that he has worked with the local authority to set up. Are you able to provide the committee with some written information about that? Has there been any analysis of the effect of that centre?

Donald Dickie: The centre is still in the process of being set up—it is a new proposal. We are working in partnership with the council, but I am sure that it would have no problem with our giving you details about the centre.

Jeremy Purvis: Do you have any comments on what Mrs Monaghan said about the need for a degree of supervision, structure or compulsion? There is a degree of compulsion in the link centre in Edinburgh prison, which I have visited, where prison staff provide some of the services in partnership with your organisations. Could conditions be set for home detention curfews that would provide a degree of compulsion for someone to attend some of the sessions, courses or services that are provided through a link centre in a community setting? Are you considering that as you are setting the centre up?

Donald Dickie: I would not say that. My understanding is that the home detention curfew does not come with additional conditions regarding supervision; the conditions of the curfew are predominantly restrictions on movement.

Jeremy Purvis: Perhaps you can get back to us after reading the Executive's policy memorandum to the bill, which states that conditions could be applied to home detention curfews. The governors told us in evidence last week that they would be looking for such a provision, and we will hear from the next panel of witnesses what has been the experience south of the border.

Donald Dickie: The link centre proposals are associated with people voluntarily seeking assistance. The principle behind the centre is that people will come and use the service because they want to—because there is something in it for them and for the community if they address their offending behaviour and related issues. I do not know whether making it compulsory for people to attend would make such work a lot more meaningful. In the literature on electronic monitoring generally, it has been suggested that short periods on electronic monitoring can help to hold the interest of young people in particular and give the helping agencies time to engage them. However, of itself, electronic monitoring does not address reoffending: something has to come with it if it is to make a difference in the long term.

The Convener: Is there any specific point that Jeremy Purvis wants to clarify?

Jeremy Purvis: No. If the witness could get back to us after having had another look at the bill and the proposals with regard to the associated conditions, that would be helpful to the committee.

Colin Fox: What supervision and support conditions would the witnesses like to see alongside home detention curfews? I understand the answers about young people in particular, but what parallel supervision and support conditions would the witnesses apply to the use of curfews?

The Convener: We will start with Victim Support and work round.

David McKenna: In a sense, I answered the question earlier. The standard condition with home detention curfew is that the offender will not commit any further offences while they are on home curfew. However, such a condition should be made known to the community and victims. They should also be tailor-made to the experience of the community, the victim and the offender, to whom it should be spelled out, "You must not approach this person or go to this building." For example, if an offence was committed at a particular shop, the offender should not go back to that shop. That should be spelled out, and the community and the victim in particular should be made aware of that condition. Not only must there be special conditions, but people must know what they can do if they believe that the special conditions have been broken. It is all very well

putting special conditions in place, but if there is no effective policing of them they are meaningless.

Colin Fox: What about supervision and support?

Bernadette Monaghan: It comes down to what the individual needs. Presumably, there would be an assessment of the factors that contributed to their being in prison in the first place, and an assessment of what they need to ensure that they have the best chance of settling in the community and not reoffending. We all know that general factors such as employability, accommodation, access to health services—for addictions in particular—and the support of family give people a better chance of staying in the community.

It is important to remember that arrangements are already in place in different prisons such that people prepare for home leave and release by working outwith the prison. For example, Polmont has a unit outside the perimeter fence, which is a way of testing out young men who go to college or work and come back at night. We do not often teach people in prison independent living skills, but we expect them to go out the door and be able to survive on their own. Often, they do not have family support and networks within the community.

The governor of Polmont said that something like 60 per cent of his population could not read or write, or had below functional literacy and numeracy. If they get a job or have some sort of structure in their lives, that will keep them away from their peers or other people who might be involved in drug taking and who might encourage them to reoffend. We have to examine people's basic skills and what they need.

For me, the issue is the quality of the relationship between the worker and the individual and whether the worker is able to engage that person and offer something constructive. The curfew is still a punishment, but there are opportunities for the person to address the issues and to examine what they need if they are to settle in the community. I am not suggesting that curfews are a panacea for everything—they have to be targeted appropriately. As I understand it, they are for people who are approaching the end of their sentence. They provide a way of doing the work in a community context rather than in prison, and will allow us to determine whether the person is ready to come back to the community.

Those are the basic factors. Anybody who goes back to the community from prison needs food and shelter. There is no point examining their education needs or employability issues unless they have appropriate accommodation and someone to support them. That is the key.

Angela Morgan: If you are looking to motivate people to move away from reoffending, you have

to help them to find an identity that is other than that of being an offender. Many solutions need to be considered outwith the criminal justice system. We want to see support and supervision around what I roughly term family rebuilding. A number of models relate to that, such as family group conferences and various types of relationship building, which are difficult to sell. David McKenna is right that they are seen as soft options, but getting people to face up to what they have done and the impact that they have had on their victims and their families can be used to motivate them to move away from offending. Susan Matheson and Donald Dickie will know far more about that than I do, but restorative justice can help people to recognise what they have done.

We have tried to have this debate with the SPS. It is tricky stuff to grasp, because it is about individuals' relationships and their perception of themselves, which is much more difficult to measure than, for example, points on a housing list, qualifications or the number of hours of learning. However, it is important to remember that home detention curfew can be equally as powerful and can have as much of an impact on whether somebody is able to move on. That is no comfort to those who are trying to develop policy and present it to the public with a hard edge as something that will reduce reoffending, but the challenge needs to be met under the bill.

15:15

Susan Matheson: It is important that we still have pre-release work. I am not sure that we can say, "Right, we'll do the pre-release work in the community." We have to smooth the transition. As has already been said, curfews on their own will not address all the fundamental reasons why people offend in the first place—poverty and problems with accommodation and family relationships have all been listed. If we have home detention curfews, it will be important to support people who are coming out of prison and their families. They should be supported—and perhaps mentored—to keep appointments with agencies so that their needs are met.

Donald Dickie: It has already been pointed out that the vast majority of those who will be placed under curfew are likely to be short-term prisoners with sentences of less than four years, who would not normally be subject to statutory supervision. The Executive envisages that some of those people would want and receive the voluntary assistance services of, for example, a community link centre.

The service should be tailored. The idea is that the SPS has a pre-release meeting at which, as part of the current tripartite policy, a community reintegration plan is drawn up, from which the

work that is to be done in the community flows. There is a sort of throughcare contract between the worker in the community and the discharged prisoner under which what is to be done is agreed. The compulsory supervision that a home detention curfew brings might achieve marginal results in the relatively short time that the person is subject to the curfew. It is all to do with engaging the ex-prisoner in doing something to change their life, but a formal state intervention is not necessarily the best way to achieve that.

The Convener: On behalf of the committee I thank you all for being with us this afternoon. We have found it immensely helpful. Thank you for your time.

I declare a brief break of five minutes.

15:18

Meeting suspended.

15:24

On resuming—

The Convener: I welcome everyone back, particularly Dr Mike Nellis from the University of Birmingham, Roger Houchin from Glasgow Caledonian University and Mr Roger McGarva, who has come some distance to join us.

The committee is very grateful to you for being with us, because it was extremely anxious to get some feel for what has been happening with the current regime south of the border to assist us in our scrutiny of the Management of Offenders (Scotland) Bill, which is before the Scottish Parliament. I express our particular appreciation to you for being with us this afternoon. We have a long evidence session this afternoon, so our format has been to dispense with introductory statements and to proceed straight to questioning. If you have any burning comments that you wish to make, you should feel free to do so, but you should keep your comments brief.

Jackie Baillie: I ask each of the panel in turn what they consider to be the barriers to the effective management of offenders, and whether they consider that community justice authorities—or, indeed, the other provisions in the bill—go some way towards addressing those barriers.

Roger McGarva (National Probation Service): I shall set this in the context of the experience in England. I read the evidence of the committee's previous two sessions, in which there were enormous echoes of the problems that we are facing. Our experience may be a little ahead of yours, but we are facing the same kind of dilemmas. We have no magic solutions—we are

working on those problems just as hard as you are.

The biggest barrier to overall strategic management is getting the right people to the table to make the right decisions. I was a probation officer in England from 1973 to 1997, and my experience was that we could never get the right people to the table to make the right strategic choices to help offenders and protect communities. One of the things that has happened with the establishment of the new National Offender Management Service is the integration of the prison and probation services at very senior levels. The director general of HM Prison Service and the director of the National Probation Service are now both accountable to the permanent secretary, who is responsible for correctional services. That gives us a real opportunity to work bilaterally on issues facing offenders throughout their sentence.

That has been underpinned by the development of the national reducing reoffending action plan, which has seven pathways in it that, in many ways, reflect discussions that the committee has had. The plan emphasises the importance of accommodation, employment, training and education and health issues. We are also putting into those pathways work on finance and debt, as we recognise that many offenders in prison have financial problems that contribute to their offending decisions when they are released. There are also issues to do with families and children. Linked to that is the work that we are doing on attitudes and behaviour, to try to get offenders to reflect on why they are committing offences and to make better choices.

One of the things that has been most valuable in our work has been our efforts to get the Department of Health and the Department for Education and Skills to talk to the Home Office. We have had a lot of success with that. In the past two years, we have gone from having fewer than 4,000 offenders starting basic skills programmes in the community to 32,000. The number of awards for basic skills has increased from less than 1,000 to more than 8,000. That is evidence of our ability to make progress when we get the right people round the table. We had to engage with the Learning and Skills Council to secure the resources to enable that work to be done with offenders. The proposal for community justice authorities is a major step in the right direction because they will bring the right people together. There may be a question of scale, however. When the Probation Service in England moved to being a national service, with 42 areas and a central leadership directorate, our performance improved dramatically. We are now achieving all our targets—apart from one—and it is fair to say that we are getting much better value for money. We

have still got a long way to go, and our targets for next year are more demanding than those for last year, but that is what ministers expect.

Jackie Baillie: You seem to suggest that one centrally controlled body is better than the plethora of agencies that we want to co-ordinate locally. Am I picking you up wrongly?

15:30

Roger McGarva: The experience in England is different from that in Scotland. The National Probation Service is and has been a separate organisation from local government. We receive all our money from central Government—it is distributed from the Home Office—so we have a much more centralist approach, although we have 42 probation boards that try to inject a local flavour into how we work in each area. I think that our society is more centralist than yours.

Jackie Baillie: Thank you for that observation.

Roger Houchin (Glasgow Caledonian University): I take a rather different approach. The main barrier to working effectively with people who have committed offences is that we have conflated the ideas of punishment and rehabilitation. A matter for social policy—finding ways in which young men in our deprived communities can play a legitimate part in our society—has become a problem that we are trying to solve with criminal justice solutions. If that is how we set out to proceed, we are doomed to failure.

The research report that I circulated has two parts. First, I took a snapshot of the whole prisoner population and considered where people came from. Scotland has 1,222 local government wards. A quarter of our prisoner population comes from just 53 of those wards, and half our prisoner population comes from just 155 of them. On the night when I took the snapshot, no one from 269 wards was in prison. That finding is extraordinary. Some wards with populations of about 5,000 had more than 50 people in prison on that night.

The age of the prisoner population is heavily skewed to the early 20s. If we take five-year age cohorts from 20 to 60, the number of people who are in prison as we move to the next cohort drops by about 30 per cent until the age of 40, when the drop becomes about 50 per cent with each step along the line. The prisoner population is heavily skewed to a small number of areas in the country and to men. The imprisonment rate for men is 24 times that for women. That is not to suggest that enormous problems do not exist with the imprisonment of women; I am just looking at the problem statistically. The prisoner population is also heavily skewed to young people.

If those findings about the prisoner population are mapped on to findings about social deprivation as measured by the Scottish index of multiple deprivation, the correlation between the extent of a community's deprivation and that community's imprisonment rate is almost precise. I will give the committee a startling figure. For the 27 wards in Scotland whose index of multiple deprivation score is higher than 70, the imprisonment rate for 23-year-old men is 3,427 per 100,000. That compares with an imprisonment rate of 532 per 100,000 in Russia. In our most deprived communities, one in nine young men will spend some time in prison in their 23rd year.

We will not solve that problem by structurally altering how we deliver justice. The problem can be solved only by social policy and by addressing the problems in those communities of the absence of legitimate family and economic roles for the young men.

That is an opening statement. I probably do not need to answer your second question.

Jackie Baillie: You need not. I will ask you a quick alternative second question and risk the convener's wrath. Is it reasonable to have a bill that seeks to manage offenders and the process better, to build the co-operation that we heard about from earlier witnesses?

Roger Houchin: Improved communication and co-ordination between agencies is greatly to be welcomed. I find the term "managing offenders" highly offensive. We are talking about people who are members of our community; they are not offenders. To label people as offenders is to deny what we wish to achieve. We want them not to be offenders. I have problems with the language.

Jackie Baillie: I am sure that the Executive will note your comments.

Dr Mike Nellis (University of Birmingham): I will answer both your questions simultaneously; my answer will fall under six headings. I share and understand Mr Houchin's reservations about the use of the term "offender management", but I have become so used to using it that I will use it now.

We need to use interventions of proven effectiveness. By drawing on literature from around the world, we have gone some way towards identifying what techniques there are for working with people who offend. I tend to think that the evidence is a little biased towards certain techniques and I would like to keep open all options for using restorative justice. In that regard, I commend to the committee the continuing research that is being done on restorative justice as a way of working with offenders in the community.

Those effective forms of intervention need to be linked with effective community penalties so that we can do more than just pay lip service to the idea that prison is a penalty of last resort. In England, much attention has been paid to the way in which community penalties are structured to give expression to effective forms of intervention. I am certainly not convinced that we have necessarily got it right, but there are some interesting ideas and experiments around on how a community penalty should look if it is to be effective and give the public confidence.

Strong links should be established between criminal justice agencies and education, health and employment services so that a much wider range of services than just criminal justice interventions can be brought to bear on the lives of individuals. It is patently obvious that people often offend in the first place as a consequence of education, health and employment deficits. It is sensible to have a focus on resettlement because it has long been understood that the period immediately after release from prison is a high-risk time for reoffending. Anything that can be done to cement closer links between prisons and support agencies in the community would be beneficial. I firmly believe that the home detention curfew scheme in England has made a strong contribution to that process.

I am an agnostic on the question whether centralisation is a sensible, viable or effective strategy in England. I am much more in favour of decentralised approaches—that is why I fully understand what is being attempted with the community justice authorities here in Scotland. On paper, that seems a sensible strategy.

The quality of training and the morale of the staff who work with what is a difficult client group should always be given attention when one is considering changing the structures and frameworks within which people work. An excessive pace of change can be detrimental to morale and effective working. In England, I am not sure that sufficient attention has been paid to the needs of the staff group that has been affected by the legislative and policy changes of recent years. I hope that the same mistakes will not be made here.

It is also important to make a clear and determined effort to win the public confidence argument in respect of community penalties. The idea that community penalties must always be seen as a soft-on-crime strategy does not seem to be true. The corollary of seeing them in a different way is that we must recognise that there is a battle to be won in the media and in public debate about the nature of those penalties, what they can and cannot do, what has been achieved and what might be achieved in the future.

Jackie Baillie: Thank you very much. I have a final question for Mr Houchin. How many community justice authorities should there be and how can they interact most effectively with the SPS? In your submission, you referred to statements that the governors made when they gave evidence to the committee.

Roger Houchin: Had I been one of those governors, I would have made similar statements. However, on reflecting on what I heard, I thought that if we are interested in addressing reoffending, the issue is not how many community justice authorities we have but how we organise our prison service so that it least badly impedes what we might wish to achieve in our communities. The problems that were presented to the committee by Sue Brookes and Bill Millar, both of whom are trying to run institutions to serve the whole of Scotland, are a consequence of the way in which the prison system is organised, not the way in which people live in Scotland.

The solution to the problem has to be found in the way in which the prison system interacts with communities where these problems occur, not in how we produce structures in our communities to fit best with the prison system. There is no good way of providing services for women from Aberdeen and Greenock who find themselves in Cornton Vale. We must find how the prison system can manage women who have to be punished in a way that is least destructive to their social welfare.

You will forgive me for not answering your question. Having looked again at the relevant research, I understand why the governors argue that fewer authorities should be involved. For example, Bill Millar and Sue Brookes would have to have effective relationships with 16 different authorities in order to offer a decent service to 85 per cent of the populations of their respective institutions. That is not possible.

That situation is a consequence of the way in which the prison system is organised rather than the way in which our communities are organised. We cannot change the fact that there will always be women from Aberdeen and Greenock in prison. However, deciding whether four, eight or 12 community justice authorities is the correct number will not address the core problem, which is how we manage our prison system.

There is a major problem in the west of Scotland, which has a high proportion of the prison population but little prison accommodation relative to places such as the Forth valley or Tayside, where there is a lot of prisoner accommodation but a small prison population. There are issues to do with a strategy for the prisons estate and for the way in which the prison system is organised. The issues are not fundamentally to do with how we organise local authorities.

Mr Maxwell: Following on from what you said, much of the evidence that the committee received on this and other bills and in our inquiries concerns the problem of the transition from prison to the community. We heard evidence from a range of professionals, individuals and interested parties. What can the Scottish Prison Service do to improve that transition to communities? That seems crucial to what we are trying to do.

Roger Houchin: The Scottish Prison Service has achieved a phenomenal amount in recent years in addressing that problem and putting in place services that are designed to address it. However, it is not in the SPS's grasp to make further progress until we conceive of what we are trying to do as a social policy issue. We must recognise that we will still want to punish offenders, as it is perfectly legitimate for us to do. However, we must separate the issues. First, we must consider what we need to do in social policy terms for the highly concentrated group that we feel a need to punish in order to address their problems in the community. Secondly, we must consider how the prison system should relate to those pockets where there is a deeply felt need to punish people in a way that least gets in the way of the work that needs to be done in the community. The prison system will deliver the punishment that will be required because people will continue to break into cars and do all the things that we do not want them to do. Punishment is a response to that.

The problem of reoffending will be solved not by improving the link from prison into the community, but by improving the capability of the prison system to relate to the quite small number of communities—I referred to the 53 wards where a quarter of the prison population comes from and the 155 wards where half the prison population comes from—that are dysfunctional for the young men who live in them. The prison system must be able to relate to those young men—and, in some of them, young women—in a way that is supportive of what we must do in the communities.

15:45

Mr Maxwell: I accept what you are saying and agree that a long-term approach is required. Nevertheless, although you say that the SPS has done much to improve the transition, do you not feel that much could still be done in the shorter term?

Roger Houchin: I would advocate policies that ensure that people serve the last year or 18 months of their sentence in the locality to which they will return. We have open prisons that are located around Dundee but largely populated by people from Glasgow, yet the open prison system

is intended to prepare those people for release. Clearly, that is a little irrational.

I have already talked about women, children and young people in prison, for whom the problem of severance from their communities is the greatest. Those should surely be the parts of the prisoner population that we should be most sensitive about. Huge investment is currently going into the prison estate. We must be careful that the investment goes into the prison estate in places where prisoners come from and in a way that supports their return to the communities from which they come. I am not convinced that that happens at present.

The Convener: Mr McGarva could give us a view on the situation in England and Wales.

Mr Maxwell: I was just going to ask a question about that. Would Mr McGarva and, perhaps, Dr Nellis say what has been happening in England and Wales on the issue? Have there been major steps forward in dealing with the transition from prison to the community?

Roger McGarva: I hope that we are making some progress. We face the same problem with the number of prisons and the distribution of prisoners as Scotland does. We have about 140 or 150 prisons, from which prisoners can go out to almost anywhere in England and Wales, so the distance from home is a major issue. One of the policies of HM Prison Service is to try to concentrate prisoners who will be released into a particular region in that region. However, the service has difficulties in achieving the right balance of facilities within its estate.

I regard this as a broader criminal justice system issue and not only an issue for HM Prison Service. Behind the development of the concept of offender management—whatever people may think of the word “management”—is the notion that the probation officer will be the person who acts as the facilitator to enable services to be made available to the offender, whether in prison or in the community. As we develop offender management, the offender manager in the community will be the person responsible for making the assessment of the needs of the offender and ensuring that those are supplied, whether in prison or in the community.

We are trying to move away from the notion of specially bought services for offenders to the notion that offenders—whoever they are—have the right to access public services because they are a citizen of the country. A prisoner does not necessarily get special rights to a drugs service, but they have a right to a drugs service because they can access the national health service. The probation officer is the pivot who helps to formulate the sentence plan and enables it to be

implemented. That is very much tied up with our development of custody plus because, under the Criminal Justice Act 2003, all offenders and not only those who are serving more than 12 months, as is the case now, will be supervised when they are released into the community. Whatever people may feel about compulsory supervision, when we get to the stage at which everyone is released under supervision, that will mean that work can be done with them. Offenders who are not seen do not have any work done with them—certainly not by the state.

We hope that the increase in our workload of about 80,000 offenders a year under custody plus will be accompanied by sharp reductions in reoffending, provided, of course, that we ensure that the offenders access the right services and that society continues to be tolerant of the way in which we deal with offenders. We have to be mindful of our relationship with the courts, whose sentences reflect public opinion, and continue to work to maintain public confidence.

Dr Nellis: The big picture has been well mapped out by my colleagues. I am struck by the importance of voluntary organisations having access to prisons. A lot of attention has been paid to the relationship between the emerging National Offender Management Service in England and voluntary organisations, which Roger McGarva could probably say more about. Access to services that are provided by voluntary organisations is quite crucial to the resettlement of certain individuals.

From my experience of working in the Probation Service, I know that generalising about these issues is often difficult. I can recall many situations in which local prisons have made sterling efforts to assist in the resettlement of prisoners who were returning to their local areas. It would not be true to say simply that the system as a whole either fails or succeeds in that regard. There are many examples of good practice, but we have never been in a situation in which we have been able to generalise them. One prison near where I work in the west midlands seems to be well networked into local voluntary organisations. Through the Society of Friends—or the Quakers—which is one of the avenues through which I involve myself in penal reform, I understand that that has been an effectively constructed network for aiding resettlement processes.

Allied to the issue of voluntary organisations, an important strand to consider is the way in which faith community representation in prison can foster links inside prison that can be continued outside prison.

Colin Fox: Earlier, Mr McGarva, you said that the system for information sharing in England and Wales had largely brought the right people

together. What lines of communication and information sharing exist between the police, Probation Service and other criminal justice agencies in England and Wales? How effective are they?

Roger McGarva: I can talk about our successes, but I must also talk about some of our remaining challenges.

The biggest success that we have had relates to the management of dangerous offenders, with the establishment of the multi-agency public protection panels. Every probation and police area in England and Wales has a panel on which the health service, the police, the Probation Service and education are represented. Before dangerous offenders are released into the community, a risk management plan is established for those offenders. We have a series of case conferences in which we bring together the right people to consider the way in which we manage those offenders. The release of dangerous offenders into the community is always going to be controversial, but there are some offenders who have to be released simply because they are coming up to the end of their tariff. The careful management of those people in the community is important.

Colin Fox: I am sorry to interrupt, but what do you mean by "dangerous offenders"?

Roger McGarva: In any probation workload, there will be about 2 per cent of offenders whose potential for committing offences—such as sex offences or violent offences against their partners—represents a real danger. We have developed systems to enable us to exchange information about such dangerous offenders and I think that a similar system exists in Scotland. When I was last an active probation manager, in 1997, those kinds of relationships were in their infancy. However, they have developed considerably since then and the Probation Service and the police now have a much closer working relationship. That might cause disquiet among some of my former colleagues, but it would be nonsensical for the Probation Service to have information on people who are dangerous and who are behaving in ways that are causing concern and not to share that information with the police.

The development of the drug intervention programme has brought together the police, the health service, the Probation Service and the voluntary agencies that work with drug offenders to develop strategies in areas and regions to deliver better services to drug offenders. I note from previous evidence to the committee that an overwhelming number of offenders in Scottish prisons have drug problems. The DIP initiative has been good at accessing treatment for offenders. I said that in England and Wales we are hitting all

our targets, but we are not hitting the target on the commencement of drug treatment and testing orders, because it appears that the success of the DIP initiative in diverting offenders into voluntary treatment when they are arrested is such that courts are making fewer DTTOs, because they are convinced that offenders have effective voluntary contact with treatment providers. We regard that as a good outcome—if a person is in treatment with a drugs agency, we regard that as a big plus.

I have given two examples of approaches that work well and there are other valuable examples, which relate to access to services such as learning skills and employment help. However, I will add a rider to what I said: our ability to exchange information on offenders between prisons and the community is often not as good as it should be. We developed a risk and needs assessment tool, called the offender assessment system—OASys—which we have used to carry out 500,000 risk assessments. OASys is a joint development of the prison and probation services and will be the standard risk and needs assessment tool that is used in the community and in prisons. The assessment process starts in the community and continues in prison. Through that more structured assessment process, we will be able to plan and provide better services, because the prison and probation services will be able to aggregate information from OASys and identify the services that we are failing to provide.

We are certainly not doing as well as we should be doing in ensuring that offenders are not continually reassessed for drug problems. Instead of assessing someone three times—in the community, when they go to prison and when they return to the community—we should try to provide a thread that runs throughout their sentence, so that we deliver services rather than continual assessment. Currently, that is an area of weakness.

Colin Fox: You said that your information-sharing system is not as good as it could be. Why is that? Is the OASys initiative a response to the problem?

Roger McGarva: First, our technology was not good enough. By the middle of the summer, it will be possible to send OASys assessments electronically between prisons and the community, which should mean that much more information flows between probation officers and HM Prison Service. Secondly, prisoners move too frequently and we do not always know where they are, which sounds pathetic. We need to develop our data systems so that we can track prisoners better as they serve their sentences. Thirdly, we need to share information better with the other agencies that work with prisoners. An assessment by the Learning and Skills Council, for example, should

be used in prison, so that the assessment process does not start again when a person goes to prison or returns to the community.

Dr Nellis: I will add one point about information sharing in answer to Colin Fox's question. In England and Wales, there are a number of prolific offender projects, which are joint probation and police operations, as are the multi-agency public protection arrangements, in which other agencies are now represented. Prolific offender projects grew haphazardly during the past five or six years and only very recently—earlier this year—was a single strategy set out for prolific offenders, who are by and large young men who commit drug-related burglaries. The reason why I think that those projects are germane to the question is that, in a research programme in which I am involved that is indirectly looking at how three of the projects work, it is clear that, despite the fact that all the projects appear to have a common brief, all the agencies work differently from one another. Although the lines of communication have been set up specifically to improve liaison and co-operation between the two agencies, communication remains very haphazard.

I am not sure that I understand all the difficulties of bringing the police and the Probation Service into a close working relationship in respect of their work with prolific offenders. Certainly, technology is one aspect of those difficulties and the geographical location of buildings is another. As researchers, we found that a genuine improvement had taken place in the way in which the police and the Probation Service co-operate in only one of the three areas—indeed, the improvement was in half of one of the three areas.

16:00

The rhetoric about increased communication between the agencies is way in advance of practice. Whatever is written at either central Government level or at the level of the 42 police and probation areas in England and Wales, the lesson to be drawn for agencies working together to manage individual offenders more effectively is that communication between the agencies has to work at the local level. I am talking about the communication that should take place very locally and not about the communication that we understand will take place in the community justice authorities in Scotland or in the police and probation areas. If communication and liaison between the agencies that have not traditionally been so close to one another is to be improved, a lot of leeway and discretion will be required at the local level.

The Convener: We move on to the issue of home detention curfew. I have an apology for you, Dr Nellis. At the beginning of the session, I said

that Mr McGarva was the only witness to have travelled from afar, but you, too, have done so. I thought that you were at the University of Strathclyde already, but I now see that that privilege awaits you.

Dr Nellis: Indeed.

The Convener: We appreciate your attendance at the committee today.

I was interested to read your paper on the home detention curfew scheme—indeed, all members of the committee found it extremely helpful. You referred to the Dodgson research of 2001 and said that no further in-depth research has taken place since then. Is there a need for further research to be conducted south of the border into how the home detention curfew system is working?

Dr Nellis: Academics nearly always say yes to that sort of question.

The Convener: If we assume that you would not be commissioned to do the research, is there a need for it?

Dr Nellis: In policy terms, I would probably say no, for the simple reason that a lot of policy proceeds on the basis of very limited research. Home detention curfew has been researched at least as well as a number of other measures that have been developed in England and Wales over the past five or six years.

Given that home detention curfew is best understood in England as an emergency measure and that it was not piloted, it was helpful that the Home Office produced a reasonably substantial piece of research work on the first 16 months of its operation. The Home Office need not have produced such elaborate research after only 16 months. The research gave people a sense of vindication and, more important, the confidence to build on and expand the scheme. Academics make a habit of going round saying that Home Office-based research is not as adequate as it could have been. However, a lot of policy proceeds on the basis of that sort of research. As I said, the research vindicated the initiative and gave people sufficient confidence to take HDC further.

Public confidence in home detention curfew, which previous panel members were discussing when I came into the committee room, is a real issue. That said, the arguments on such a major issue can be won. Undoubtedly, Governments are helped to win the public confidence argument if they initiate a continuing process of up-to-date research. To do so does not guarantee that a Government will win the argument, but research helps Governments to make the right kind of responses when highly negative criticisms are made of an early release strategy such as home

detention curfew. I certainly would not say that you could not be confident in home detention curfew unless more research was done. I would make a case for research in other terms, but I would not want to give the impression that home detention curfew is a non-runner until more research is done.

The Convener: I am trying to get a grasp of your views and I was struck by the second-last sentence in your paper, Dr Nellis. Of home detention curfew, you say:

"Perhaps the best that can be said for it is that at the time it was a rational response to the irrational situation of an inexorably rising prison population."

Dr Nellis: In the English context, I think that that was an apt way of putting it. However, making the release process more structured would be sensible. Electronic monitoring would have a part to play in that, although I would not overrate it or suggest that it could be useful without the other support services that we have spoken about.

In an ideal world, we would have introduced a more disciplined release process in circumstances that were less fraught. However, the fact that we introduced it in circumstances that were fraught has unhelpfully coloured the views of the early years of home detention curfew. It seems to me that in Scotland you could introduce the process less urgently and under slightly less pressure. You may therefore get more things right earlier than we did.

Jeremy Purvis: Does Mr McGarva know how many sentences under custody plus have been made under the 2003 act, as a percentage of other disposals? I am sorry to ask you such a—

Roger McGarva: That is all right; I know the exact answer. The exact answer is zero, because custody plus has not been implemented yet.

Jeremy Purvis: When will it be implemented?

Roger McGarva: We implemented the community order part of the 2003 act on 4 April. Custody plus will probably be implemented from the middle of 2006 onwards. Ministers have made a half-public announcement on it, but we are planning for implementation in autumn 2006.

The Convener: The challenge of the present is enough, Mr Purvis; let us confine us ourselves to that.

Jeremy Purvis: I read Dr Nellis's report with interest. On page 9, you say:

"The suspicion lingers in the minds of many informed observers that the predominantly low risk prisoners who have been eligible for HDC over the 1998-2005 period are in essence the same type of low risk offenders who, fifteen years ago, would not have been sent to prison in the first place."

Dr Nellis: I am only taking my cue from the two HM Prison Service officials whom I quote in the submission. I think that the statement is probably true. In England, over the past decade, we have sent many more lower-risk offenders to prison than we used to. It stands to reason that they are the ones who are assessed as low risk when they come out through an early-release mechanism. There is an illogicality there.

Whatever I may think the limitations of the National Offender Management Service structure are, there has been a determined effort in England to create ways of dealing with offenders in the community. We want to guarantee that low-risk people cease to go into prison or cease to go in for as long as they have been going in. We will have measures such as custody plus to take care of that.

The quote that you read from my submission is a strong criticism of the principle behind an early-release mechanism of the home detention kind. However, because of the situation that the Government faced in 1998, the mechanism seemed to me sensible. In an ideal world, not so many low-risk people would have been going to prison in the first place. However, many such people were going to prison, so we had to do something. Under the circumstances, I do not think that it was a mistake to create a safety valve and a disciplined process of release from prison.

Jeremy Purvis: Please correct me if I am wrong, but I understand that in England there has been a considerable cost benefit but only a marginal difference in reoffending rates. I was interested in your suggestion that, if Scotland were to adopt the same model, we could do things slightly differently. Would one difference be the conditions that apply? From your understanding of our proposals, would we be using a home detention apparatus to introduce, in effect, a supervision element such as that of custody plus?

Dr Nellis: We may look back at the home detention curfew scheme in England as a precursor to the kind of seamless sentences that are now taking more solid shape in England and Wales. Careful thought needs to be given to the issue of additional conditions. The home detention curfew scheme will work only if prisoners volunteer for it. If too many conditions are attached to it, fewer prisoners will volunteer. I do not believe that many rehabilitative hopes can be pinned on any form of electronic monitoring if it is not accompanied by additional professional and social support. However, electronic monitoring is a useful constraint that can be added to the mix.

Great care must be taken in deciding what other conditions are loaded on to programmes such as the home detention curfew, lest we make them so onerous that people on them are bound to fail. The

research in which I am involved at the moment, which is embedded in prolific offender projects, concerns satellite tracking in England and Wales. The people who are subject to satellite tracking are subject to a large number of other conditions. Most of the other conditions that have been loaded on to people's licences are being breached, whereas the satellite tracking condition is not. I am becoming very sceptical about satellite tracking programmes. What is the point of investing in the electronic aspect of such programmes if we make it so hard for people to complete their period of structured release in the community? The programmes are beginning to look a bit self-defeating.

Admittedly, I am talking about three pilot programmes that use a different, unrelated form of electronic monitoring. However, at the moment the issue of licence conditions and how much one can reasonably load on to them, with the expectation that people will comply, is live in my experience.

Jeremy Purvis: Do the other witnesses want to comment on the conditions attached to home detention curfews? I have no further questions.

The Convener: What is your specific question?

Jeremy Purvis: I would like Roger Houchin and Roger McGarva to respond to Dr Nellis's comments regarding the conditions attached to home detention curfews.

Roger McGarva: The overall level of compliance with licences is good. Our compliance rate is about 90 per cent. Nine out of 10 offenders who are released on licence complete their licence without recall, so the programme is successful, by and large.

Our experience is that a high proportion of people who are electronically monitored on HDCs are not under supervision by the Probation Service. Custody plus will start to tie the two together. The Criminal Justice Act 2003 has three strands. The first is about restriction—tagging, curfews and so on. The second is about punishment and offers much more clarity about unpaid work. The third is about rehabilitation—what we do to help offenders to tackle their problems and to provide them with access to services. If those three elements are in place for offenders who come out on licence, we may be able to offer them more in the future than we offer now.

16:15

Roger Houchin: I have some problems with an early-release system that involves discretionary decisions, when I do not know the standards that will form the basis for those judgments. I do not know whether the committee has referred to the

Council of Europe recommendation on conditional release, which is helpful. In the council's terms, we have a mandatory but non-conditional release system for short-sentence prisoners—all short-sentence prisoners are released after serving half their time, under no conditions.

Neither our present system nor what we are proposing complies with Council of Europe guidance, which states that all prisoners should have available either a mandatory system with conditions attached or a discretionary system, such as a parole system. I would be much more comfortable with a mandatory system that had tagging or other appropriate conditions attached to it.

We in Scotland should take pride in the fact that, under the Convention Rights (Compliance) (Scotland) Act 2001, the Executive has been taken out of the parole scheme. Moreover, prison governors have forgone the right to extend the time that prisoners spend in prison through disciplinary awards. Those measures, which represent real human rights advances in the management of prisoners, have not been taken up in England and Wales.

By giving governors the power to release people 135 days early, we are by implication giving them the power to deny that to people whom they decide not to release early. Although I do not have experience of the system down south, I expect that such a measure will result in grievances that, if they are taken to Europe, will be seen to be justified unless the system of consideration can be shown to be fair, just and independent. Such a system will be laborious.

I would far prefer to have a mandatory system for short-sentence prisoners that lets them out with conditions attached and that does not place the onus on an administrator to take a decision. After all, such decisions might be made with the aid of one of the risk assessment tools that have attained something of a magical status in our culture—which is something that we should be careful about—or by going through a proper judicial process of considering all the evidence and giving people the chance to advance their own point of view.

The other problem is that such a measure will further concentrate the most deprived people in prisons, because, as Mike Nellis said, the people who pose the least risk will benefit from it. As a result, the prison population will become even more characterised by high levels of reoffending and deprivation.

The Convener: Just to paraphrase, I think that all three of you are saying that a home detention curfew that has nothing else attached or added on will not stop reoffending. Is that correct?

Dr Nellis: That is my view, but, as Roger Houchin has said, the majority of people who are released as a result of home detention curfews pose a lower risk and do not receive other forms of probation supervision. As your colleague Jeremy Purvis said, such an approach might not be sensible. After all, why are those lower-risk people in prison in the first place?

In general, a lot of people out there are trying to work out what combination of electronic monitoring and social support measures will help to reduce offending with particular individuals in particular circumstances. The home detention curfew could probably be used with higher-risk offenders than has been the case, but the experience in England is that it has largely been used with lower-risk offenders.

The Convener: In a sense, you are all echoing earlier evidence that an awful lot of supportive mechanisms have to be attached to the curfews.

Dr Nellis: Yes.

Roger McGarva: Our experience in England is that we need to move much further to tie in help with accommodation, drugs, alcohol, mental and physical health and all the agendas that you have heard about in your previous evidence-taking sessions.

The Convener: I have a final question for Mr McGarva. I am not clear whether enforcement was easily achieved south of the border when curfew conditions were breached or whether that was another challenge that had to be faced.

Roger McGarva: With regard to people on HDCs, there have been some difficulties in enforcing tagging conditions. Indeed, the press has reported some problems in that respect.

I should point out that, in March, 1,600 people were released on HDCs, which is an increase on the previous month. At the moment, 4,000 people are under HDCs in the community. Roughly 13 per cent of those people have been recalled and, of that group, only about 15 per cent have been charged with a new offence; the others have been recalled for breaching their tagging conditions.

In cases in which the two forms of supervision ran parallel, the relationship between the tagging company and the Probation Service could have been improved. There are not many of those cases, but whenever two agencies operate together there are problems with communication—one of your colleagues asked me about that earlier. However, we are growing through some of those problems and I hope that as community orders in England bed in—an increasing number of offenders will be under not only probation supervision, but electronic monitoring, as ordered

by the courts—we will have more experience of liaising with tagging companies.

The Convener: On behalf of the committee, I thank you all for being with us this afternoon. As I said earlier, it is immensely helpful for members to be able to ask persons of your experience the questions that we need to ask. We are grateful to you for attending our meeting this afternoon.

I welcome our fourth panel to the meeting and thank them for their patience. With us are Douglas Keil, who is general secretary of the Scottish Police Federation, and Deputy Chief Constable Bob Ovens from the Association of Chief Police Officers in Scotland. We are grateful to you for being with us. I am sorry that you have had to wait for some time this afternoon, but I hope that you found some of the evidence interesting. The picture that has unfolded has been instructive to the committee.

Jackie Baillie: I will ask the standard question that I have asked everybody, so you should be prepared for it. What are the barriers to the effective management of offenders and do you think that the establishment of community justice authorities will help to address any of them?

Deputy Chief Constable Bob Ovens (Association of Chief Police Officers in Scotland): I apologise; I did not manage to be here for the whole meeting, so I have not heard your question before.

Jackie Baillie: I am starting with you, then.

Deputy Chief Constable Ovens: I am just putting a rider on my answer.

In broad terms, we think that the establishment of community justice authorities is a positive step. I listened to the comments from colleagues from south of the border on where they are—their structures are not dissimilar. There is merit in the proposed arrangements. The current arrangements are informal and I always have worries about informal arrangements: some are good, but some are less effective. The bill's proposals to put the arrangements on a proper footing, with a structure, guidance on how they should operate and accountability and evaluation built in, are to be broadly welcomed.

Douglas Keil (Scottish Police Federation): The Scottish Police Federation takes a similar view. We are not entirely au fait with how the proposed new arrangements would fit in with the existing arrangements, but we see clear benefits in co-ordinating and integrating. We share concerns about the need for clarity and properly defined roles, but we support the proposals in general.

Bill Butler: Do you have any concerns about the likely size and role of CJAs? The ACPOS submission states:

“care must be taken to ensure that the remit of the Community Justice Authorities does not conflict with that of National and Local Criminal Justice Boards.”

It also mentions the danger of

“mixed messages and duplication of effort”

and ACPOS’s apprehension about centralised control in the criminal justice system.

Deputy Chief Constable Ovens: That is the thrust of what we say. On the emergence of the criminal justice boards, we should be sure about where responsibilities sit in relation to the issues that are being dealt with. We recognise that power can become centralised through the arrangements that are put in place and we must ensure that power is placed locally if the drive is to have local accountability. A balance must be struck between what is prescribed from the centre and what is delivered at the local level.

I have not greatly considered the question of the size of CJAs. However, it is important that the authorities reflect recognised geographical areas with which communities can identify. That is difficult to achieve in Scotland, where boundaries are traditionally not coterminous. I am fortunate in coming from Dumfries and Galloway, which is one of the few regions that have coterminous boundaries. Most regions of Scotland do not have coterminous boundaries and striking the right balance will be challenging.

Bill Butler: Do you want to say anything about that, Mr Keil?

Douglas Keil: No. I have nothing to add to what has been said.

Mr Maxwell: Today and prior to today, we have heard evidence on information sharing—and sometimes the lack of information sharing—between the police and other bodies. I do not know whether you heard Mr McGarva of the National Probation Service say that he hoped that a probation officer would tell the police if he identified something. What information-sharing systems do the police have? With whom do you routinely share information?

Deputy Chief Constable Ovens: That is not an easy question to answer, as it depends on the particular situation. I will focus on sex offenders. When the Sex Offenders Act 1997 was implemented, local information-sharing protocols were developed between the police and local authorities to allow them to discharge the requirements of the registration scheme and the risk assessment process. Some of those protocols were reasonably good, but others were not as good. With the passage of time, it was recognised

that information needed to be shared with a much broader range of people, as opposed to only two or three key organisations. There is a clear need for good information sharing, which requires a firm basis.

I am sure that the information that members have received has alluded to the fact that for the past two years, following Lady Cosgrove’s recommendations, a group led by the Solicitor General for Scotland has considered information sharing. A high-level concordat has been produced, which is supported by information-sharing protocols that can be used by agencies below. That approach represents the way ahead—I say that not simply because I was on the group, but because the approach achieves consistency. All the issues to do with information sharing, data protection and the sensitive protection of people’s personal information, which has always been an issue, were explored.

Information sharing for practitioners at the local level can be good if relationships are positive, but relationships are often not positive because people change, new people come in and it takes time for them to build up relationships. That was a weakness in the information-sharing arrangements that existed. We cannot have a honeymoon period; there needs to be a firm basis for information sharing. What we are now establishing—which will be supported by the principles that are built into the bill, particularly in relation to the requirement under section 9 for information sharing—will create a much firmer platform and will achieve consistency. We recognise the need to take account of local variations and issues, but we must have a consistent approach to how we share information in the future.

16:30

Mr Maxwell: Do you have anything to add, Mr Keil?

Douglas Keil: You will wonder why you have called me as a witness. That was a perfect answer.

The Convener: Previous experience has indicated that you are a very uninhibited man, at times.

Mr Maxwell: You mentioned some of the work that is being done on national protocols and concordats. Are there any gaps that still need to be addressed beyond that work?

Deputy Chief Constable Ovens: Those high-level documents have established the basis on which information sharing can be taken forward. We must now roll that out to ensure that there is no gap between the policy and the practice.

People such as myself, who have been involved in policy for some time, know that a gap often arises, which we have to bridge by putting in place training, infrastructures and delivery mechanisms. The violent offender and sex offender register is one of the tools by which people can share information. It is important that people have the right awareness and training, so that people at the front end are not saying to themselves, "I'm not sure whether I can share this piece of information. I don't understand the legal basis for it." That is what we have to tackle. We have to move the policy on into practice.

Mr Maxwell: I wonder whether Mr Keil can tell us the federation's view on that. Individual officers have to act as data gatherers if they have any concerns. In the past week or so, the Fire Brigades Union has expressed concerns about whether the data that are gathered by firefighters are being shared with other agencies. Is there a similar problem in the police service?

Douglas Keil: Mr Ovens is best placed to tell you about the policy and the arrangements at the police force level. However, I represent the individual officers who are involved in many such partnerships and the question of information sharing comes up. As Mr Ovens said, there can be uncertainty in relation to the legislative position—in relation to sex offenders, for example, but on other matters as well. Everybody is aware of data protection and has been for some time. The Freedom of Information Act 2000 is a relatively new piece of legislation that is causing people to question whether they can share information with this body or that body.

It is extremely difficult to train across the police service in Scotland. There are 16,000 officers and, with the addition of support staff, the figure is heading towards 25,000 people. If we were to give even one day's training to every officer and member of support staff, the cost would be enormous—in the region of £3 million. Therefore, training has to be done on an as-and-when basis and as best we can.

That is more or less it from my side of the fence. The arrangements that are now in place and how the new proposals will impact on them are matters that are in Mr Ovens's field.

Colin Fox: Let us focus on the transition of offenders from prison into the community. Do you have a view on how the present system works and how it could be improved?

Deputy Chief Constable Ovens: We fully accept that each organisation and agency has a role to play in that, and the sharing of information, especially regarding someone's time in prison, is critical. When an alleged offence has taken place, that is reported through the Crown Office and the

information that is gathered by the police forms the basis of a prosecution. Someone may be sent to jail on the basis of that information. In the past, the police have stepped out of the loop at that point, and only when the individual has returned to the community have the police come back into the loop.

That process gives us an incomplete picture, although we are now bridging that gap. There is a flow of information between all the agencies, which allows us to unpick what has happened in prison, to understand the dynamic around an individual and—although we are not specialists on intervention programmes—to understand the output from those programmes. Such a flow of information helps us to understand the critical factors in an individual's life that will make them a higher risk at certain times. Issues such as alcohol intake and relationships—or the lack of them—are important in that respect. We then work in partnership, with criminal justice social work in particular, on the management of that individual.

It is important that the line between our role and that of criminal justice social work staff is not blurred. They are the professionals—along with other support organisations, such as the voluntary sector—who will support and hopefully deliver the services that will perpetuate an individual's intervention programme. Our role involves not only registration, but the broader management issues in which society expects us to be involved, particularly in the areas in which we are skilled. If we gather information that we can convert into intelligence, for example, we may start to identify an emerging picture. It is to be hoped that that picture does not suggest to us that someone is likely to offend, but if it does, we can read the signs and, by joining up with other agencies, we can understand any escalation in the level of risk.

Douglas Keil: I understood your question to be on the broader issue of release back into the community. We took a close look at the bill and the reported aims—reducing reoffending; easing people's transition back into the community; building or re-establishing relationships; and access into training and employment—and we cannot argue with any of them. Those aims are entirely laudable. The problem is that often the first time an operational police officer knows that someone is back in the community is when they commit another offence. As a society, surely we could be slightly better informed; that comes down to information sharing and simple communication with other agencies, which can only be a good thing.

The Convener: Are there specific issues for the police in relation to the enforcement and breach of home detention curfews? Who would you expect

to trigger the information that there has been a breach?

Douglas Keil: We took a close look at that because we are always interested in the impact on the police of new legislation, particularly in relation to resources. From my understanding of the bill, it is estimated that as many as 300 people a year would breach a home detention curfew—that means that 300 people will have to be looked for, apprehended, and put back in prison or back in court. That will have a cost implication. The financial memorandum said that the costs would be absorbable, but that is the case only if we accept that some other police function or duty will not be carried out.

In direct answer to your question, I imagine that whichever company was monitoring the home detention curfew on an electronic monitor would advise the police that there had been a breach, and that the police would have to take action on that.

Deputy Chief Constable Ovens: I do not have much to add to that. The devil will be in the detail and it will depend on the guidance. In my experience, not every breach is referred to the police. Usually there are rules about the nature of the breach and the number of breaches that can occur before the police are brought in. That is all I can say without having had sight of the guidance.

It would not necessarily be helpful if every breach were to be referred to the police. I am thinking not only of resource issues, but of the aim of integrating the individual back into society. In that regard, it is important to provide the proper support and to have in place arrangements in which the offender can have confidence.

The Convener: If you do not expect the police to be involved in every breach, who will be involved? The tagging company?

Deputy Chief Constable Ovens: The tagging company will have guidance relating to the nature of the breach. My understanding is that the breach would probably be dealt with by criminal justice social work or the Scottish Prison Service. Clearly, in serious cases—which is why I say that the devil is in the detail—if someone is absent and cannot be traced, there will be a need to inform the police. As we have heard, the way in which the home detention curfew is used will depend on whether the individual in question is a low-risk or a high-risk offender. A proper risk assessment will have to be done and questions will have to be asked about when the triggers for the involvement of other agencies will kick in.

The Convener: Would you expect one of the conditions before release on home detention curfew to relate to who is responsible for dealing with a breach?

Deputy Chief Constable Ovens: Yes. That would have to be included in the guidance.

Jeremy Purvis: From your written evidence, it is fair to say that you think that home detention curfews will have a positive impact overall on the criminal justice system. Interestingly, however, you go on to say:

“Risk assessment and a robust supervision process are essential”.

We have heard that point from previous witnesses. What role should the police have in relation to that supervision? Perhaps Mr Keil would also like to answer that question.

Deputy Chief Constable Ovens: First, you have to deal with the issue of risk assessment. I am sure that everyone who has given you a submission has said that that is a key element. Multi-agency risk assessments are the best, because they allow information to be shared in a way that ensures that the risk assessment is based on all the known information and they enable agencies to come to an agreement on how they view the risk.

I should mention the use of risk assessment tools. Risk assessment is easy to talk about, but complex to deliver. Certainly, the management of sex offenders brought us into areas of which the police had previously not had a lot of experience, in terms of evaluating and validating the information that goes towards the drawing up of the risk assessment tools.

I am not an academic, but I have learned over the past while that not a lot of research has been done in Scotland in this area. Other places, particularly in North America, have done such research and the best thing that we can do at this point is to transfer that research into the Scottish environment. One of your colleagues asked about research and I have come to the view that as much research as possible should be done in a Scottish context. That would ensure that the interventions and risk assessments would have a solid basis.

I have digressed from the answer to the question that you asked. I am struggling to remember the second part of your question.

Jeremy Purvis: It concerned the supervision element. It would be helpful if you could say whether you have any role at the moment with regard to the supervision of short-term and long-term prisoners upon release and what role the police should have if we change the system by introducing curfews with conditions.

Deputy Chief Constable Ovens: Douglas Keil might want to answer that question as well.

As the bill stands, when we talk about people who would be subject to home detention curfews and those who are sex offenders, we are talking about two different groups of people. Clearly, we have a significant role to play in the supervision of sex offenders; information is made available to us and we work in partnership on that. If I understand the bill correctly, home detention curfews are aimed at a different group of offenders and our role will be significantly smaller. Nonetheless, we will need to create appropriate information-sharing arrangements to ensure that all relevant information is available to the risk assessment process.

16:45

Douglas Keil: Mr Owens explained the police's role in relation to sex offenders, but I will broaden that out and consider what sort of offender will be subject to a home detention curfew. A wide range of conditions may be applied to the curfew—the individual might have to stay in a particular place at a particular time, or indeed to stay away from a particular place at a particular time. In the case of the latter, I imagine that we would almost certainly be involved if a breach were to be reported by the electronic monitoring company.

Mr Owens is right to say that we will not be involved in every breach. The Hamilton youth court experiment is an example. In the first instance, the electronic monitoring company is notified of a breach. It may well be due to a technical fault, but if the individual is found not to be where he or she should be, we become involved. The direct answer to your question is that it depends largely on the conditions that are imposed on the home detention curfew.

Jeremy Purvis: At present, the police are not informed about short-term prisoners who are on early release on licence and do not have a role in their supervision. You will have a role in policing home detention curfews when they are introduced, but would you prefer to go further? Victim Support Scotland said that if someone is released on a home detention curfew there should be a mechanism or protocol whereby the community or the victims are informed. Should there be a role for the police in that?

Douglas Keil: I do not think so. I support partnership working, but the police have a clearly defined role. To date—with the exception of sex offenders—there has been little role for us when someone disappears into prison and the same applies on their release. I do not think that the bill will change that dramatically.

The Convener: Sections 9 and 10 cover serious and sex offenders and the assessment and management of the risks that they pose. My

question has been partially answered, but I want to be clear. Do the new duties under the bill for assessing such offenders represent an improvement on the existing joint working arrangements?

Deputy Chief Constable Owens: Yes.

Douglas Keil: Yes.

The Convener: Are there any resource implications for the police?

Deputy Chief Constable Owens: As we state in our submission, sections 9(1)(b) and 9(1)(c) will bring us into the risk assessment and management of a group of individuals that we do not currently assess or manage, even informally, to a great extent. That will bring us a new area of work. We can see the merit in that, but we need more detail and definitions. We have asked Executive officials to tell us the number of offences that they envisage and the type of offences that will fall within the provisions. We can make guesses about the types of offences; section 9(1)(b) refers to a person who

“has been convicted on indictment of an offence inferring personal violence”.

We can imagine what offences that might include. However, it would be helpful to hear the detail from the Executive, which should be able to quantify the numbers so that we can take a more informed view. The bill will take us into an area of work in which we are not currently as active as our partners.

Douglas Keil: Even before the changes were proposed, officers who work in the area often told me that if they had more time and staff they could do a better job. When the Parliament passes new legislation, it can be difficult for us to assess precisely what the impact on resources will be. We should be slightly smarter in looking back and saying, “Experience has shown that this will involve 30 officers’ working years, so the resources should be made available.” As Mr Owens said, we will need to examine the new proposals closely to find out what the impact will be.

The Convener: Thank you both for being with us and for your helpful contributions. We are grateful to you.

Subordinate Legislation

Advice and Assistance (Scotland) Amendment (No 2) Regulations 2005 (SSI 2005/171)

16:50

The Convener: Under the final agenda item, we have one instrument to consider: the Advice and Assistance (Scotland) Amendment (No 2) Regulations 2005 (SSI 2005/171), which concerns legal aid and advice. I declare an interest as an enrolled solicitor in Scotland. The regulations are subject to the negative resolution procedure. Members have been circulated with copies of the regulations. Are there any questions?

Members: No.

The Convener: Are members content with the regulations?

Members *indicated agreement.*

The Convener: Thank you.

I remind members that the Minister for Justice, Cathy Jamieson, will attend our meeting on 10 May to give evidence on the Management of Offenders etc (Scotland) Bill. That meeting will also be our final opportunity to discuss our report on the Licensing (Scotland) Bill. More immediately, I remind members that our visit to Reliance awaits us next Monday, when members will be in varying degrees of exhaustion and post-election recovery. Thank you for your attendance and patience.

Meeting closed at 16:52.

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