

# **JUSTICE AND HOME AFFAIRS COMMITTEE**

Wednesday 1 December 1999  
(*Morning*)

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## JUSTICE AND HOME AFFAIRS COMMITTEE 12<sup>th</sup> Meeting

### CONVENER :

\*Roseanna Cunningham (Perth) (SNP)

### COMMITTEE MEMBERS :

\*Scott Barrie (Dunfermline West) (Lab)  
\*Phil Gallie (South of Scotland) (Con)  
\*Christine Grahame (South of Scotland) (SNP)  
\*Gordon Jackson (Glasgow Govan) (Lab)  
\*Mrs Lyndsay McIntosh (Central Scotland) (Con)  
\*Kate MacLean (Dundee West) (Lab)  
\*Maureen Macmillan (Highlands and Islands) (Lab)  
\*Pauline McNeill (Glasgow Kelvin) (Lab)  
\*Tricia Marwick (Mid Scotland and Fife) (SNP)  
\*Euan Robson (Roxburgh and Berwickshire) (LD)

\*attended

### WITNESSES :

Eddie Hunter (Prison Staff Association)  
John Reidy (Prison Staff Association)

### COMMITTEE CLERK :

Andrew Mylne

### SENIOR ASSISTANT CLERK :

Richard Walsh

### ASSISTANT CLERK :

Fiona Groves



## Scottish Parliament

### Justice and Home Affairs Committee

*Wednesday 1 December 1999*

*(Morning)*

[THE CONVENER *opened the meeting at 09:30*]

**The Convener (Roseanna Cunningham):** Good morning. Although only four members of the committee are present, nevertheless the meeting is quorate. Based on past performance, people will drift in over the next five minutes. I intend to get the first couple of agenda items out of the way.

**Phil Gallie (South of Scotland) (Con):** I wish to raise an issue before we move on, convener.

During our discussions with the Scottish Prison Service on 23 November, I gave a wrong figure at column 440 of the *Official Report* of that meeting. It should have read 6,025 rather than 7,025, which changes significantly my line of questioning. I apologise for that error.

**The Convener:** Thank you, Phil. You copied to me the letter that you sent to Tony Cameron, which I am sure he appreciated.

**Phil Gallie:** I received a nice letter back from him.

**The Convener:** These things happen to all of us from time to time. Thank you for putting that on record.

## Petition

**The Convener:** The first agenda item is petition PE29 on road traffic deaths, which we have received from the Dekker family. Most members of the committee will be only too familiar with the issues that are raised in this petition and with the tragic circumstances that gave rise to it.

We must discuss how we intend to progress this matter, rather than trying to deal with the petition this morning. In fairness, it would be almost impossible to do this petition justice with a brief discussion. We must decide what we ought to do with the petition and how best to manage that work within the constraints on the committee, given our heavy work load. This is more about timetabling than about the substance of the petition.

I ask whether there are brief comments on how we should handle this petition, to help the clerks with timetabling discussion on it into future

meetings. Such discussion will now require to be held after the Christmas and new year recess. This is a substantive petition, which raises an enormous number of key issues. I do not think that we can investigate it in just one or two meetings.

**Phil Gallie:** I do not think that we should let this matter slip without putting down some markers, which should be in the form of contact with the Crown Office. We should look for details on the number of occasions that police have charged people with causing death by dangerous driving and on how many occasions those charges have been altered to the charge of careless driving. It might be worth while to consider the reverse process as well.

We should also express concern to the Crown Office about its apparent refusal to give reasons for altering charges to the families of people who have been killed in such accidents. Ultimately, I see no option but to invite the Lord Advocate to come before the committee to answer questions on the range of issues that surrounds the charge of causing death by dangerous driving.

**Scott Barrie (Dunfermline West) (Lab):** While in no way belittling the seriousness of both this case and the petition—we have all had some involvement with the Dekker family at some point—I think that the case is the tip of a big iceberg. This is not the only time that we have been approached about this subject and therefore it is a matter that the committee would be justified in investigating. I take your point, Roseanna, about our heavy work load. We have discussed that on many occasions and will do a stocktake in spring next year to plan the rest of our work. However, we should consider seriously this petition during that stocktake and, although I do not know how we will attach priority to issues, I think that we should flag up that this is one subject that we should return to.

**Tricia Marwick (Mid Scotland and Fife) (SNP):** One of the saddest aspects of cases such as this one is that the families feel let down by the system. As a committee, we need to do what we can to address that and to address some of the pain that families suffer. There seems to be little statistical information available from the Crown Office about the number of people who have been charged with careless driving. Before we can make informed decisions, we need the evidence before us of the Lord Advocate's charging policies. I agree that we should consider this matter and that we should flag up our interest in it. We should progress it when the work load is a bit lighter than it is at present.

**Pauline McNeill (Glasgow Kelvin) (Lab):** I agree with the comments that have been made so far. The starting point in this matter is the statement that the Lord Advocate gave us when

he attended a committee meeting with Angus MacKay. He used the word accountability and the word transparency, which is the key word. We owe it to the Dekker family and to other families who have written to us to get to the bottom of what the Crown Office means when it says that it wants to provide a service that is seen to be transparent. That would go a long way towards establishing principles about what we can, or cannot, expect from the Crown Office. It would also contribute towards addressing the views that we probably all share on victim support.

We should tackle this subject—I will leave it to others to comment on how we should go about that. I agree with Tricia Marwick and Scott Barrie that the petition is worthy of further examination, but we will probably have to leave that until we have more time. I am happy for us to kick off by writing letters to the Lord Advocate now, pressing him on what he means by accountability and transparency.

**Christine Grahame (South of Scotland) (SNP):** I apologise for missing the early part of the meeting. I support what Tricia said about the lack of statistical information. I would like to know whether statistical information is available on how many times charges are reduced—when a charge is made out and then diminished—and on the circumstances in which that happens. Further, we should set in train the timetable, by writing to the Lord Advocate. I would also like the committee to pursue with the Lord Advocate the idea of a victims charter, which would entitle victims and families of victims to all the information, all along the line, on matters such as those that are raised in this case.

I appreciate our timetabling problems. Perhaps we could highlight the matter to the Lord Advocate and the Minister for Justice, with a view to making progress in the spring.

**The Convener:** One of the difficulties with this petition is that it raises a number of different issues, each of which could be the subject of separate and quite long investigations, such as handling victims, which is just one aspect of the petition. That is why I am concerned that we discuss how best to progress the petition. I suggest that, in the first instance, as with all new potential investigations, this will require to be deferred until the meeting after the Easter recess. It will join the process by which we will decide our priorities once we have dealt with the legislation that we are still handling.

However, between now and then, it would be useful to write to the Lord Advocate, to ask for his specific comments on each of the areas raised by this petition. Separately, it might also be appropriate to ask the researchers in the Scottish Parliament information centre to collate what

information is available—that would also give them time. I know that a number of members have asked parliamentary questions on this subject and there are various pieces of information that are on—or off—the record. If, prior to the Easter meeting, we can get SPICe to collate all the relevant information that is on the record, we will have information that is easier to handle when we come to consider how to proceed with this petition at that meeting. Are members happy with that approach?

I must also tell members that I understand that we have now lost the meeting of the morning of Wednesday 15 December. I believe that it has been decided that that Wednesday morning will be parliamentary time. The standing orders state that committees will not be able to meet when the Parliament meets, and, as we were scheduled to meet that Wednesday morning, that means that, willy-nilly, we have lost a meeting, which is unfortunate. I intend to take that matter further, as we will have two bills returned to us for stage 2 and we are in the process of trying to timetable that for the January and February meetings.

The gathering of background information on this petition will mean that, when we come to deal with the matter more substantively, we will be in a better position to understand what work will be required in order to progress it. Potentially, there are two or three different investigations subsumed in this petition.

**Phil Gallie:** I recognise the pressures and that we are talking about deferring this matter until Easter. We have had similar discussions before. I have particular concerns about this petition, as it will take longer to sort out. However, it seems to me to be totally wrong that, when someone is killed in an accident, there is no reference to that death when the accused is subsequently charged with careless driving. I do not know whether we can make representations to the Lord Advocate, as his hands would be tied in any case.

On the cancellation of the 15 December meeting, I guard as jealously as any other member my Mondays and Fridays, which I spend in the constituency areas. However, we are moving into a position where we cannot afford to lose that meeting.

**The Convener:** We are in the process of trying to organise something else, as other items were slotted in also. One of the difficulties with losing that meeting is that we are potentially going to lose the opportunity to speak to the Minister for Justice about prison issues. There are complications arising out of the loss of that meeting and, behind the scenes, we are trying to arrange an alternative slot that week. However, that will not be a Monday or a Friday, as, apart from anything else, ministers have indicated that they do not wish to be invited

to meetings on Mondays and Fridays as well as on Tuesdays.

Although the details are not finalised, I can indicate to members that we hope to be able to fit in a slot on the afternoon of Tuesday, 14 December. However, that is not confirmed, and all I ask is that members pencil that date into their diaries. We are giving members the maximum possible notice. I was going to raise this matter later, under the item on the Scottish Prison Service.

We are having difficulties trying to rearrange meetings and trying to find the time to undertake work. The best way in which we can progress this petition is to write to the Lord Advocate, to ask him to address the specific issues, one by one, that the petition raises, not simply to gloss over them. I also suggest that we ask SPICe to pull together the available information that is germane to the issues raised by the petition, by way of on-the-record replies to parliamentary questions and debates.

09:45

This is a formal petition, therefore we must make some pronouncement on it. I do not think that it is the sort of petition that we can merely note. We must try to address the substantive matters of this petition, either in totality or in part, and we need some background information. I ask the committee to leave the matter with the clerk and me, and we will ensure that those two things are set in train. We will report back at another meeting on what we have received. When SPICe gives us that information, the committee will be able to read it.

The difficulty is the timetabling, as I have already mentioned. If members are happy with that at this stage, the matter will be addressed. We will try to allocate time on a future agenda, even if it is only five minutes, to report back on progress so far, before the committee enters into a bigger discussion, in a couple of months' time, at which it can decide whether to take up every item in the petition or to focus on a couple of the key issues. Are all members happy with that?

**Members** *indicated agreement.*

## European Document

**The Convener:** Item 2 is another European document. Yet again, we are grateful to the clerks for their helpful note. It appears that European documents will be a standard item on our agenda.

As members will read in the clerk's note, money laundering is a reserved matter. The committee may want simply to take note of the document. The background is laid out in the clerk's note, as is

the procedure that the committee can follow. The European Committee has referred the document to us, as it has come via the criminal justice division of the Scottish Executive. However, as it is a reserved matter, unless there is anything that members particularly want to raise in connection with it, I propose that the committee simply take note of this document.

In the future, we may want to discuss how we can best handle the documents that are referred to us from the European Committee, as many of them relate to reserved matters. My only concern is that we ensure that we are not simply taking note of such documents without highlighting issues that might be relevant.

**Phil Gallie:** I have no problem with your comments on this particular directive. However, I note the comment in the clerk's note about the European Commission's communication on crime victims in the European Union. I would like to have a copy of that document. When that document is available, the committee might want to examine it, given our concern for the victims of crime.

**The Convener:** Yes. Apart from anything else, it would be useful to have some indication of the practices in other countries, so that we can learn from best practice.

## Scottish Prisons

**The Convener:** Moving on to item 3, committee members will recall that last week we had a lively meeting at which the chief executive of the Scottish Prison Service was present, as well as representatives from the trade union side. Today, we welcome representatives from the Prison Staff Association. John Reidy is an executive committee member and Eddie Hunter is the national chairman of the Prison Staff Association.

Committee members will be aware, both from last week's and this week's news, that there is an issue of controversy in the Prison Service. The Prison Staff Association is a union that is not represented on the trade union side. I do not want the committee to get involved in a debate about the internal industrial relations of the Prison Service, and I ask members to confine their comments and concerns to the effect of the cuts.

The invitation was made to the Prison Staff Association because it represents the majority of members of the Prison Service who are working at Dungavel, and because it has members at Penninghame—two prisons that are now marked for closure. We felt that it would be wrong to proceed with an investigation of the cuts in the Prison Service without hearing from all the representatives of all the members.

With those comments, I introduce John Reidy and Eddie Hunter, and invite committee members to ask questions. Christine Grahame has a particular interest.

**Christine Grahame:** I have a particular interest in Penninghame, but I have also—as members will know if they have read the *Official Report* of previous meetings, as I am sure that they have—questioned the closure of Dungavel, following the report by HM chief inspector of prisons for Scotland. Will you tell me the effect on the morale of your prison officers of the way in which the closure has been planned and the reasons for that decision?

**John Reidy (Prison Staff Association):** The prison officers are completely shattered. Since the announcement, there have been several attempts by management to address the issue with staff at Dungavel, through the human resources directorate. However, the comments from staff at Dungavel reveal that they still have no clear picture of their future. At first, they were told that they were prioritised for transfers, that they would be transferred to the establishments that are closest to their homes and that staff in other establishments may find themselves being transferred. That has now changed. The staff at Dungavel are no clearer about their future, and are absolutely demoralised about the cuts.

This committee raised the issue of the excellent reports on Dungavel, following the effort that Dungavel staff have put in over the past couple of years. They have managed to attain 6.9 per cent on their mandatory drugs testing; they have received awards from the Convention of Scottish Local Authorities for their prisoners; and two members of staff have been recommended for Butler Trust awards as a result of the schemes that they have implemented for prisoners. They could not believe the announcement that Dungavel was to close: it came completely out of the blue.

**Christine Grahame:** Does the low morale of prison staff impact on the prisoners?

**John Reidy:** Yes. We were surprised to hear the chief executive last week comment on the fact that the Prison Service finds it hard to fill Dungavel. He said that Dungavel has a capacity of 135. He is almost correct: the actual figure is 134. However, he failed to say that Dungavel's capacity has been restricted to 115, to bring about the changes in mandatory drugs testing and the drugs programme. Dungavel currently houses 109 prisoners. Specific places were reserved for people who returned from open conditions. If that had been working well, there would have been no problem in filling Dungavel.

The issue that this committee has raised, which

was one of the points that was made in the report, is that prisoners loathe going to Dungavel because of the accommodation. What the chief executive failed to say was that, since 1991, Dungavel management has submitted annually a request for single cell accommodation at Dungavel. That request was made so frequently that the Prison Service had such plans drawn up, but, every year since 1991, the management of Dungavel have been told that the funding did not exist.

However, at last week's meeting of the Justice and Home Affairs Committee, the chief executive of the Scottish Prison Service admitted that, over five or six years, a piggy-bank, as you called it, of £24 million had been built up. That has served to demoralise the staff at Dungavel even more. They aimed for projects and programmes for prisoners, but were told that there was no funding. Suddenly, they have found out about a hidden piggy-bank.

**Christine Grahame:** I have concerns over the effect of staff morale on their ability to perform their job thoroughly. They are the backbone of the system. Will you address the threatened closure of the open prison at Penninghame? The main argument was that it was remote from families. We received a submission from Penninghame, which gave a good report of it, not only from the people who work there but from the community. Can you tell me how the prison officers at Penninghame feel now?

**John Reidy:** The prison officers that we have spoken to at Penninghame are demoralised as well. The prison officers and the prisoners view the closure as the removal of another facility. Eddie and I work in Shotts. We deal consistently with prisoners whose long-term aim is to secure places in Dungavel and Penninghame. For a prison officer, the worst situation is a constant merry-go-round of prisoners who come in through one door and go out through another. There is nothing worse than seeing people return to prison, not because they have not addressed their criminal behaviour and offending, but because they have not been given the facilities to acclimatise themselves prior to their release.

Prisoners who have served long terms in lock-down facilities, and have never had the chance to go to Penninghame or Dungavel, consistently re-offend and return to prison. The success rate is based on those who go through places such as Dungavel and Penninghame, but those facilities are going to be lost. The chief executive of the Scottish Prison Service says that there is no argument for having three open prisons. I am sorry, but there is. As long as prisoners are returning on the reoffending merry-go-round because those facilities are not there, there is an argument for open prisons.

As for the argument about remoteness, we know



that Penninghame is remote. There has not been any backlash from prisoners or their families about its remoteness: they are happy with the facilities. The community is happy with the facilities. That prison is a success, as this committee pointed out, and so is Dungavel, as the chief inspector's report indicated. However, we are to believe that the Scottish Prison Service's management have come to a justifiable decision, within three weeks, to close those establishments. When pressed for strategy plans, they say that they will not be able to produce a strategy until next spring.

**Christine Grahame:** I have one final question. In the newspapers recently, Clive Fairweather has said that it will be necessary to build a high-security prison in the next five years, and that there will be nowhere to put 500 prisoners if these closures go ahead. Do you agree with that?

**John Reidy:** That it will be necessary to build a 500-strong prison?

**Christine Grahame:** Yes, that we will need to build a high-security prison within the next five years if these closures go ahead, even with the projection.

**John Reidy:** The projection, we understand, is 6,700. The Scottish Prison Service maintains, in some of the reports that it is sending out, that its balance is 6,200. It told this committee that it trusted the statisticians and that it did not make up its own figures.

Mr Fairweather is right. If we cut these prisons, then got a sudden influx, there would be a requirement for 500 places. The only way that those places could be provided would be to build another prison through the private finance initiative. The problem is that that would be creating a 500-strong super-jail and removing the facilities that prisoners need to acclimatise themselves prior to returning to the community.

**Phil Gallie:** In your wide-ranging comments, you have addressed many of the points that I had in mind. As there is a separation in prison officer representation, can you tell me which prisons your organisations represents?

**John Reidy:** We have majority membership in Dungavel and we have almost 50 per cent membership in Shotts. We have members throughout the Prison Service, in Inverness, Glenochil, Cornton Vale, Low Moss and Penninghame.

**Phil Gallie:** I wondered whether you had the majority of members in Penninghame and Dungavel, and whether that had any effect on the decision to close those two prisons.

**The Convener:** Phil, I deliberately said that I did not want this to become a discussion about industrial relations in the Prison Service. I am not

going to allow you to go down that road.

**Phil Gallie:** Okay. I shall raise a different point. In a letter that was sent to us on 15 November, you state:

"Since 1993-94 until 1996-97 we believe that there was a consistent erosion of Governor and Uniformed staff whilst the numbers of admin staff within the service has more than doubled."

Would you like to comment on that and on the reduction in staff now, with respect to the proportion of administrative and uniformed staff?

Sorry, convener.

**The Convener:** It was a nice try, but do not do it again.

**John Reidy:** I was nearly tempted to comment.

Since 1991, the Prison Service has been at pains to advertise the fact that the number of staff has gone up. The previous chief executive commented that the number had topped the 5,000 mark. In 1991, prior to the staffing structure review, there were 4,101 governors and operational staff—prison officers who work with prisoners. Since 1991, that figure has dropped by 800, although we are now dealing with 600 or 700 more prisoners than we did then. That reduction has been made through the restructuring programme—the staffing structure review, which was introduced in 1994.

Consistently, in the years since 1991, the number of operational staff in the Prison Service has dropped. Last year, the reduction in operational staff since 1991 stood at 800. We cannot determine the current figure, as it has been amalgamated and jobs are classified according to pay bands: we cannot tell the difference between prison officers and administrative staff.

10:00

What we do know is that the number of administration staff in the Prison Service has trebled since the staffing structure review, while the number of operational staff dealing with prisoners has been reduced by 800. The latest cuts will see another reduction of 374 staff, and our biggest fear is that the majority of them will be operational staff: people who are working on the shop floor and are dealing with prisoners. We do not have enough staff dealing with prisoners at the moment.

The core area of our business is dealing with prisoners. The only way in which we can have success in the Prison Service is if we have staff working with prisoners on a daily basis who can get to grips with prisoners' problems and the planning of their sentences. That gives prisoners something to aim for, from the time they come in

the door from the national induction centre—which is where they are inducted now—through our larger establishments, where they are dealt with by operational staff and their sentences are planned, to semi-open conditions in Dungavel and Penninghame. Our biggest concern is the consistent erosion in the number of operational staff on the shop floor.

**Phil Gallie:** You could say that there will be an additional work load in induction and planning, given the loss of facilities at Penninghame and Dungavel, which will make it much harder to provide programmes that prepare prisoners for their return to the community.

**John Reidy:** There will be a major detrimental effect on rehabilitation programmes, especially as we forecast that the number of prisoners will increase. In the next couple of years, we can see prison officers having to deal with overcrowding on their galleries again. We believe that the Prison Service already has a strategy to start doubling up in cells, by putting bunk beds back on to galleries. Our staff will be busy dealing with the number of prisoners, and that will set the Prison Service back to the mid-1980s.

**Phil Gallie:** The report by the chief inspector of prisons shows considerable overcrowding in some of the larger institutions. You mentioned the fact that spaces in prisons are kept deliberately to deal with emergency conditions, and that those places are currently in the smaller facilities. What effect would the closure of Dungavel have on that facility, given that there might be emergencies elsewhere?

**John Reidy:** Dungavel is a prime example, because in the past it was used to facilitate the busing out of prisoners from Glenochil and Barlinnie during the riots there. Dungavel is a C category prison, which is the same category as Glenochil, yet the chief executive states that there is a problem in filling Dungavel, which can take prisoners in time of trouble. I am talking not just about rioters: I am talking about prisoners whom we need to remove for their own safety.

On a number of occasions when we have had a riot in a prison, some prisoners have wanted nothing to do with it and have wanted to move out. We need places where we can put prisoners who do not want to be involved in trouble. By reducing the number of smaller establishments and pushing ourselves into 500-strong prisons, all that we are doing is creating an environment in which we have no flexibility to implement the strategies that are required to deal with incidents. That will tie us down.

**Phil Gallie:** On Dungavel, you suggested that 109 of the 115 places are filled. Has that been the consistent occupation rate over the past year or

two, or has the rate been significantly less?

**John Reidy:** We have been told that the average rate of occupation has been around 109. Dungavel locked up 109 on Tuesday night, and it has the capacity for 115 prisoners.

**The Convener:** In one of your previous answers to Phil Gallie, you referred to your letter of 16 November 1999 to Tony Cameron, which you copied to the Justice and Home Affairs Committee. On page 2 of that letter you say:

“From the evidence of increased orders for bunk beds, circulated by George Sinclair...it is obvious how you intend to handle this problem.”

When we raised that issue last week, no one seemed able to shed any light on it, other than to say that they had heard rumours. Can you clarify what you know to be happening? You referred to the likelihood of doubling up in cells. Could you expand on that, and tell us what the evidence is?

**John Reidy:** Last week, the association anonymously received copies of internal e-mails from George Sinclair to departments within the Prison Service, in which he refers to more orders for the manufacture of beds. He requires 109 bunk beds for Greenock, bunk beds for A and C halls of Barlinnie, and bunk beds for Perth, as well as 150 single beds. When our staff received that information, alarm bells started to ring. As soon as bunk beds were mentioned, our members had visions of numbers increasing in the galleries and a return to overcrowding, yet I understand that last week the chief executive said that there were no plans along those lines.

**The Convener:** Thank you for clarifying that.

**Pauline McNeill:** On which date was that order for bunk beds made?

**John Reidy:** The e-mail was sent on 14 November. It states that George Sinclair originally wanted the work to be done by January, but that he asked for the work to be brought forward by two weeks.

**The Convener:** Do you have copies of the e-mail with you?

**John Reidy:** Yes, and we forwarded a copy to your committee. Obviously, you do not have it.

**The Convener:** We have had copies of the letters and so on, but we have not seen copies of the e-mail. It would be helpful if we could have it.

**Pauline McNeill:** I wish to be clear what you are saying, because the committee will take something from your evidence about bunk beds. Is that order for bunk beds unusual?

**John Reidy:** I do not work in the industrial complex, but the staff there felt that the increased order was unusual—they were so alarmed that

they forwarded the e-mail to us.

**Pauline McNeill:** In your view, how many of the job losses will be compulsory?

**John Reidy:** We do not have any figures on that, but we know that the correspondence sent out by the chief executive states that compulsory redundancy should be a last resort. However, the last document that came out, which was entitled "Living Within Our Means", and of which I believe your committee has copies, lays out the human resources options for dealing with excess staff. If people cannot be found to take the packages that are on offer, there will have to be compulsory redundancies. Given that two weeks down the line Dungavel staff still do not have a clear picture of their future, we could speculate that compulsory redundancies might be required if the future of the Dungavel and Penninghame staff is not quickly dealt with by HR.

**Pauline McNeill:** Have you started a consultation exercise with management yet?

**John Reidy:** Have we started?

**Pauline McNeill:** Yes. Have you held joint talks about the programme with management?

**John Reidy:** As the convener has already pointed out, we cannot talk to members of management because they will not talk with us.

**The Convener:** Pauline, let us be careful where we go with this line of questioning.

**Pauline McNeill:** Yes, but given that John Reidy is here today, it is important to get his view, because at the end of the day we will be concerned with the arguments that can be made to minimise job losses.

**John Reidy:** To provide some clarity with regard to discussions, we know that HR has been instructed to go into establishments—

**The Convener:** Do not use initials.

**John Reidy:** I apologise. The human resources department has been instructed to go to establishments that are closing and speak with the staff. We welcome that—not the closures, obviously, but we welcome the fact that the department is talking to staff. However, when staff are given a different picture every week on where they may be going, it compounds their fears. As the clock ticks away and we approach 3 March with the staff no clearer about their future, compulsory redundancies will be the next subject to loom in front of them.

**Pauline McNeill:** On the issue of redeployment, apart from the obvious things that you said on location, what will be required in training and so on if you want to transfer a prison officer who has worked in Dungavel or Penninghame for a long

time to another prison?

**John Reidy:** They would need to take part in a reinduction programme. Staff who have served long periods at a particular establishment should undergo a reinduction programme when they are transferred to a different establishment.

**Pauline McNeill:** Is that the standard procedure?

**John Reidy:** Yes.

**Pauline McNeill:** You know that last week we heard evidence from the chief executive of the Scottish Prison Service. He described the open prison environment as a challenging environment, and he made it clear that prisoners did not want to go there. He also said that contrary to the popular misconception that an open prison was an easy environment, the situation was quite the reverse. I would like to know your view on that.

**John Reidy:** First, I work in Shotts and dispute the fact that prisoners would choose to be in Shotts rather than Dungavel or Penninghame. If the chief executive does not take that on board, he should ask the prisoners face to face.

Secondly, Dungavel and Penninghame are challenging. As I pointed out, the fact that prisoners need to be acclimatised before being released into the community is a challenge in itself. However, I would rather challenge prisoners in a controlled environment—or in the limited-control environment that we need in those types of prisons—than just turn them out of places such as Glenochil, Shotts and Perth, because we would not be doing ourselves or the community any favours, and we would be doing the prisoners an injustice.

**Pauline McNeill:** That is an important point.

One of the important issues for the committee will be what is said about the capacity of the Prison Service to deal with incidents or an increase in the prison population. What is your association's view on the capacity that the service should have to deal with future increases or incidents?

**John Reidy:** We understand that the Prison Service has always maintained that it has 100 spaces. If we take into account the fact that previous trouble has always been restricted to one hall, and that the average number of prisoners in one hall is in the hundreds, that number of spaces is probably about right. The problem is that with the closures of Dungavel and Penninghame, we cannot see 100 spaces being available.

**Pauline McNeill:** Are you saying that the amount of spare capacity that is required for emergencies is 100 spaces?

**John Reidy:** That is the figure that has always

been used, but you must speculate about what would happen if the Prison Service was dragged back to the days of the riots. This is a hard issue to talk about, because if we make comments about riots, prison officers such as myself feel that we will get riots.

**The Convener:** We understand the difficulty that you have.

**Tricia Marwick:** The chief inspector of prisons has said that one of the biggest problems for the Prison Service is drugs. Dungavel was heralded by the chief inspector as the only drug-free environment. We have heard about the conditions in Dungavel, in particular the unsuitability of the dormitory accommodation. What is it about Dungavel that has allowed you to achieve the drug-free environment that is the envy of the rest of the Prison Service?

**John Reidy:** The chief executive slated Dungavel because of the accommodation and because prisoners do not want to go there, yet from March to November 1999, out of 604 prisoners who were tested in Dungavel, 552 tested negative for drugs. That is a return of 6.9 per cent for the mandatory drugs test, compared with other establishments that have percentage returns in the 40s, 50s and 60s. I am not a statistical expert, but the MDT returns at Dungavel seem to be good.

With regard to accommodation, as I have stated, Dungavel has been crying out for single-cell accommodation, to improve facilities and increase capacity, because staff there know that they have a programme that works. They know that they can reduce prisoners' drug taking. Drug testing is always a major issue for the Prison Service, yet here we are shutting down a success.

10:15

**Tricia Marwick:** That is the point which I am trying to make. When Dungavel closes, prisoners will not be moved to a prison with the same kind of regime. Given your figures on the high returns from drug testing at other prisons, is a real drug programme achievable in prisons?

**John Reidy:** A real drug programme could be and has been achieved in prisons; now we are flinging it away. The Scottish Prison Service management will set itself back years by sending prisoners from Dungavel back into environments with a high incidence of prisoner drug taking. Some of those prisoners will be tempted just through peer pressure to take drugs.

**Tricia Marwick:** Is Dungavel's drug programme being replicated elsewhere in the Prison Service?

**John Reidy:** Major work on drug testing and on creating drug-free environments is being undertaken throughout the Prison Service.

However, that policy of creating isolated drug-free environments within drug environments does not seem to be working. Dungavel established a completely isolated drug-free establishment, which is working. In answer to your question, although there are drug programmes within the service, they are not as successful as the programme at Dungavel.

**Tricia Marwick:** Has the programme been successful because of the amount of control that can be exercised at Dungavel due to its isolation and small size?

**John Reidy:** Those are key factors in the drug programme's success.

**Tricia Marwick:** How will the loss of Dungavel affect the drug programme?

**John Reidy:** It will be devastating.

**Christine Grahame:** I want to pick up some supplementary points. I was going to raise Pauline McNeill's point about training. Have some prison officers been in Dungavel for many years?

**John Reidy:** Yes.

**Christine Grahame:** Therefore, would not it entail a longer training programme to retrain a prison officer habituated to one type of prison regime?

**John Reidy:** At the moment, when a prison officer is transferred to another establishment, it is usually left to the governor of that establishment to determine the length of training. I do not know whether the Prison Service intends to have a standardised training package in the light of the fact that so many staff are being transferred at once. Normally, the retraining consists of a prison officer spending a week with the staff training officer, familiarising himself or herself with the establishment and its practices.

**Christine Grahame:** That is all?

**John Reidy:** That is the normal procedure for prison officers who have sought a transfer to a certain establishment. Because they have had to compete for a job there, they have brought themselves up to speed with an establishment's facilities. We are talking about prison officers who, with no choice in the matter, will be taken from where they work and plonked in an establishment about which they know nothing.

**Christine Grahame:** And you do not know anything about the training that they will be given.

**John Reidy:** No.

**Christine Grahame:** It is clear from the report by the chief inspector of prisons that the three open prisons in Scotland are underpopulated. Do you believe that no open prison should be closed?

**John Reidy:** Yes.

**Christine Grahame:** Even though they are underpopulated?

**John Reidy:** We have always maintained that there will be underpopulation in open prisons. A recent report in *Prison Service Journal* highlights the fact that there will always be spaces in open prisons. That has much to do with the criteria for admission to open prisons. Last week, the issue of those criteria was raised with Mr Duffy. We deal with prisoners who go to Dungavel, but Dungavel can be a stepping-stone to an open prison. The knock-on effect of changing the criteria is a reduction in the number of prisoners going through the system. If we cannot get prisoners out of Shotts to Dungavel, how can Dungavel get them to open conditions?

**Christine Grahame:** Are there different criteria for different open prisons?

**John Reidy:** No, each prison has a standard set of criteria. However, as has already been highlighted, the criteria can be changed and numbers manipulated depending on which programmes have been introduced.

**Christine Grahame:** What I am trying to get at is whether the three open prisons have different types of prisoner, purposes or philosophies, or whether they all operate the same criteria.

Perhaps I am not explaining myself very clearly.

**John Reidy:** Although there is a generic set of criteria for open conditions, each establishment has its own philosophy for the treatment of prisoners.

**Christine Grahame:** My third question brings us back to the bunk beds. How long have you been a prison officer?

**John Reidy:** Ten years.

**Christine Grahame:** How would doubling up affect inmates who are currently in single cells?

**Eddie Hunter (Prison Staff Association):** Doubling up was commonplace when I worked in Edinburgh prison some years ago; it is not a situation to which any prison officer or prisoner—or any right-minded person—would want to return if possible. Two people share an 8 ft by 4 ft cell with a bunk bed and no room for in-cell sanitation. Prisoners have pots that are emptied in the morning.

I had five years of that when I worked in Edinburgh. If prison officers found opening up a cell in the morning disgusting enough, imagine how prisoners felt sleeping all night in such conditions. I cannot put into words how horrendous the situation is for everyone concerned. We were shocked by the chief

executive's comment last week that the programme for in-cell sanitation was somewhere in the distant future.

**Christine Grahame:** How high would that programme be on your list of priorities? Is the issue of prime significance for a prisoner's well-being?

**Eddie Hunter:** Two main issues currently affect Scottish prisoners: the first is drugs and the other is in-cell sanitation.

**Christine Grahame:** My last point concerns future overcrowding. I appreciate that capacity is needed to hold decanted prisoners during the refurbishment of cells for in-cell sanitation. I know that you are not statisticians, but I think that I can rely on your experience. What is your view on future overcrowding in prisons?

**John Reidy:** On whether it will happen?

**Christine Grahame:** Yes.

**John Reidy:** It will happen.

**Christine Grahame:** Is it unfair of me to ask you how soon that will happen if the closures go ahead?

**John Reidy:** The chief executive made the rather derogatory comment that there was already overcrowding and that he was not making the situation any worse. The chief executive of the Prison Service should be ashamed of openly admitting that. We should address the problem of overcrowding before closing these prisons. If the Prison Service was being run without overcrowding in any establishment, we could address the issue of whether there were too many prisons. However, we believe that, because there is still overcrowding, the chief executive has got his priorities wrong.

**Christine Grahame:** You said that open prisons are underpopulated.

**John Reidy:** Then there must be something wrong with the programme if there is overcrowding in maximum-security prisons and we cannot get prisoners through the system.

**Phil Gallie:** I recognise that it is not your responsibility to worry about where savings could be made. However, the chief executive is faced with a £13.5 million extraction from the cash available to him, even though that cash was perhaps put in his back pocket through stepping back on programmes such as single-cell accommodation at Dungavel. If those prisons are not closed, how else can the chief executive save money?

**John Reidy:** At the start of last week's evidence session, the chief executive made about seven references to a £13 million saving. The committee

was equally puzzled by that and when Mrs Grahame pulled him up on the point, he said that the saving was £24 million. When he was asked about the period over which that money was saved, he replied that it was saved over four or five years. When he was pushed later on the point, he said that he did not understand the question because the savings would not come until the next two years—£7 million this year and £6 million next year.

Is a layman reading the *Official Report* to believe that the chief executive has £24 million in the piggy-bank and that the £13 million over the next two years is in excess? Is the £13 million being saved, so that he does not have to touch his £24 million in the piggy-bank? That was the impression that he gave last week.

If that is the case, I would ask the question that the committee asked last week: why is that £24 million being accumulated? Dungavel has been screaming out for single-cell accommodation since 1991 and has been told consistently that there is no money. However, the chief executive of the Prison Service then tells the committee that he has saved £24 million over five years. I do not think that he needs to make these savings; he just wants to protect that £24 million.

**The Convener:** Although I know that you cannot know for sure, why do you think that Dungavel and Penninghame are specifically targeted for closure?

**John Reidy:** We have discussed the issue at length with our committee and members of staff at Dungavel and believe that Dungavel and Penninghame are being shut purely because of their locality. We fully expect Dungavel prison to be taken over by Premier Prison Services. The figures tally. A figure of £500,000 has been put on Penninghame and there is a £400,000 price-tag on Dungavel. The Prison Service has already admitted that it will cost £1 million to build the shed needed at Friarton to accommodate the industries work that will be sent up from Dungavel. However, the industries manager from Friarton was at Dungavel yesterday and he admitted that he could not take on that work.

There is no reason for shutting Dungavel or Penninghame but locality. We understand from Kilmarnock staff that Premier Prison Services has been talking about the buying of Dungavel prison for months.

**The Convener:** What is Premier Prison Services?

**John Reidy:** That is the group that owns Kilmarnock prison.

**The Convener:** Do you believe that that group will buy Dungavel?

**John Reidy:** Dungavel has already been priced

at £400,000. In his report, the chief executive said that Dungavel was highlighted because it is a prime location and basically intimated that there had already been interest. The staff at Kilmarnock are saying that the group will buy Dungavel, although we cannot confirm that.

**Eddie Hunter:** We believe that there is a concerted plan. We have had some reliable information that the establishments in that area—Dungavel, Penninghame and Dumfries, which has not yet been mentioned—will go into private hands to give Premier Prison Services a full prison system.

**The Convener:** So the group will then have a full system of high-security, medium-security, low-category and open prisons.

**John Reidy:** Yes.

**The Convener:** We would need to explore that issue separately. You have told us that the information is unsubstantiated.

**Eddie Hunter:** The information is certainly unsubstantiated, but it provides a good reason for closing prisons that do not need to be closed.

**The Convener:** Thank you for coming this morning and answering our questions.

As I said earlier, we had invited the Minister for Justice, Jim Wallace, to give evidence on the prisons issue before Christmas. That session was provisionally arranged for our meeting on the morning of Wednesday 15 December and was pencilled into the minister's diary. However, I understand that the meeting of the Parliament will start at 9.30 am. A standing order states that committees cannot meet at the same time as Parliament, so all committees meeting on that Wednesday will by diktat lose those meetings.

10:30

As a convener, I cannot say that I am particularly happy that such a decision has been made without reference to any of the committees that had meetings scheduled for that morning. We are probably not the only committee that had a tight timetable and invited witnesses. It is an unfortunate position for us to be in. We have been struggling not to have extra meetings. The last thing that we need is to lose meetings.

We will no doubt be given confirmation of that decision in due course. If we still want the Minister for Justice to give evidence, we will have to try and reorganise matters. There is not much time between now and next Tuesday. We are trying to find a slot on the afternoon of Tuesday 14 December. I know that that might not suit everybody, but Tuesdays, Wednesdays and Thursdays are parliamentary days—if members

cannot make it, they cannot make it. I would ask members to pencil that into their diaries and to rearrange existing meetings if possible. At least I have given you a fortnight's notice, rather than springing it on you at next week's meeting.

**Maureen Macmillan (Highlands and Islands) (Lab):** Would that be at 2 o'clock on Tuesday?

**The Convener:** It is more likely to be 3.30 pm.

**Pauline McNeill:** Why so late?

**The Convener:** In order to find a slot. We have to remember that other committees are meeting on Tuesday afternoon. We have to find accommodation. I understand that we are clashing with the Public Petitions Committee.

**Christine Grahame:** I was going to say that we have a Public Petitions Committee meeting on Tuesday afternoon.

**The Convener:** We are trying to find a mid-to-late afternoon slot on Tuesday 14 December, which would allow us to invite the Minister for Justice to give evidence on the issue of Scottish prisons. The alternative is that we do not hear from the minister until after the Christmas and new year recess, which would be unfortunate. In order to continue our investigation, we need to be able to talk to the Minister for Justice sooner rather than later.

The minister's office has been fairly good about trying to find suitable times. We are not meeting any obstruction from his office—quite the reverse. We are still trying to organise that meeting.

Members will receive confirmation of that meeting, but I want to give you the maximum notice so that you can put it into your diaries. There will be no meeting on Wednesday 15 December, because Parliament will be meeting that morning. As I understand it, all the committees that were to meet on the Wednesday morning will have to hold similar discussions.

I can see Kate MacLean, who is a committee convener, too, looking rather unhappy.

**Kate MacLean (Dundee West) (Lab):** Has any reason been given for the Parliament meeting on Wednesday morning?

**The Convener:** I think that those concerned want to deal with certain business before the recess and the only way that that can be done is by adding an extra meeting of Parliament. It is very unfortunate that they have chosen to do it that way. The committees have not been consulted about the removal of those meetings from their diaries.

**Kate MacLean:** It does not affect my committee, but I know how difficult it has been to organise briefings from different organisations and to fit

everything in. It seems a bit unfair to do that in such an arbitrary way.

Would it be possible to suspend standing orders to allow committees to meet at the same time as Parliament?

**The Convener:** That should have been considered. I have to say that none of this is officially confirmed—everyone is hearing it, but no one is getting official confirmation.

We will now move into private session, as agreed at the previous meeting, to discuss the draft stage 1 reports on the Adults with Incapacity (Scotland) Bill and the Abolition of Feudal Tenure etc (Scotland) Bill.

10:35

*Meeting continued in private until 12:30.*





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