

JUSTICE 2 SUB-COMMITTEE

Tuesday 14 November 2006

Session 2

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JUSTICE 2 SUB-COMMITTEE **6th Meeting 2006, Session 2**

CONVENER

*Jackie Baillie (Dumbarton) (Lab)

DEPUTY CONVENER

*Mr Kenny MacAskill (Lothians) (SNP)

COMMITTEE MEMBERS

*Alex Fergusson (Galloway and Upper Nithsdale) (Con)

*John Home Robertson (East Lothian) (Lab)

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

*attended

THE FOLLOWING ALSO ATTENDED:

Paul Martin (Glasgow Springburn) (Lab)

THE FOLLOWING GAVE EVIDENCE:

Sharon Grant (Scottish Executive Justice Department)

Cathy Jamieson (Minister for Justice)

Catherine MacKenzie (Scottish Executive Justice Department)

Pat Tracey (Scottish Executive Development Department)

CLERK TO THE COMMITTEE

Jennifer Smart

SENIOR ASSISTANT CLERK

Claire Menzies Smith

LOCATION

Committee Room 4

Scottish Parliament

Justice 2 Sub-Committee

Tuesday 14 November 2006

[THE CONVENER *opened the meeting at 11:04*]

Child Sex Offenders Inquiry

The Convener (Jackie Baillie): Good morning, everybody, and welcome to the sixth meeting of the Justice 2 Sub-Committee. We have received no apologies—there is a full turnout of members.

I welcome to the meeting the Minister for Justice, Cathy Jamieson, and the officials from the Scottish Executive who are accompanying her. Sharon Grant is from the community justice services division of the Justice Department, Catherine MacKenzie is from the police division of the Justice Department, and Brad Gilbert and Pat Tracey are from the private sector and affordable housing policy division of the Development Department.

I thank the minister for her written submission to the committee, which describes the progress that the Executive has made with its sex offender strategy. The submission has been extremely helpful, and it will continue to help us in our deliberations. In that submission, you state:

"The Executive is not aware of any information or research confirming whether community notification empowers parents and carers or the burden which this might impose."

You outline in the submission problems relating to the security and misuse of such information and suggest that community notification makes managing sex offenders "more difficult". In the light of the First Minister's recent remarks on community notification that were reported in the media, does the Executive still believe that extending community notification beyond current disclosure practices would be counterproductive?

The Minister for Justice (Cathy Jamieson): Thank you for getting straight to the meat of the matter, convener—I should not have expected anything less from you.

There are no easy answers when it comes to community notification. As the submission says, we need to balance the real fears of parents and wider communities for their children against professional advice on safe practice. It is important to remain vigilant and not to overlook any loopholes or weaknesses in the system. That was why I wanted Professor Irving to look closely at how we could, on a case-by-case basis, give

communities more information when it was thought that doing so would enhance public safety.

From the information that the committee has received, I think that a balance must still be struck between ensuring that communities receive more information and not overburdening the system so that providing that information becomes counterproductive or so that offenders are driven underground, to use a phrase that is frequently used. The committee took evidence on that very recently. I have not ruled out the possibility of building on what we have already done as a result of Professor Irving's work.

The First Minister has asked me to consider how we might give further information to communities where there are serious concerns about high-risk offenders, but we will not necessarily conclude that communities should be notified of everybody in their area who is on the sex offenders register, for example, as that could become counterproductive. The element of risk is important. We should try to ensure that proper risk assessments are done and that communities are notified accordingly. What the First Minister has asked me to do is far from being at odds with previous statements that have been made; I have been asked to build on the work that Professor Irving has done and the work that has been reported to the committee. That said, I am interested in the committee's views as a result of the evidence that it has taken.

The Convener: I accept what you say, but I am curious about what information the Executive would make available that is different from information that would be made available under the current disclosure system.

Cathy Jamieson: We are doing work that builds on Professor Irving's report, and the results of that work must come fully into operation. Perhaps the issue is not so much different information that might be made available, but who might receive that information and the circumstances under which they might receive it. The First Minister was getting at whether there are circumstances in which, despite someone co-operating, there are real concerns that it would not take much for them to reoffend. I want to consider such circumstances in more detail. Professor Irving's report considered situations in which information could be given out if people did not co-operate and concerns existed. Someone could, for example, have a history of sex offending and could ostensibly tick all the boxes in co-operating, but the risk assessment could result in concern that it would not take much for them to reoffend. We should consider such circumstances afresh and whether there is anything else that we want to do about community notification.

The Convener: We have taken evidence on the matter from the police; indeed, committee

members have gone to other parts of the country to speak to police officers. The police's view is that they already have flexible powers and can disclose information almost on a daily basis, not only to the media but to a wide variety of people in the community if they think that a sex offender poses any shadow of a risk. Given that the police already have such powers, what do you envisage doing?

Cathy Jamieson: It is a question of the use of those powers, what the guidance is and what the practice would be. There is a wide range of powers, and of course the balance must be correct, but it would be unhelpful if we were simply to disclose all over the place information that was not based on any risk assessment and which did not enhance what the community already knew or give people any additional protection. Ultimately, such a system is about protecting children and young people.

However, we have the opportunity to consider how the case-by-case decisions are made, and I am sure that we will go on to discuss the work of the multi-agency public protection arrangements and how they will be put in place. When the MAPPAs come on stream, there will be an opportunity to consider whether there is more that we can do, or need to do, to ensure that communities are safe. It may be a question not of changing the legislation or the powers, but of putting existing arrangements into practice and building on the work that Professor Irving has done.

John Home Robertson (East Lothian) (Lab): I would like to press you on the timing of last week's briefing, which was attributed to the First Minister. As you are aware, the committee has been working quite hard. We have taken evidence from a number of quarters, and particularly from Mrs Cummings, and we expect to report within a month. Is not it a bit odd, and indeed invidious, for the First Minister to announce the Executive's conclusion on the issue at this stage?

Cathy Jamieson: If I may, I will put something on the record, wearing two different hats. Wearing an Executive minister's hat, I have to say that the Executive has not concluded how best to take the matter forward and that I would be interested to hear the committee's views on that. Wearing a different hat, I have to tell members that the comments that were attributed to the First Minister's spokesperson were about a policy development process that was on-going at the time in our political party.

John Home Robertson: That is helpful.

Alex Fergusson (Galloway and Upper Nithsdale) (Con): I am sorry to continue on the same subject, but when I opened the papers the

other day, I rather wondered why the committee was even meeting, to be perfectly honest. My first instinct was almost to resign at that point, but I understand that a lot of what was reported was taken out of context and that perhaps what was said did not come across quite as stridently as some sections of the press would have us believe. Nevertheless, I found myself feeling that the findings of this committee, which has worked hard, were being pre-empted by what had been said.

Minister, when the petition was first presented to Parliament, your deputy, Hugh Henry, firmly ruled out disclosure. Can I take it that that is no longer the Executive's position?

Cathy Jamieson: I would be disappointed if the committee felt that it did not have a contribution to make. I know how hard committee members have worked and how seriously people have taken the issue.

I have to say, of course, that it is the responsibility of the Executive to ensure that we constantly review our policies and legislation and that we constantly consider whether we can improve them. If people look back on the work that has been done, they will see that we have moved on disclosure already. Previously, the position was that we would not move on that, except in the most exceptional cases, but as a result of Professor Irving's work and the recommendations that he made on the back of the tragic circumstances that Margaret Ann Cummings has spoken about, it was made clear that we were prepared to move and to look at the issue on a case-by-case basis, and that we would examine the circumstances to try to give communities further information. I think that it is right and proper that we keep that under review and that we examine whether we have got that balance right. The committee has a valuable role to play in that, based on all the evidence that it has taken.

Jeremy Purvis (Tweeddale, Ettrick and Lauderdale) (LD): Is the *News of the World* headline, "Mark's Law Victory", accurate?

Cathy Jamieson: With respect, I do not write the headlines for any newspaper. I have outlined the Executive's position. We have made it clear that there is more we can do to protect communities. The First Minister has asked me to undertake a specific piece of work to look at the matter, and I will do that. We must obviously take account of the committee's work in taking things forward, but I hope that I will not be held to account for a headline that I did not write.

11:15

Jeremy Purvis: Has the First Minister asked for your report in writing? Can the committee see the remit and extent of the scope of your review? That

would help us to understand what the First Minister has asked you to do, because we are wondering which hat you would be wearing in that context.

Cathy Jamieson: I hope that I am as able as you and every member round the table to separate a party-political policy development process and the policy-making process of an Executive. I am conscious that there is a partnership dimension to the Executive's policy-making process and that we reached the point that we reached previously on disclosure only after considerable discussion between the two partnership parties. I am not aware that the First Minister has written down a remit, as you describe it, but he has asked me to look at the matter. Work on it is going on within the Labour party, which will be discussed in due course, no doubt, at our conference, as would be the case for other political parties.

Mr Kenny MacAskill (Lothians) (SNP): Wearing your Executive hat, will you confirm that the Executive is moving towards rolling out Professor Irving's recommendations in full and as a matter of urgency? If it is not doing so, why is it not and which specific areas do you propose not to address?

Cathy Jamieson: Wearing my Executive hat, I can say that, yes, we are looking to act on Professor Irving's recommendations. As I mentioned earlier, work is being done on setting up the MAPPAs, which will come into place in April 2007. We also have the new community justice authorities, which members will be aware of, and work is on-going to ensure that we join up services for offenders in prison and in the community. All those are important. We are acting on Professor Irving's recommendations, and that can be seen in the context of the wider work that we have done.

The Convener: I welcome Paul Martin to the committee. He is the MSP for Glasgow Springburn, which is where Mrs Cummings lives.

Paul Martin (Glasgow Springburn) (Lab): I have a question on disclosure. Can the minister confirm that, when an offender is placed on the sex offenders register, through the judicial process, that is a public process? When someone is placed on the register, there is no secret court that disposes of them so that their names are not known. Are the offenders' names already in the public domain?

Cathy Jamieson: You are correct to the extent that, if the court decides that someone should be on the sex offenders register, that decision is often notified as part and parcel of the process when a sentence is handed down. It is often reported in the press and other media, and local communities may, in any event, pick up on that information.

What concerns me—we might discuss this in more detail—are the circumstances in which offenders are housed in an area outwith the community from which they originated or in which there is misinformation around their release. To a large extent, information about who is on the sex offenders register may enter the public domain. There is not a single list that people can consult to find out whether someone is on the register, because that information is held by the local police forces. However, there is information in the public domain.

Paul Martin: But, in a sophisticated age, if a person is released in three years' time, the community could well ask for their name by means of a freedom of information request. There are only so many people of a certain name, although I appreciate that the community might not get the address to which the person had been released. We do not provide sophisticated websites like those that are provided in America. Nevertheless, a community could, technically, find out who the offenders are anyway. Some people can probably do that already.

Cathy Jamieson: Yes. In many instances, the community already knows when there has been a court case and somebody has been placed on the register. One of the difficulties—one of the issues that we considered in determining what notification would be appropriate—is that there are some offences that would lead to someone being placed on the sex offenders register but which, in the wider scheme of things, would not necessarily be regarded by a community or by the courts as being particularly serious. I am sure that you will have seen examples of such offences in newspaper reports. At the other end of the spectrum, there are circumstances in which people have committed very serious offences, have been placed on the sex offenders register and may be subject to on-going monitoring and supervision.

We must ensure that the proper risk assessment is taking place at the point at which we disclose information. Ultimately, from my point of view, the issue is the protection of vulnerable children and adults. We must, therefore, make some assessment of who is most likely to reoffend, if they have offended, or, in some circumstances, of who is most likely to offend even if they have not been convicted by the courts.

Paul Martin: The public perception—it was certainly my perception prior to the Mark Cummings tragedy—is that agencies share information, possibly with the use of a register. We are no further forward on that. No housing agency has told me that it has access to a register that provides information about sex offenders. If a serious sex offender submits an application to a

housing organisation and does not wish to disclose their offences, they do not have to do so. We could be housing serious sex offenders in the community, with no need for them to disclose that information and with no register for people to refer to. You talk about notification. At the very least, should not the agencies, which have access to all sorts of confidential information every day, have access to a register?

I have a question about the register being publicly available. I simply pose the question; I do not present a personal opinion. Given that, at present, the public can find out about offenders through the judicial system and given the concerns that you expressed about how accurate that information is, should we not provide accurate information on those offenders so that people are aware of who they are, where they are and what their offences were?

Cathy Jamieson: That last point was one of the issues that Professor Irving's review considered. The review suggested strongly that the process should be risk based and that, if the level of risk is such that communities could benefit from having information to protect them better, we should put that in the public domain. It is a significant shift to say that we will use such notification opportunities.

You raise interesting points about the housing of sex offenders, which has been a concern to housing authorities and associations in your constituency. The draft national accommodation strategy for sex offenders and the guidance notes have been shared with the committee, so members know that the strategy contains a recommendation that all housing authority application forms should ask people whether they are required to report to the police under the Sex Offenders Act 1997; I understand that that has not happened until now. That poses a further question that the committee might want to think about—I understand that the police have already raised it—which is what happens to an individual who fails to disclose or to give the correct information. If that question is to be asked, it can be argued that when someone who is on the register fails to disclose that information to public authorities, that ought to be followed up. I will certainly consider that issue, in the light of the accommodation strategy.

Jeremy Purvis: I am not sure whether the minister is aware of this but, in my constituency and more widely in the Borders, the practice has been for some time that, if someone registers with a housing association—that process is now co-ordinated and handled by one officer—but does not inform the association that they are on the sex offenders register, that is a breach of the tenancy agreement. The issue is then referred under the multi-agency arrangements and a risk assessment

is conducted. A similar process occurs when people register as homeless with the local authority. That may be considered to be best practice, but it does not happen elsewhere.

I have a question about the number of people who could go underground. I was interested in your comments on focusing on the people who are considered to be the most dangerous or highest-risk offenders. Yesterday evening, the committee took evidence from Massachusetts about the approach there, which involves publishing on the web information on people who are called level 3 offenders. I understand that the risk assessment there is similar to the MAPPA process. I looked at that website this morning and found that, in Massachusetts, the population of which is not dissimilar to that of Scotland, the location of 218 of the highest-risk sex offenders who are on the published register is not known. Where is the priority? Does it lie in publishing information that the public might think makes them safer or in having proper supervision and monitoring mechanisms?

Cathy Jamieson: There are two issues to address. Of course we have to put in place the proper supervision and monitoring arrangements. However, if a high-risk offender—a sex offender or an offender of another kind—who ought to be subject to supervision arrangements disappears from sight, at what stage are the public notified of that, in order that there can be some degree of public protection and that information can be passed to the police? That is a valid question.

Perhaps some of my colleagues have the numbers in front of them, but I cannot quote off the top of my head the figure for the equivalent number of sex offenders at that level in different parts of Scotland. The important point is that when the MAPPAs are in place, they will give us an additional structure with which to deal with sex offenders. If people are not co-operating with the supervision arrangements, it is valid to ask at what stage we let the public know that in order that they can protect themselves and pass information to the police. However, I do not see that as an end in itself; it is important that it is part of the wider public protection agenda.

Jeremy Purvis: What evidence will you consider to determine what is effective with regard to publishing information? What happens in Massachusetts may or may not be any more effective than what happens in Scotland. Perhaps you can tell the committee about the sex offenders whom the police currently consider to be in violation of supervision arrangements—I believe that the Association of Chief Police Officers in Scotland said that there were 30 such offenders in Scotland. What evidence are you considering,

international or domestic, to determine what will be effective in reducing offending?

Cathy Jamieson: You are asking about a number of things, including what is effective in reducing offending. Of course we will consider all the offender management programmes that are in place, which is where the community justice authorities will be important.

On the question of notification, we have to take account of the public's views and public reassurance. There are circumstances in which I think that it is valid to put information into the public domain, because communities can then be reassured that they know whether someone is on the run, is missing or has not complied with their supervision arrangements and that something is being done about it. That has to be taken into account alongside any evidence on what is likely to reduce offending. The most recent figure is that 25 sex offenders are unaccounted for.

Jeremy Purvis: At what level are they?

Cathy Jamieson: They are people who are currently on the sex offenders register. We do not have the information broken down further than that.

Jeremy Purvis: So, of the 3,500 who are on the register, which includes all levels of offender, 25 are unaccounted for. We were told last night that in Massachusetts, of the 8,500 on its register, 218 of the highest-risk offenders are unaccounted for. We can have a system in which there is no public notification but the police know where the offenders are, or a system such as those in Massachusetts and Florida, in which the details of offenders are published and although the authorities do not know where they are, the public feel safer because they know who they are.

Cathy Jamieson: I would want to consider in a bit more detail how the risk assessment was done and who was considered highest risk. You cannot simply say that public notification is not working, given the higher number of unaccounted for offenders in one area. In certain circumstances where there is a perceived risk to the community, people have the right to have that information and to take appropriate steps if they are concerned about their children. I can understand communities and individuals saying that. I do not want to get into a situation in which we would routinely flood information into the public domain, which would not be helpful. However, we need the opportunity to notify the public in circumstances in which the risk assessment merits putting out that information.

Jeremy Purvis: We have that opportunity already.

Cathy Jamieson: As I have said, we have the structure to do that, but the issue is the practice. That is where the MAPPAs and all the future work come in.

Paul Martin: You said that 25 sex offenders were unaccounted for. Do you accept that the figure could be higher than that? Offenders do not report to police stations every day. That figure reflects only the number of cases in which the police have gone to look for an offender and have not found them.

Cathy Jamieson: One must always attach to that number the caveat that it can change by the hour. The figure that I gave is the most recent that is available. That is why I did not want to give a number off the top of my head without checking it.

Paul Martin: I am sorry to persist, but the point is important. The fact that offenders do not, as people think, report to police stations every day means that the figure could be much higher. Given that it is only when an offender is looked for that we find out that they are missing, we could be undercounting the number of offenders who are unaccounted for.

Cathy Jamieson: That is why I said that the figure is subject to a caveat.

11:30

Mr MacAskill: It will come as no surprise to you that many—if not most—of the witnesses have expressed concern about resources. It is clear that the new arrangements have significant resource implications. For example, the total cost of every local authority appointing a sex offender liaison officer is likely to be £1.5 million. Can you assure us that there will be sufficient resources to cover all aspects of the proposals so that, among other things, MAPPAs, SOLOs and link officers can work effectively and the police, social work and other agencies can monitor and manage sex offenders in the community?

Cathy Jamieson: For the record, it is important to acknowledge that a significant amount of additional resources have already been put into the system. Members will be aware that since 2002 the amount of funding that is provided to local authorities for the supervision of all offenders—including sex offenders, who are supervised as part of the enhanced throughcare strategy—has risen from £2.5 million to £9.2 million. That is a significant increase.

Additional resources of £0.25 million have been provided to meet the changes brought about by the Management of Offenders etc (Scotland) Act 2005. Eleven co-ordinator posts for the MAPPAs are being funded and the eight community justice authorities are receiving £685,000. The violent and

sex offenders register has been allocated some £625,000-worth of additional money and more funds are being spent on training social workers and other staff in risk assessment.

The communities ministers are well aware of the requirement for SOLOs, should the accommodation strategy for sex offenders go ahead as recommended. They have agreed to make available appropriate resources for the staff roles and mechanisms that would be necessary to implement that strategy. The short answer is yes—we would want to ensure that the appropriate resources are available.

Jeremy Purvis: I want to turn to treatment programmes for sex offenders. We have heard that 11 local authorities can offer programmes for the treatment of sex offenders in the community. I understand that Her Majesty's chief inspector of prisons for Scotland has reported that there are insufficient programmes available in Peterhead. When do you envisage that there will be sufficient programmes throughout Scotland to meet need?

Cathy Jamieson: There are two issues to consider. In addition to the STOP programmes that go on not just in Peterhead but in other prisons, there are the accredited programmes that are being run by various local authorities. I would certainly want to ensure that we join up such work. As I understand it, a proposal is being discussed whereby people would not simply go on one version of the STOP programme and nothing else before being released into the community. Other work could be done, for example through booster programmes.

I invite one of my colleagues to answer on the local authority programmes. As I understand it, those programmes are now accredited and up and running and further work is being done on them.

Sharon Grant (Scottish Executive Justice Department): Eleven local authorities have in place the accredited community sex offender group work programme or CSOGP, as it is referred to. It is planned that the programme will be rolled out to the remainder of the local authorities over the next 18 months, which will mean that we will have in place throughout the country a consistent, accredited programme for the delivery of group work to sex offenders in the community.

As part of the next stage of work, the Executive and the Scottish Prison Service must consider how we tie the service and the community more closely together in the delivery of programmes in prison and in the community. That work is continuing for the SPS and local authorities.

Jeremy Purvis: What proportion of sex offenders who are released participated in a

programme in prison that is not continued in the community?

Cathy Jamieson: I cannot give a figure off the top of my head. Programmes run in different ways in different prisons and people undergo programmes at different stages in their sentences. For some sex offenders, it might be decided that an on-going programme in the community is not required. In some circumstances, people who do not undertake programmes while in prison are able to move into accredited programmes on their release, if that is thought to be the best approach.

We want people who have committed sex offences to undertake work on their offending behaviour. It is difficult for the Prison Service to deal with offenders who decide not to participate in programmes either because they continue to protest their innocence or because they do not think that they are required to take part. If someone who has not participated in an available programme is released into the community, a proper risk assessment should be undertaken to ascertain whether there is additional cause for concern.

John Home Robertson: There are more than 3,200 names on the sex offenders register in Scotland, and probably more than 30,000 sex offenders are known to the system, if we include people who committed offences before the 1997 act and the register's inception. What has been done to assess the likely growth in the number of sex offenders who will be on the register in future? Will resources be provided to address that growth?

Cathy Jamieson: It is difficult to put a precise figure on expected growth. As more people report sex offences and the courts become better at dealing with such offences, as a result of the action that we have taken to support victims and witnesses, perhaps more cases will come to light and have to be dealt with. Historical situations have also had to be dealt with, as you know. I cannot, therefore, say with certainty what the number of convicted sex offenders will be in future.

However, we must ensure that the right strategies are in place to enable us to monitor what is happening through the courts, MAPPAs, the police, criminal justice social work services and the Scottish Prison Service. Often, the index offence is not a sexual offence, but concerns are picked up about the individual's behaviour and can form part of the risk assessment. I am concerned that we should not consider the issue simply in relation to convictions; we must also consider people's behaviour and ensure that programmes are in place to enable us to monitor and supervise people who are deemed to be at risk of sexual offending.

John Home Robertson: I am sure that we all welcome the fact that sex offences are increasingly being reported and prosecuted and that people are not getting away with committing them. I also welcome your comments about putting in place strategies to handle the growth in cases, but I want to press you on resources. Does the Executive intend to ensure that social work departments and the police receive the resources that they need if they are to handle a growing task?

Cathy Jamieson: Members should consider the overall increase in budgets. For example, I referred to the vast increase in the throughcare budget. The overall budget for policing is more than £1 billion. We have demonstrated our commitment to ensuring that the relevant authorities have the resources to meet identified needs. Of course, I cannot predict what might be done in future, but I want authorities to be adequately resourced to deal with the problem.

John Home Robertson: I have one final point on that theme. There are 30,000 known sex offenders who are not on the register because of the timing of the 1997 legislation. There are people who are guilty of pretty serious offences but who are not on the register because their victim was over 18 and their sentence was less than 30 months. Is there a case for some kind of retrospection to ensure that such people are put on the sex offenders register?

Cathy Jamieson: There was considerable discussion when the register was set up, and it was considered that applying it retrospectively would be difficult. If there are people who are not on the register but who have committed serious sexual offences and are known to the authorities, perhaps other legislation that we have introduced could be used to prevent further sexual offences. Could there be a requirement to alert communities on a case-by-case basis if it is felt that such individuals pose a risk?

John Home Robertson: Even if they are not on the register?

Cathy Jamieson: Yes. We have to consider such questions in relation to MAPPAs and the other arrangements that have been put in place.

John Home Robertson: That is helpful. Thank you.

Alex Fergusson: We have heard quite a lot of evidence on housing, which has resource implications of its own. I have some trouble, particularly from a rural perspective, with the phrase "appropriate accommodation", which keeps coming up, for example in relation to the need to find appropriate accommodation for released sex offenders. Concerns have been expressed by almost everybody in the housing field about the

shortage of appropriate accommodation. It has become obvious to the committee that, perhaps too often, accommodation is provided because it exists, not because it is necessarily appropriate. Some have suggested that we need more hostels or supported accommodation or other such—I do not want to use the word "institutions"—facilities. I am interested in the Executive's view of the suggestion that has been made throughout the inquiry that a wider investigation is needed into whether there is sufficient housing, and appropriate housing in particular, or whether there is a need to provide more. If so, how do you go about that?

Cathy Jamieson: As members will be aware, much of that is covered in the national accommodation strategy for sex offenders, while the Cosgrove report considered the issue in some detail and recommended that we should not create specialist residential facilities for the treatment of sex offenders because of the risk that they might simply network and reinforce inappropriate behaviours and so on. Many experts consider that high-profile, high-risk offenders are better managed in accommodation that does not house them with other sex offenders. The strategy makes it clear that there is no one model of appropriate housing or accommodation. Unfortunately, there is no easy answer to the question of what is an ideal solution. There are certainly no ideal locations.

Housing decisions can be made only on the basis of what is available. As Alex Fergusson recognises, pressures in rural communities can be different from those in urban settings. The risk assessment process that is undertaken by the responsible authorities should inform the type of housing and the type of location that are appropriate to the management of sex offenders in the community.

While it is important to think about the needs of the offender, we must also consider the needs of the community. The national accommodation strategy for sex offenders specifically comments on the inappropriateness of using some types of hostel accommodation for sex offenders where that might put other hostel residents at risk. Similarly, there may be circumstances in which certain housing is inappropriate because of its proximity to other vulnerable people, whether they are children or adults. In particular, the strategy highlights that the mainstream hostels that are often used to house homeless people on a short-term basis are generally not suitable for housing sex offenders.

Another point that I, as a minister, have been keen to pick up on is that people coming out of prison who have a history of sex offending should not be accommodated in bed-and-breakfast accommodation, where it is not possible to

supervise them properly and where people can be put at risk. The strategy makes all of that clear.

Unfortunately, I cannot give Alex Fergusson an answer that will immediately solve the problem in rural communities. The important point is that the various agencies need to assess the risk, examine what is available and consider how they can place offenders appropriately in a way that manages the risk. For me, managing the risk is the crucial point.

11:45

Alex Fergusson: It has been put to us by fairly senior people that some of the highest category offenders would themselves say, "Please keep me locked up. I don't trust myself to be out in the open." It has been suggested to us strongly that the only way to deal with such offenders, without filling prison accommodation, is to provide permanent secure accommodation from which they cannot go out unaccompanied. Is there a case for that type of strongly, heavily supported regime or has that type of accommodation been ruled out completely?

Cathy Jamieson: We need to consider what is workable in practice and what would make a difference. For example, for serious offences, such as those for which a court might impose the new order for lifelong restriction—which we introduced following the MacLean report and the setting up of the Risk Management Authority—we need to ensure that a plan is drawn up to manage people. Sometimes, that will mean a very high level of support, such as round-the-clock support or requiring the offender to choose particular accommodation. However, it strikes me that the secure accommodation that Alex Fergusson described, from which people cannot go out unaccompanied, must be a prison. That raises a different set of questions, given that the majority of people who are in secure accommodation ultimately come back out into the community.

Alex Fergusson: Is the minister content that the national accommodation strategy for sex offenders will prove effective in managing the problem?

Cathy Jamieson: To be honest, I am never content with anything concerning the management of sex offenders. I always want to ensure that we keep things under review and look at what else we can do. The important point is that we need risk assessment. The measures that are put in place need to be proportionate. If a person who is already in the community is assessed as posing a high risk of offending, it is important that the right measures are put in place to minimise the risk of them doing so. If the person is in the prison system and is due to be released, it is important that those arrangements are put in place well before they are released, so that every part of the

public sector and every agency involved knows what is expected of it at that stage.

I have never ruled out the possibility that we might need to consider other forms of accommodation, but—as members will have seen from recent publicity—even accommodation that is specifically designed to house sex offenders will not, in itself, necessarily ensure that they do not go out and become involved in risky behaviour. Even in that type of accommodation, the management of people is really important.

John Home Robertson: We have been comparing notes in respect of the situation south of the border. As the minister mentioned, people coming out of prison can be given hostel accommodation, which in Scotland is provided by voluntary and other organisations. I understand that south of the border the Home Office and public authorities run bail hostels. Has any thought been given to creating that sort of provision, which might create an environment where it is easier to supervise and control difficult offenders?

Cathy Jamieson: I am sure that members are aware of the problems—which I referred to but did not mention explicitly—with bail hostels that emerged following the recent "Panorama" programme. As a result, the Home Secretary, John Reid, has ordered a review of the National Probation Service and has set out plans to move matters on. A number of hostels are located throughout Scotland, but our view is that we minimise the risk by ensuring that people are in appropriate accommodation where they are adequately supervised. For the reasons that I outlined earlier, there are concerns about locating a number of people who have a background of sex offending in a single set of residential premises where they might feed off one another and become more risky rather than less risky. We need to get the balance right.

Paul Martin: The MacLean committee's report states that the availability of hostels and halfway houses

"enhances supervision and monitoring and decreases risk."

One of the challenges that we face is the fact that the MacLean committee's report says one thing and the Cosgrove panel's report says something different. How should we proceed?

Cathy Jamieson: You have identified the fact that if we ask a series of experts, everybody will give their opinions. I am sure that the sub-committee will struggle with exactly the same problems in deciding what recommendations to make to the Executive.

As with many other things in the justice system, there is no magic, one-size-fits-all solution. In some areas, there might be arguments in favour of

forms of accommodation that allow people to be accommodated safely on a temporary basis so as not to put others at risk. However, the broad thrust of the work that has been done suggests that it is safer to accommodate people in mainstream housing provision but with the right support, rather than house them and leave them alone.

Paul Martin: A disproportionate number of offenders end up in areas where there is low demand for housing. In the Mark Cummings case, Stuart Leggate was housed in the area not due to a lifestyle choice but because no other area had such a low demand for housing that people could be housed in a short period of time. Should we ensure that disproportionate numbers of offenders are not placed in communities?

Cathy Jamieson: You make a valid point. If we accept that it is not helpful for sex offenders all to be accommodated in the one type of hostel under long-term supervision, logic tells us that it does not make sense for them all to be accommodated in the same block of housing or the same area. That is why the draft national accommodation strategy for sex offenders makes it clear that sex offender liaison officers should work with the responsible authorities to plan for sex offenders' accommodation needs well in advance—for example, well before an offender's release from prison back into the community. SOLOs should take a strategic look at where people are placed so that they do not all end up, by default, in one location.

Paul Martin: My perception is that, before the Mark Cummings case, we carefully placed offenders in particular communities, but now we cannot tell offenders where they must live. Are we going to legislate to provide a situation in which we manage offenders and tell them where they will live so that we can monitor them, or will they still have the civil liberty—if I can put it that way—to say, “No, I want to live in Charles Street. I know that a house is available there and I have a right to be housed there”?

Cathy Jamieson: You are perhaps making a slightly different point. Obviously, not every sex offender lives in social housing. There are situations in which people own properties or have private lets. They might have lived in the family home prior to their sentence, for example, but, again, that is the kind of thing that I expect local authorities to look at via sex offender liaison officers. That should form part of the strategy.

Your earlier point was about overconcentrating offenders in particular areas. By default, people ended up in the poorest accommodation and the local community perhaps had no say in what happened around them.

Of course, when someone comes out of prison it is possible to stipulate where they must live and to make it a condition that they live there. Indeed, it is often the case that they must not change their place of residence without the agreement of the supervising officer. I hope that that gives people some structure and ensures that they cannot move around without account being taken of that.

Paul Martin: No legal requirement is placed on them. I appreciate what you are saying about licensing, but I am concerned that although we talk a good game and say, “Everybody will look at this and we will look at the various management processes,” we cannot prevent an offender from living in a particular community if he wants to live there—unless a victim lives there.

Cathy Jamieson: Currently, it is difficult to prevent someone from buying a house or moving house, other than by using licence conditions to stipulate where they should live. Obviously, through the homeless persons legislation there is also the opportunity for people to apply for housing. I am being reminded, because housing legislation is not my field of expertise, that it would not be legal currently to refuse to put a sex offender on a housing list; they must be admitted to housing lists.

The Convener: I will take the minister on to the monitoring and supervision of sex offenders, of which MAPPAs are a crucial component. Concerns have been expressed to us that no plans are in place to monitor or assess the effectiveness of MAPPAs. Do you have any plans to commission independent evaluation of the implementation of MAPPAs? If so, at what point will that be done?

Cathy Jamieson: It is important that we evaluate and monitor everything that we do. For me, the important issue at this point is to ensure that everything is ready to be up and running in April next year. The work of the community justice authorities is already under way and the national advisory body is considering offender management in general. It will carry out several pieces of work, and I expect people to feed into that process.

We have the opportunity to undertake thematic inspections and conduct quality assurance of the work that is done. As I said, the community justice authorities will have a key role because the MAPPA co-ordinators are required to report to them annually. Those reports will then come to me or whoever is the Minister for Justice. We have that opportunity to examine the work that is being done.

The Convener: Is that a yes?

Cathy Jamieson: I would say that it is a yes. We have plans in place to monitor, evaluate and

seek to improve the effectiveness of MAPPA's where necessary.

Mr MacAskill: I will deal with the conditions that can be attached to the sex offenders register. It has been drawn to our attention that some people can be placed on the register and made subject to licence and probation requirements, but when that period ends there is no control or influence over them. Obviously, it is important to manage them. It has been suggested first, that there should be powers to impose conditions on people on the sex offenders register; secondly, that that should be related to the assessed level of risk; thirdly, that the conditions could apply for the entire period that they are on the register; and finally, that a faster process should be available if they breach their conditions. Do you support those suggestions?

Cathy Jamieson: That raises some interesting questions about how we manage sex offenders generally and whether the sentencing regime fully takes account of the fact that we perhaps need to supervise some people for longer periods in the community. The proposals to change how sentences operate by having a two-part sentence will enable the judge to set a custodial part and a period of time during which people will be supervised in the community. That could allow additional conditions to be imposed on the community part of a sentence, when someone moves from custody back into the community. I hope that those who breach the conditions of their sentence will be brought back into custody more quickly than has been the case up until now.

You seem to be suggesting that such monitoring should take place not only during the sentence but for an extended period in the community—as is possible in some of the more serious cases—and that it should be more like an extended sentence. You seem to be suggesting that more sex offenders should be subject to that kind of regime.

Mr MacAskill: I am suggesting that being on the register should entitle conditions to be imposed, added and breached irrespective of what may be imposed by the court as part of a sentence or a conditional licence that follows it.

12:00

Cathy Jamieson: It would be interesting to debate who would be the correct people to impose conditions if it were not the court that decided that someone was likely to be a risk. Who would do that, how would it be monitored and how would people appeal against decisions? I am not saying that it is not worth considering, but it raises a number of questions that would have to be considered in a bit more detail.

Mr MacAskill: Currently, a sex offender who does not have accommodation is allowed to give

his address as, for example, a park bench. Those of us who think that we should take a blanket view based on practice in the United States of America noted that, in the state of Florida, registering an alleyway as an address was sufficient to enable a sex offender to adhere to Megan's law as implemented there. That obviously creates problems for social work services and the police. Have you considered altering our legislation? Will the situation be affected by the draft national accommodation strategy for sex offenders?

Cathy Jamieson: At the moment, we are not aware of anybody who has registered that type of location as their address. Professor Irving made a number of recommendations on homelessness, and we are considering the matter again in the context of the accommodation strategy.

John Home Robertson: It has been put to us—not unreasonably—that if a child goes missing the police should have the power to search immediately the accommodation of known sex offenders who live in the neighbourhood in question, without the need to get a warrant for search and examination, such as is possible under the Police, Public Order and Criminal Justice (Scotland) Act 2006 for the purposes of risk assessment. What do you think of that?

Cathy Jamieson: There has been some discussion of the police's powers. My understanding is that the police have a number of powers that they can use if they believe that a crime has been committed. The important point is to ensure that we give the police the powers that they require to ensure that children are protected. If the committee feels that the powers under the Police, Public Order and Criminal Justice (Scotland) Act 2006 do not go far enough, I am interested to hear its views and how it suggests extending those powers.

John Home Robertson: Time is of the essence in such circumstances. A police officer might feel that it is not within his rights to enter premises and that it is necessary to get a search warrant, but the delay could be crucial.

Cathy Jamieson: As I said, if the committee has taken evidence and feels that the current powers do not go far enough, I am interested to hear its suggestions.

John Home Robertson: You might hear more from us on that matter.

Are you satisfied that the police have sufficient powers of access to the homes of people who are under supervision? For example, the police might want to find out what such people are doing on their computers, as they might be grooming.

Cathy Jamieson: I am conscious that the issue has been raised. It is a matter not only of getting to

the premises but of examining what is going on in them. As a result of Professor Irving's work, we have strengthened police officers' powers to do certain things and to require certain information. If the committee has taken evidence that suggests that those powers need to be tougher still, I will consider that evidence carefully.

John Home Robertson: We have been advised that, although many offenders who are subject to supervision co-operate, some do not. One might think that that is all the more reason to have access to their premises.

Cathy Jamieson: If there is an issue with offenders not co-operating, that takes us back to how we assess the level of risk and to whether public notification is necessary.

The Convener: You are being very positive, minister.

Cathy Jamieson: I am keeping the door well open to the committee.

The Convener: We are taking the hint and we will get back to you with something. It is interesting to note that, in Florida, the police have no such powers of search and examination, which is a rather glaring omission.

Alex Fergusson: The minister will be aware of a recent tragic case in which a registered sex offender disappeared from his home south of the border and reappeared in Scotland to, it is alleged, murder a young girl. What went wrong in that case and what can we learn from it? How confident are you that the police keep a good track of all those who are on the Scottish sex offenders register? How soon are the police likely to realise when somebody goes missing and what steps are taken to find that person? How robust is the process?

Cathy Jamieson: I cannot go into all the detail of the case that Alex Fergusson mentions, because a range of issues are being considered in relation to it, including whether anything more could have been done. However, in general, the issue is about the level of risk. For some people who are on the sex offenders register and who are required to comply with the procedures, the level of risk, even if they disappear off the radar, might not be deemed to be particularly high. For other sex offenders, if they disappear people will immediately be concerned because of the level of risk. In those circumstances, the police prioritise the location of the missing offenders, particularly if it is believed that there is a risk to previous victims or someone close to them.

Several pieces of technology and information are available to the police, including the VISOR system and the police national computer. The police can work with international law partners to try to bring people back into custody. The issue is

not only about those who are on the sex offenders register. In some circumstances, people who are on licence do not keep to the terms of their licence, in which case ministers can take the decision to recall them to custody. As happened recently, the police are then brought in to try to identify the person and bring them back to custody. We need to prioritise on the basis of the level of risk.

Alex Fergusson: When Margaret Ann Cummings gave evidence, one of the most poignant facts that she gave, of which I was not aware, was that when she reported her son as missing the police were not aware that there was a sex offender in the area, never mind in the block of flats in which she lived. Are you confident that that will not happen again?

Cathy Jamieson: I put on record the great admiration that I have for Margaret Ann Cummings and for all the work that she has undertaken—she is a very brave woman indeed. I have met her and heard the evidence that she has given and comments that she has made in various places. It is a great tribute to her that, in her circumstances, she is still campaigning to try to ensure that no other mother has to go through what she went through.

The issue was considered in Professor Irving's report, several of the recommendations of which resulted directly from the fact that, in the circumstances, the different agencies that were involved were not joined up and people did not have the appropriate information. That is exactly why we want to move to a situation in which we have MAPPAs, under which people must share information, be clear about the nature of the information that they must share and act on it, perhaps more quickly than has been the case in certain situations in the past.

Alex Fergusson: I am sure that we all endorse your comments about Margaret Ann Cummings. Whatever the outcome of the process, she has made positive progress.

On the way up to Edinburgh in the car this morning, I heard the chief executive of Barnardo's being interviewed about a pilot tagging scheme that uses satellite technology. Does that have a role?

Cathy Jamieson: I am aware of the work that the Home Office is doing on that and I know of Martin Narey's interest in the issue, which he has followed through in his role at Barnardo's. Potentially, technology has a part to play, whether that means tagging, which is currently available, or newer technologies, which we should not rule out. However, technology is not an end in itself and will not, on its own, solve all the problems if the people in the various agencies do not share information

and are not prepared to act on it. Technology is potentially a useful extra, but we cannot simply rely on it and think that in itself it can solve all the problems.

The Convener: I want to return to the current use of public disclosure. In certain circumstances the police and local authorities already disclose information on sex offenders. What guidance is provided on how information can be used? Are there sanctions that can be used against people who use information inappropriately?

Cathy Jamieson: I am not aware of circumstances in which people have felt that information has been used inappropriately, but in case I am not fully up to speed on that I will ask my colleague to say a bit more about it. The work that has been done has been developed with the various agencies—particularly the police—to ensure that information is protected.

I know of situations in which people are due to be released, but their victims are not subject to the victim notification scheme and want more information. That has been an issue for victims of sexual crimes who are not currently covered by the scheme. However, as I said, I am not aware that there have been breaches of confidentiality or instances in which information has been passed on inappropriately.

Catherine MacKenzie (Scottish Executive Justice Department): ACPOS has been preparing a set of protocols or standard operating procedures for use by each of the eight police forces. The aim is to achieve consistency and co-ordinated management of disclosure. ACPOS has developed a robust approach and clear processes for the police and other agencies, such as social work services, so that people will clearly understand how they will be expected to handle and manage information that is disclosed to them. The reason why the information has been disclosed and the risks of misuse of information will be clearly pointed out to all parties involved. It has taken ACPOS months to develop the protocols, but they are now at the stage of formal adoption.

There will be no legislative sanction for breach of the protocols. It would be difficult to legislate for such circumstances. However, the police think that the best way forward is to work with agencies and individuals, so that all parties agree why and on what basis they are being given information.

Cathy Jamieson: I presume that the committee is more concerned about inappropriate use of information by members of the public than it is about breaches of confidentiality by public agencies. However, as Catherine MacKenzie said, there is no sanction in legislation.

The Convener: I take it from what you said that the Executive is not planning to introduce a sanction.

Cathy Jamieson: We currently have no plans to do so.

Catherine MacKenzie: The protocols will have to be tested to ascertain how strong they are and how well they work. There will be constant evaluation of the effectiveness of the protocols, which will be considered every time information is disclosed. It is important to point out to members of the public what might happen if information is not taken in the spirit in which it is intended.

The Convener: Indeed.

Alex Fergusson: We have been told that the level of disclosure is quite extensive. For example, teachers and swimming-pool attendants are given information. I am impressed by how seldom people let the cat out of the bag. People seem to adhere to the strictures that have been placed on them in respect of the necessity of keeping information private.

I suspect that the general public—a term that I hate—are unaware of the amount of disclosure that takes place, which is interesting. Would not it be better to consider how to make the public more aware of the disclosure that currently takes place, rather than to provide for more disclosure?

Cathy Jamieson: Whether we want more disclosure—which is well worth considering—or not, Alex Fergusson is perhaps right to say that the majority of people do not come into contact with the issue and are not aware of it. It would be helpful if the public were aware that agencies talk to one another and share information for the purposes of public protection.

Sometimes the lack of correct factual information causes problems. I am aware of people who have moved into areas where they have not been known and it has been assumed that they are sex offenders or whatever and local communities have become anxious. Sometimes that anxiety has resulted in public protests or actions against families. In such circumstances, it can be helpful to be able to say to people that there is no truth in a rumour or in information that has been circulating.

12:15

John Home Robertson: Alex Fergusson made an important point. We have been told that the power to disclose information is quite widely used, but that that is not widely known. It could help the debate if information on the use of the power of disclosure were released. Does the Justice Department have facts and figures relating to the number of disclosures that have been made in

recent years and the number of offenders about whom such disclosures have been made? Such information's being made available might help to allay concerns that exist and form the basis for improvements to the system.

Cathy Jamieson: It would be difficult to pull together all the relevant information because many decisions will have been taken by police forces in various sets of circumstances. However, we could consider whether to put information on numbers into MAPPAs annual reports, which go into the public domain, if the committee thinks that that would be helpful.

Alex Fergusson: I am sorry to pursue the point that I made, but it is important. You have said that it might be helpful if agencies could say that rumours about number 32 in their street, for example, are untrue. Surely the corollary is that information would be disclosed by default if somebody said, "What about number 32?" and somebody else said, "Sorry, but I can't tell you about that." Is that a problem?

Cathy Jamieson: That takes us to the difficulties about when and how the public should be notified, and it takes us back to a point that Paul Martin made. Sometimes the public will already know about an offender. They will have picked up information about them or will have followed a court case and will therefore have information that the various agencies cannot officially discuss because they cannot disclose such information.

Mr MacAskill: Should sex offenders who fail to comply with sex offender registration requirements be dealt with differently in respect of public notification? The matter may be covered by the ACPOS guidelines.

Cathy Jamieson: That is another issue that George Irving considered. He considered whether, for the purpose of public protection, a range of disclosure measures would be appropriate for people who do not comply with the requirements of the sex offender notification scheme or with wider licence conditions. He came up with the idea of a warning system through which it would be made plain to offenders that they had not complied with the scheme. They would be told that if they continued to fail to comply, it would be likely that information would be put into the public domain.

Jeremy Purvis: I will come to that in a moment.

You said that people could be anxious and that protests could result if a community thought that a sex offender had moved into it. There may have been anxiety and protests in your area, but why would there not be anxiety and protests if a sex offender moved into an area and their name, address and photograph were published on the internet?

Cathy Jamieson: We are not suggesting that a name, address and information should be published on the internet in every circumstance. We must recognise that if we properly communicate with communities and involve people in a process, it is more likely that they will understand that process.

I have experience of circumstances in which wrong information has gone into the public domain. It is difficult to correct such information. If the authorities work correctly with the appropriate community leaders and people in the area, it will be much less likely that wrong information will go into the public domain. Wrong information is potentially dangerous and can produce a reaction. We need to manage the correct information.

Jeremy Purvis: If someone receives the notification, either from the police or a local authority on child protection grounds, would it be inappropriate for them to distribute the information to other people?

Cathy Jamieson: That goes back to the point that Catherine MacKenzie made that we are not aware of anyone breaching the terms under which the various authorities give out information. However, if someone passed on information, there is no legislative sanction that we could use to deal with that.

Jeremy Purvis: I heard that. I was asking whether you think it inappropriate for people to pass on the information.

Cathy Jamieson: That depends on the circumstances and how the information is passed on. I can imagine that there could be information that might rightly and properly be passed on by someone to their family or to someone who cares for their children. The concern is that that information could be put to use that would have the net effect of an offender disappearing from the view of the public authorities.

Jeremy Purvis: In such circumstances, the information should not be made public, either to a community or on the internet.

Cathy Jamieson: I do not think that you can generalise in that way. There is always a risk attached to giving out information. We have to weigh up whether the risk to the public is less than the risk of people using the information in a way that would lead to an offender disappearing from trace, which is why there should not be a blanket procedure. We have to consider the nature of the risk; there has to be an assessment, the process has to be managed properly and communities have to be supported.

Jeremy Purvis: You mentioned Professor Irving's recommendations. Your submission states that you are progressing on the basis of the

recommendations on the overall work on sex offenders and that you have

“introduced ... a warning system for disclosure in the event of non compliance.”

I asked Detective Superintendent Cameron, who is the chair of the ACPOS risk management working group, what the current state of play is. He said:

“I am not aware of ACPOS's current position on the matter.”—[*Official Report, Justice 2 Sub-Committee*, 31 October 2006; c 88.]

Does that concern you?

Cathy Jamieson: That is a matter for Detective Superintendent Cameron and ACPOS.

Jeremy Purvis: What is the state of play with the warning system and when will the protocols be published?

Cathy Jamieson: Catherine MacKenzie referred to the current state of the protocols. I have made it clear that I want the work to be taken forward consistently across the authorities. My understanding is that that work is well under way and that ACPOS has the drafts, which are being discussed at the moment.

Catherine MacKenzie: Yes.

The Convener: We move on to questions on sentencing, the courts and legislation.

John Home Robertson: It is the responsibility of Parliament to legislate and the responsibility of the judiciary to impose sentences and use its powers. Mrs Cummings expressed the feeling that there is insufficient gravity in the sentences that are handed down for violent and sexual offences compared to those that are handed down for other crimes. It is not unheard of for judges to make comments about elected politicians and the Executive, so will the minister take the opportunity to comment on the performance of the judiciary in this respect, without going as far as murmuring a judge?

Cathy Jamieson: In introducing your question, you made it clear that politicians' responsibility is to set the framework and to provide the penalties and options for the judiciary to use. The judges who sit in court hear the full facts of cases, take account of reports and make decisions. We have increased the opportunities—if I can put it that way—for judges in the High Court to explain their decisions. Statements often accompany some of the more high-profile cases. We need to ensure that we have the right range of sentences.

It would be a dangerous precedent for a politician to become involved in saying what a sentence should be in an individual case. That is rightly a matter for judges, although we need to ensure that the fullest possible information is

available to them in the form of background reports, in order to help them make decisions. We also need to ensure that they have the fullest possible information on what the various sentencing options would do to punish and rehabilitate the offender and to reduce the likelihood that they will reoffend in the future.

John Home Robertson: That is a proper reply from the minister, although I have no doubt that elected politicians on the committee might feel free to express slightly more robust opinions on some sentences.

The Convener: Alex Fergusson must not be tempted.

Alex Fergusson: All right.

I presume that the range of sentencing that the minister talks about includes the possibility for a judge to impose a fixed custodial term. Under the current sentencing proposals, would a sex offender get automatic release at the halfway stage of a sentence in the absence of any such fixed term, or would the sentence carry on until 75 per cent of the term had been served?

Cathy Jamieson: Under the current situation, if the sentence is four years or less, the prisoner would automatically be released at the 50 per cent point. We have introduced measures to ensure that such automatic release is not unconditional for sex offenders, so that there is some form of supervision. An offender who was sentenced to four years or more could apply for parole at the 50 per cent point, but would automatically be released at the 75 per cent point.

Under the proposals in the Custodial Sentences and Weapons (Scotland) Bill, it will be open to judges to set the period that offenders will spend in custody and in the community. When the judge has set the offender's period in custody, it will be the minimum and the offender would not be released early from it. So, if the judge says that the sentence is a year in custody and a year in the community, there would be no early release from custody. In the community part of the sentence, a range of measures can be built into the licence conditions. It will be possible to keep offenders who still pose a risk in custody for longer than the year that the judge set, but that would be subject to a risk assessment.

Jeremy Purvis: Do you have any concerns about sex offenders' not being on the register if the prosecution does not ensure that the sexual element of a case is advanced or if plea bargaining leads to some evidence not being led in a trial?

Cathy Jamieson: I assume that you are concerned that, for example, an accused who was initially charged with what was a clearly sexual

offence might subsequently have their charge reduced to allow them to plead guilty.

Jeremy Purvis: Yes.

Cathy Jamieson: When the current Lord Advocate was the Solicitor General for Scotland, she took a robust view of that matter. She has perhaps done more than most to ensure that sexual offenders have been prosecuted robustly. If there are particular issues to do with the prosecution of sexual offenders, the committee might want to submit some more questions, but I am not aware of its being a major issue for the Lord Advocate.

The Convener: I will ask about the effectiveness of civil orders. It is open to the court to impose a sexual offences prevention order at the time of sentencing and it is open to the police to apply for such an order or a risk of sexual harm order later. Are those powers sufficient, are they being used and are they effective?

Cathy Jamieson: The legislation on those orders is fairly new and it will take some time for the courts and police to become aware of the range of measures that they can use. I will not go through all the figures, which we can supply to the committee separately. However, at the beginning of October, 69 SOPOs were in force throughout Scotland. There is also one risk of sexual harm order in force, although I understand that RSHO proceedings are under way in a couple of other cases. People are beginning to find out whether SOPOs are helpful and to use them. The risk of sexual harm orders have not been used as much, but perhaps when people realise what they can do they will begin to use them more often.

12:30

Mr MacAskill: Although there did not seem to be much support for specialised sex offender courts, people who submitted evidence feel that there should be training for everyone in the criminal justice process, particularly for people who deal with cases that involve sex offending or children. Do you agree and, if so, what steps has the Executive taken in that respect?

Cathy Jamieson: You are correct to say that in our previous work there was no great support for that kind of separate court structure. We have tried throughout to improve the general functioning of the courts not only with regard to victims and witnesses but by ensuring that we get people into the system quickly and deal with them robustly.

Lady Cosgrove's report also raised a number of issues about training and, in fact, suggested that information and guidance on training for prosecutors should be improved. When she was the Solicitor General for Scotland, the current Lord

Advocate certainly took those suggestions on board.

As for training the judiciary to ensure that they have a fuller understanding of particular issues around sex offenders, that is a matter for them and the Judicial Studies Committee. However, work is being undertaken on facilitating joint training to ensure that people understand the position in different parts of the system and that they can communicate effectively with each other. As members can see, there has been work on that matter; however, if any other issues have been raised with the committee, I am interested in hearing about them to find out whether we need to suggest that further work be carried out.

Mr MacAskill: Has any proposal been made to consolidate into a single sex offender act the growing amount of primary and secondary legislation that has been passed on this issue north and south of the border?

Cathy Jamieson: At the moment, the Scottish Law Commission is considering a range of general concerns on the laws on sex offending, and it would be helpful to wait until it has submitted its report to find out whether we need further legislation and what its scale and scope would be. Its recommendations might fundamentally change our thinking on sexual offences, although at this point I do not know what they will be.

The Convener: When will that report be forthcoming?

Cathy Jamieson: I expect to receive some indication of the direction of travel in the new year. However, I am not entirely clear when we will receive the full report. I cannot imagine that the Scottish Law Commission will conclude that we should not do anything in the future; indeed, I fully expect its report to make suggestions on how we would wish to revise the law.

Jeremy Purvis: With regard to information technology, when will the violent and sex offenders register be rolled out and integrated with the work of criminal justice social work departments and the Scottish Prison Service?

Cathy Jamieson: A significant amount of work is being carried out on this matter and, in fact, we have put additional resources into it. We are looking to finish the work by April 2007, when the MAPPAs come into force and the new community justice authorities assume their full responsibilities. We hope that everything will come together then.

Jeremy Purvis: Will the Scottish Prison Service's integrated case management system also be accessible by CJAs through MAPPAs?

Cathy Jamieson: We want to extend the range of people who can access the system. After all, it is important that community justice authorities,

criminal justice social work departments, the police and everyone else can access the same baseline information.

Jeremy Purvis: Will incorporating the Scottish Prison Service's system involve a longer timeframe than that for introducing VISOR?

Cathy Jamieson: Yes. It will probably be another year before that system is fully integrated.

Alex Fergusson: Another issue that was a common theme among witnesses is the need to educate parents and children about potential dangers so that should the need arise they know how to handle a given situation and how to extricate themselves from it. Obviously, there is a difficult balance to be struck between not spreading fear needlessly and making people aware of a potential problem. Does the minister agree that many improvements could be made in that field? What steps is the Executive taking to bring about such improvements?

Cathy Jamieson: A considerable amount of work has already been done on that issue. Sadly, in many circumstances, children are abused or damaged not by a stranger who has literally plucked them from the street or from their home but by individuals whom they know, including members of the close or extended family. That is why it is important that we put in place a range of measures to ensure that children and young people are aware of the potential dangers and that parents and others who care for children are alerted to the basis on which individuals might groom children.

We have undertaken a number of different pieces of educational work that can be used in different settings, such as schools, youth centres and residential care settings where young people can be very vulnerable to that type of behaviour. We have also worked to alert people to the dangers of the internet. We have taken a series of fairly coherent approaches to alerting people to those dangers. I think that we need to continue with that work with each new generation of children. I have been impressed when I have gone into schools and other settings where I have seen how valuable it is that the children are aware of what they should do if an adult behaves inappropriately toward them.

Paul Martin: The Cosgrove report, which was published in 2001, includes a number of recommendations on education, some of which are quite explicit. For example, it recommended:

"Learning and Teaching Scotland and Community Learning Scotland should prepare comprehensive personal safety materials"

in respect of sex offenders. We seem to keep going through a recycling process of saying simply that we need to deliver such measures. Can the

minister or any of her officials provide information on the implementation of the Cosgrove recommendations, which are comprehensive and deal with almost the same issues that we are discussing today? What have we done since 2001?

Cathy Jamieson: There already exists—if it has not already been shared with the sub-committee, I am sure that it can be—an update on all the work that has been done to implement the Cosgrove recommendations. I can certainly provide that to the sub-committee.

Paul Martin: Let me take one specific example. The Cosgrove report recommended:

"The Scottish Executive and the local authorities, in consultation with community organisations, should devise a public information strategy on child sexual abuse and prepare and publish information on the following topics:

- the incidence of sex offending
- the behaviour of sex offenders".

I have been an elected member for 13 years, but throughout that period—I appreciate the balance that needs to be struck, which Alex Fergusson quite rightly pointed out and which I discussed when I gave evidence to the sub-committee previously—I have not seen any evidence in the communities that I represent that we are even discussing such a public information strategy. What is happening on that issue?

Cathy Jamieson: As members will be aware, a number of different bits of work on that are being taken forward by different parts of the Executive. As will have been evident today, the issue involves people from housing, justice and education. Perhaps the most helpful response would be to give an account of what progress the Executive has made against each recommendation. I am aware that we have looked at that already.

Paul Martin: Finally, does the minister accept that we need people to say not just that they are taking the issue forward but that they have actually taken action and that things are now happening? However the information is presented, I hope that we will hear not "We are looking into this," but "Yes—we can point to this community in which that is now being done." I must say that, in the communities that I represent and in our schools, there is no evidence whatever that the recommendations have been implemented.

Cathy Jamieson: It is important that we are able to say that the recommendations have been taken forward. However, my concern is that we should not simply tick a box and think that, because we have done it once, that is it done. With all this work, we need constantly to try to be on the front foot to look at what more we could do and to assess whether we have closed all the

loopholes and taken things forward. I can give an assurance that we will not provide information on the basis of having ticked a whole series of boxes as if that was the end of the matter. We can point to pieces of information that have gone out, but the sub-committee might well want to come back to us with suggestions on where the MAPPAs and CJAs should take things forward in the future.

The Convener: It will be helpful to have that update. We will then see what we do with that information.

The final question is on the classification of sex offenders. It has been suggested that the classification should distinguish between those who offend against adults and those who offend against children, but there was not a great deal of support for that among professionals. Would it be practical or useful to have the proposed two different types of classification?

Cathy Jamieson: As members are aware, in some circumstances the law already distinguishes between offences that are committed against adults and those that are committed against children. Some sexual offences can by definition be committed only against children.

I absolutely understand the horror and revulsion that people feel for any circumstance in which a child has been sexually abused, but I am concerned not to suggest that vulnerable adults who are sexually abused suffer less trauma or that someone who had been involved “only” in offending against an adult was therefore not a threat to children. With anyone who is involved in sexual abuse or sexual offending, we need to assess the risk that the person is likely to pose, whether it is risk to adults or vulnerable adults or children. I am not persuaded that a distinction of classifications such as has been suggested would add anything. Again, I am open to what people have to say, but I am not persuaded at the moment.

The Convener: I thank the minister for a very long evidence-taking session. I thank Scottish Executive officials Sharon Grant, Catherine MacKenzie, Brad Gilbert and Pat Tracey. On that note, I close the public part of the meeting.

12:42

Meeting continued in private until 12:45.

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