



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

JUSTICE COMMITTEE

Tuesday 28 June 2011

© Parliamentary copyright. Scottish Parliamentary Corporate Body 2011

Applications for reproduction should be made in writing to the Information Policy Team, Office of the Queen's Printer for Scotland, Admail ADM4058, Edinburgh, EH1 1NG, or by email to:
licensing@ogps.gov.uk.

OQPS administers the copyright on behalf of the Scottish Parliamentary Corporate Body.

Printed and published in Scotland on behalf of the Scottish Parliamentary Corporate Body by
RR Donnelley.

Tuesday 28 June 2011

CONTENTS

	Col.
DECISION ON TAKING BUSINESS IN PRIVATE	127
SCOTTISH GOVERNMENT PRIORITIES	128
SUBORDINATE LEGISLATION.....	148
Knife Dealer's Licence (Historical Re-enactment Events) (Scotland) Order 2011 (SSI 2011/263)	148

JUSTICE COMMITTEE
4th Meeting 2011, Session 4

CONVENER

*Christine Grahame (Midlothian South, Tweeddale and Lauderdale) (SNP)

DEPUTY CONVENER

*James Kelly (Rutherglen) (Lab)

COMMITTEE MEMBERS

*Roderick Campbell (North East Fife) (SNP)

*John Finnie (Highlands and Islands) (SNP)

*Colin Keir (Edinburgh Western) (SNP)

*John Lamont (Ettrick, Roxburgh and Berwickshire) (Con)

*Alison McInnes (North East Scotland) (LD)

*Graeme Pearson (South Scotland) (Lab)

*Humza Yousaf (Glasgow) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED

Roseanna Cunningham (Minister for Community Safety and Legal Affairs)

Kenny MacAskill (Cabinet Secretary for Justice)

CLERK TO THE COMMITTEE

Peter McGrath

LOCATION

Committee Room 1

Scottish Parliament

Justice Committee

Tuesday 28 June 2011

[The Convener *opened the meeting at 10:00*]

Decision on Taking Business in Private

The Convener (Christine Grahame): Good morning and welcome to the fourth meeting of the Justice Committee in session 4. I remind everyone to switch off mobile phones and other electronic devices, as they interfere with the sound system even when they are switched to silent.

No apologies for absence have been received.

Item 1 is a decision on taking business in private. Does the committee agree to take item 4 in private?

Members *indicated agreement.*

Scottish Government Priorities

The Convener: Item 2 is consideration of the Scottish Government's justice priorities for session 4. At its meeting on 14 June, the committee agreed that it would be helpful to hear from the relevant Scottish ministers prior to the summer recess to discuss their priorities for the new session. That will assist the committee in arranging its work programme at its away day later in the year.

I welcome Kenny MacAskill, who is the Cabinet Secretary for Justice, and Roseanna Cunningham, who is the Minister for Community Safety and Legal Affairs. They are accompanied by Bridget Campbell, director of justice, and Kenneth Hogg, director of safer communities, from the Scottish Government. Thank you very much for coming.

I invite the cabinet secretary to make an opening statement.

The Cabinet Secretary for Justice (Kenny MacAskill): Ms Cunningham and I are grateful for the opportunity to meet the committee and set out our priorities for the coming years. I will take a few minutes to make some opening remarks, after which we will both be happy to take questions from the committee.

As I said earlier this month when Parliament debated the justice portfolio's role in taking Scotland forward, we have made significant progress in delivering a safer and stronger Scotland. Since we first came to office in 2007, crime rates have fallen by a fifth and are now at their lowest level in 32 years. I set out for Parliament a series of statistics on recorded crime, violent crime, serious assaults, robberies and knife crime, all of which are reducing. During the last parliamentary session, we achieved our target of increasing police officer numbers by 1,000, we legislated to replace ineffective short prison sentences and we promoted the rights of victims. We also legislated to modernise the law on civil protection orders to tackle domestic violence, and we improved the law on sexual offences.

We must now build on those achievements, as crime and the fear of crime continue to affect our society. The impact of crime on victims and their families can be devastating, and it has a great impact on our goal of creating a safe, inclusive and respectful society. Working with our justice partners, we aim to support and deliver real improvement in a number of areas where problems remain to be addressed.

The debate in Parliament reflected the priority that we all attach to supporting the victims of crime and their families. We will introduce a victims' rights bill to enshrine in law victims' rights to

damages and compensation, and to give victims input into sentencing policy and parole decisions.

Another priority area is to tackle sectarianism, and the Offensive Behaviour at Football and Threatening Communications (Scotland) Bill is an important element of that. The First Minister has announced his intention to have the bill passed by the end of the year. That timetable will allow us to consult all interested parties, with the aim of presenting a bill that we hope will achieve a consensus across the Parliament, partner organisations and the people of Scotland.

Knife crime remains a blight on our society. Over the past four years, we have made progress in tackling violence, gangs and knife crime, but violent crime continues to devastate families and waste lives. I am absolutely clear that we all need to continue working in a united way to tackle Scotland's blade culture wherever it occurs.

We have made dealing with organised criminal gangs a priority. We have taken more than £40 million from organised criminals and caused significant disruption to their criminal activities. As I described to Parliament, we have used the vast majority of that money to allow more young people to enjoy and benefit from sporting, cultural and youth activities. Proceeds of crime have also been used to help support community projects. Offenders' unpaid work under community payback orders, combined with funding that has been taken from criminals, has paid back communities for the damage that has been done to them, through projects to provide new and improved community facilities.

As I explained to Parliament, there is an annual limit of £30 million on the money that can be raised through the proceeds of crime legislation—anything above that is kept by the United Kingdom Government. As well as opening negotiations with the UK Government to remove that limit, we will introduce new serious crime prevention orders and will continue to invest in the Gartcosh crime campus project.

Keeping young people out of trouble is a key aim of ours. Across Scotland, we are rolling out early and effective intervention for young people to reduce youth crime.

With regard to the future of our police and fire services, in the face of unprecedented Westminster cuts we will continue to improve and reform how our public services are delivered. There is a broad consensus within Parliament and beyond that maintaining eight police forces and eight fire and rescue services is unsustainable. We will work to ensure that we can deliver that reform and we will listen to views this summer.

We are determined to make our justice system more accessible, more affordable and quicker. We

will take forward the recommendations of the Gill review and remove obstacles to justice.

We are also committed to improving the quality of Scotland's tribunals through bringing reserved and devolved tribunals together in a more efficient single service.

We have been very clear about our position in relation to the Supreme Court, and we will now consider with interest the findings of Lord McCluskey's independent group, which were published yesterday.

I hope that that has been a helpful overview of our priorities. Both Ms Cunningham and I are happy to discuss them with the committee.

The Convener: I seek clarification on the legislation that is coming to the committee. There is a victims' rights bill and the sectarianism legislation. I take it that the serious crime prevention orders will go to the Subordinate Legislation Committee first. I know that that is for the Parliamentary Bureau—

Kenny MacAskill: Those matters will be part of primary legislation in a future bill; they will not be in a bill on their own. On our current priorities, we are considering matters with regard to legal aid, and a variety of matters have been expounded by the First Minister and the Cabinet Secretary for Parliament and Government Strategy. The sectarianism bill and the police and fire services reform have to come through.

Roderick Campbell (North East Fife) (SNP): I have a couple of questions. First, has there been any initial reaction to the McCluskey interim report that you would like to share at this stage?

Kenny MacAskill: We welcome it. I think that it shows two things. First, it shows that the situation is untenable. We are in a situation that was never anticipated, either by the treaty of union or the Scotland Act 1998. It is causing problems and we welcome the acknowledgement of that by Lord McCluskey and his colleagues. Equally, we welcome the fact that Lord McCluskey has called for parity for the jurisdiction here in Scotland, which is distinct and which we cherish. The suggestion that there should be a requirement to have leave to appeal seems to us to be appropriate.

Some aspects of Lord McCluskey's review still require to be drilled down into—in all these matters, the devil is in the detail. Broadly, however, we welcome the interim report, which recognises that the situation is untenable and seeks to give Scottish law parity. That might not be the position that you or I would seek in an independent Scotland, Mr Campbell, but I think that it is the best situation that can be sought in a devolved Scotland within the United Kingdom.

Roderick Campbell: On the proposed victims' rights bill, how far is it proposed to review existing legislation in relation to victim statements and victim notification?

Kenny MacAskill: These matters are always under review. The victims' rights bill has been prompted first by the need to do the right thing, and secondly by requirements coming from Europe. We will use it as an opportunity to review all aspects. Those matters are continually under review, but clearly the bill will set out in statute what victims are entitled to receive and what they are entitled to expect. Work is on-going on how we can improve matters.

Members of the committee have raised issues about problems with compensation and a variety of other matters. We keep these matters under review.

In the previous session of Parliament, Margaret Curran raised an issue relating to parole. There are significant issues in relation to getting the balance right, so that we do not make the situation worse for someone who has been bereaved by making them go to a prison and possibly face cross-examination. We are working on that.

It is fair to say that everything is there to be improved. We are not seeking to roll back in any shape or form from what we have, but we are more than happy to accept that although we have made considerable progress—credit for that goes to the previous Lord Advocate in her role as Lord Advocate and as Solicitor General for Scotland—there is considerable distance still to be travelled. All those areas will be discussed. I have discussions coming up with the Lord Advocate and Victim Support Scotland. We are happy to take on board points from the committee and from individual members and parties.

John Finnie (Highlands and Islands) (SNP): I am delighted that there will be a victims' rights bill. Notwithstanding the all-time-low crime rate, one victim is one victim too many. Will you clarify something, cabinet secretary? If I noted it correctly, you talked about there being a victim involvement in sentencing and parole. Will you explain how that is likely to work?

Another issue is minimum pricing. How will that feature?

Kenny MacAskill: We brought in victim statements: we welcome them and will continue to support them. The question is what representation individual victims should be able to make at the time of parole. We are working with the Parole Board for Scotland on that, because it appears to us that there is a legitimate point, which Margaret Curran correctly raised, that victims should be able to tell the Parole Board of the consequences of the crime and their feelings about it.

If we introduced the system as Margaret Curran suggested, the difficulty would be that a court would have to be convened, probably in the institution concerned, and the person who wished to make representations would have to go there and face cross-examination by the perpetrator and his or her lawyer. That could be more distressful, so our own legal team is working with the Parole Board for Scotland on how we can balance the rights of the convicted person to challenge and repudiate matters with ensuring that the victim can make their views clear.

We are working with the Parole Board to secure a mechanism by which the victim's statement and representations can be made to the Parole Board, as happens in court, without opening them up to what could be distressing cross-examination. Indeed, we have just seen in a jurisdiction not that far from here just how distressing that experience can be. It is a matter of striking the right balance. Margaret Curran identified a correct point, and we are trying to work with all parties to get the right solution.

The Deputy First Minister will expound on minimum pricing in due course. As Mr Finnie knows, it has been made clear that, as a party and a Government, we remain committed to the policy. There is a clear correlation between "pocket-money prices", as the Deputy First Minister described them, and disorder. The issue involves not simply criminal matters but the health consequences for Scotland, and for that reason, minimum pricing, which started under my jurisdiction, moved to health. Fundamentally, we are not dealing simply with criminal justice; we face a population problem in Scotland across an array of matters: economic, health and criminal justice.

Colin Keir (Edinburgh Western) (SNP): My question is on serious and organised crime, crime orders and the restriction of those with known criminal connections. Will you expand on that? How far do you think that we can take it through legislation? What do we hope to achieve in the endgame?

Kenny MacAskill: We look at what already exists. Serious crime prevention orders are used south of the border and in Northern Ireland. If they can work in those jurisdictions, they can have benefit here. As with all legislation, it will not be all singing and all dancing, and it will not sort out every problem, but there are areas in which legislation can be of assistance.

We are at an early juncture. We made a manifesto commitment on the matter, and it has been discussed at the serious organised crime task force. We want to discuss and consult on how such orders will operate and look at best practice

south of the border and in Northern Ireland to see how the orders can apply here.

As I understand it, the ethos in Northern Ireland and in England and Wales is that they use the orders to deal with people whom they know have an involvement in crime—who have been convicted or are the subject of civil orders—and who seek to get into areas of the legitimate economy. The benefit of such orders is that they restrain such people and restrict their ability to act in a variety of aspects, so that hard-working people are not faced with competition. The orders have been coined super-ASBOs, and to some extent, as with an antisocial behaviour order, they can contain whatever the court feels is appropriate.

We will enter into discussion to ensure that we have the appropriate armoury to allow the authorities—be it the police or the Crown—to make an application and to allow the court to decide what restrictions should be placed on individuals. As I say, the orders will mirror what appears to have been successful south of the border and in Northern Ireland.

10:15

The Convener: I have a supplementary question. In the debate, I mentioned that I attended an excellent presentation by the Scottish Environment Protection Agency and serious organised crime officers, at which I was surprised to learn that money is often laundered through environmental waste contracts. Of course, the organisations involved do not care where they deposit the waste. Is your office in discussions with SEPA about serious organised crime using waste disposal and environmental waste contracts to launder money?

Kenny MacAskill: I will let Roseanna Cunningham respond in a moment, but the answer is yes. We are aware of that issue, as it has been raised with us by the Scottish Crime and Drug Enforcement Agency, which has also approached SEPA. It is fair to say that, because of such matters, we extended the serious organised crime task force to include representatives from local government. The Society of Local Authority Chief Executives and Senior Managers is now represented on the task force because we recognised that the problem does not exist simply within criminal justice and that criminal gangs and the criminal economy are infiltrating other areas. You are correct to mention SEPA.

I do not know whether my colleague wants to comment.

The Convener: The issue relates to your previous portfolio, minister.

The Minister for Community Safety and Legal Affairs (Roseanna Cunningham): Yes.

The issues around environmental crime are beginning to be quite serious in a number of areas, and you have identified one of them. The Cabinet Secretary for Rural Affairs and the Environment is concerned about it. We hope to have early discussions between the two portfolios to consider whether joint measures can be taken forward. In the circumstances, they would probably include, but not be confined to, SEPA.

The Convener: Thank you. Colin Keir wants to come in again on serious organised crime.

Colin Keir: My question follows on from the event that was held last evening. I know that it is a bit soon to be reacting to that, but my question is about dealing with serious organised crime and the movement of illegal goods. I was astounded by some of the figures that were bandied about. There seem to be a lot of different agencies which, as one person said, are all working in their own silos. It might be a good idea to bring them together in some form of task force. Might you wish to go along the line of bringing together the different agencies?

Kenny MacAskill: Of course. I am glad that you attended the anti-illicit trade symposium last night. For the reason that you mention, we set up the serious organised crime task force back in 2007—to ensure that the appropriate jurisdictional bodies were around the table. The Crown, the police, the SCDEA and the Scottish Prison Service are involved, and indeed we brought in SOLACE and others.

What I took from yesterday's meeting is that it is not just a matter for the criminal justice authorities, be it the Crown, the police or the SCDEA; those who are involved in other areas, such as the pharmaceutical industry, or those who are involved in the internet, downloading and copyright, about which we were briefed at the task force yesterday, also have a role to play. There are sub-groups of the serious organised crime task force, including one on intellectual property, for example.

These matters are always under review because, as has been noted, serious organised crime does not recognise geographical or other boundaries. It moves into new areas and territories, so we have to be ever vigilant. We are always flexible and prepared to move and expand. I certainly took on board from yesterday's symposium that we have to do more. The SCDEA is putting out the message to consumers—whether those at the Barras market or people who are going on holiday—that if they buy counterfeit CDs or DVDs, they are not actually getting a bargain and goods at a knock-down price, because other people are paying a price. That

trade fuels the sale of drugs in our communities, people trafficking, prostitution, gun running or whatever—those who are involved are doing all those things.

The Administration has tried to drive the message home at the consumer level. You will have picked up the statistic that 60 per cent of internet drugs are not fit for purpose—that is fairly frightening if people are buying them—and the fact that their sale is run by serious organised crime. However, we have to get the stakeholders on board. That is why I attended yesterday's symposium and met representatives from BPI, whom we will seek to work with. This is a common problem and it requires a common and shared solution.

James Kelly (Rutherglen) (Lab): I have two questions, one for the Cabinet Secretary for Justice and one for the Minister for Community Safety and Legal Affairs.

Cabinet secretary, you mentioned community payback orders. Guidance issued to prosecutors last week demonstrated that your policy objective on cases involving 16 and 17-year-olds is to divert them away from court and on to community payback orders. There is concern that that could result in some who have committed serious offences not facing trial and simply being given CPOs. Will you outline the thinking on that?

Kenny MacAskill: I do not give guidance to procurators fiscal; the Lord Advocate does. I am precluded constitutionally from giving him any direction. Constitutionally, he is entirely independent. It would be fair to say, though, that as a Government we think that it would be better if we avoided children and young people going into the system. It is well known that once they are in the system, it is usually harder to roll back from that position. However, we come back to the constitutional position. We have always recognised that it is for the presiding sheriff, justice of the peace or judge to impose the appropriate sentence. Crown Office guidelines come from the Lord Advocate, not from me.

James Kelly: But you are the Cabinet Secretary for Justice. Do you not accept that there is a danger that that approach is putting saving money ahead of public safety?

Kenny MacAskill: I cannot direct the Crown—it would be constitutionally inappropriate for me to do so. Any guidelines from the Lord Advocate to his fiscals and fiscal deputes are a matter for him, not me.

As I say, the Government recognises that early intervention is better, which is where initiatives such as getting it right for every child come in. It is better if we can avoid young people going into secure units, Polmont or Cornton Vale. It is

appropriate to divert them rather than have them go through the courts. If a young person commits a serious offence, as an Administration we expect justice to be done and that they will face the consequences of their actions. However, as I say, I have no constitutional power to direct the Crown and would not seek to do so.

James Kelly: I move to my second point.

Ms Cunningham, you are responsible for the fire service, which is due to be reorganised. I support the Government's stated ambition to achieve a single service. Clearly, that would deliver savings, which I hope would enable us to maximise firefighter numbers. Obviously, there is a timeline before that can be delivered. In the meantime, concerns have been raised in various parts of the country about reductions in firefighter numbers. One example is Fife, where I believe that recent figures show a reduction of 11 full-time equivalents. That could undermine response times in Fife. How would you seek to maintain front-line firefighter numbers before the delivery of a single service, which will take a number of years to achieve?

Roseanna Cunningham: It is probably fair to say that the proposals in respect of fire service reform have generated a little less controversy than the reforms proposed for the police, perhaps because there is a wider buy-in from certain stakeholders. As the member will probably understand, I am still in the process of getting around and meeting all of the fire chiefs and the various fire conveners and so on. The chiefs and conveners are working out a strategy to handle the situation over the two or three years that it will be likely to take to deliver the reform. It is anticipated that we will be able to manage it over that period, which is not to say that I am unaware of or am ignoring those areas where some stresses are beginning to be seen already.

As I said, I am in the process of having face-to-face meetings with each of the fire chiefs and the fire conveners, as well as the local and regional Fire Brigades Union representatives. At the end of that round of meetings, I will probably be in a better position and have a more detailed understanding of what they are looking for.

James Kelly: So if we take Fife as an example, you will be undertaking future discussions—

Roseanna Cunningham: Fife is on the list for direct meetings. I am not quite sure of the date, but I will speak directly to representatives from Fife. It is not just about Fife; it is about all the fire and rescue services. Tomorrow, I am meeting representatives of fire and rescue services in the central and Lothian regions. The programme will roll out as soon as we manage to meet them all.

We are aware that, regardless of what we are looking at, any reform process will take some time to bed in. The fire chiefs and conveners are working on a way of handling that over the two or three-year period that we think it will take to make the reforms.

Alison McInnes (North East Scotland) (LD): Cabinet secretary, in your introduction, you said that the broad consensus of support for a single police force goes beyond the Parliament. That is not really the case, is it? The results of the consultation on the future of policing are back and it is clear that the majority of people preferred the option to retain eight forces with increased collaboration. Will you ditch the proposals?

Kenny MacAskill: In the statement that I made to Parliament before the election period, I said that the current situation is untenable. You are correct to say that some people have argued for the continuing of that situation, but they have failed to provide information about how we can make the required level of savings in the face of unprecedented cuts from Westminster.

We should look at what is happening south of the border with the reduction—we could almost call it a culling—of police officers in greater Manchester. We are not prepared to countenance that happening here, so there has to be change. Just what that change will be has still to be decided and I will take time this summer to look into it. I have said that the case for a single force has been strengthened, but it is not yet made because there are still legitimate concerns about centralisation, accountability and governance. I will take the summer to see whether I can find answers to those concerns, and thereafter I will pronounce accordingly.

Alison McInnes: It is not at all clear how the case has been strengthened. Perhaps you might like to explain that to us in a way that you have not yet explained it to the Convention of Scottish Local Authorities. You said that people who oppose the proposals have failed to make their case, but the criticism of the consultation, particularly from the Association of Chief Police Officers in Scotland, is that the Government has failed to show proper rigour around the financial savings that it thinks can be made.

Kenny MacAskill: That depends on which member of ACPOS you speak to. The chief constable of Strathclyde, which has 50 per cent of the Scottish population and 50 per cent of the Scottish police force, is quite clear that he supports one force. Some ACPOS representatives take a different view, but it depends on which chief constable you speak to.

Why do I think that the case has been strengthened? Previously there was a strong case

that significantly more savings could be made through a single force option as opposed to a regional force option. The status quo is not tenable and I look with fear and alarm at what is happening south of the border in the face of unprecedented cuts. We are seeing the haemorrhaging of police officers; neither I nor the First Minister is prepared to countenance that, which is why we say that we will have bobbies before boundaries.

Why has the case been strengthened? As well as looking at where financial savings could be made, Deputy Chief Constable Neil Richardson looked into 12 areas of policing, from firearms to traffic and transport, and so on. Having discussed each area with police colleagues, it became clear to him that a single force would be the best way of operating those distinctive parts of the police service. In particular, I recall that it was said, with regard to transportation and traffic, that there was almost a scenario of motorcycles just gathering dust in garages because of duplication of effort and resources; often, they are in areas in which they are not required rather than where the need is greatest.

10:30

Alison McInnes: You are talking about major proposals for reform. My party and I believe that the police should be part of the local authority family. Will the process over the summer be transparent regarding your facts and figures? Will you make them available to COSLA and everyone who is involved?

Kenny MacAskill: Absolutely. We have been doing that all along. Since being back in office, I have met ACPOS, the Scottish Police Federation, Unison, the Association of Scottish Police Superintendents, COSLA and individual authorities. Over the summer, I will address areas in which there is legitimate concern. However, we have already had a consultation and an election in which a single police force was an issue. As Ms McInnes well knows, the issue was raised by a particular party. We have had the outcome of the election, and I think that we are entitled to deduce matters from that.

Equally, I assure you that I think that local authority accountability is necessary. It is for that reason that authorities such as North Lanarkshire Council and Ayrshire Council, for example, are on the record as supporting a single police force but with a local police board. I am considering that option to see whether it can provide the squaring of the circle, if I may put it that way, on governance. There must be governance, and that is one possible solution that many local authorities support.

The Convener: Humza Yousaf is next; he can ask a supplementary before asking his own question.

Humza Yousaf (Glasgow) (SNP): The cabinet secretary said that keeping the status quo of eight police forces is untenable. What resources would be hit hardest if the status quo remained? For example, has there been any investigation of how many officers' jobs would be threatened?

Kenny MacAskill: I do not think that we have those precise numbers. We look with fear and alarm at what has happened south of the border. Suffice to say that with the coming cuts, we cannot keep the budget as it is, so savings must be made. On additional shared back-office services, it remains to be seen where they would come from and where savings can be made. For that reason, even before we went into the election, we made it clear that the current situation was no longer tenable.

Humza Yousaf: My other question is on cashback for communities. In your opening statement, you said that you would appeal to the Treasury and the Westminster Government regarding the £30 million limit. How far have your representations gone in those discussions? Have you had discussions with colleagues from other parties as well? MPs from other parties might be extremely useful in lobbying the Treasury.

Kenny MacAskill: I cannot remember whether the communication went through me or the Cabinet Secretary for Finance, Employment and Sustainable Growth, but we have written formally and have certainly locked on in that regard. On discussions with other parties, the door is always open. I welcomed Lord Foulkes's previous comments on the issue; others have spoken out, too.

We are making it clear to the Administration south of the border that the £30 million limit is manifestly wrong. It is an arbitrary limit, with no logic. As an Administration, we have targeted the proceeds of crime not simply to raise revenue or to do good work with it, but as part of stripping down, damaging and interceding with those who perpetrate organised crime. The limit is manifestly unjust and wrong. We would welcome a united front on the issue. We are in communication with those south of the border, but it is more to do with the Treasury than with the Ministry of Justice.

Humza Yousaf: Across the board, cashback has been regarded as a success. I read in a briefing paper that 60 per cent of those who go to a young offenders institution end up reoffending. I do not know whether the cabinet secretary can enlighten us on the cost of keeping a young person in Polmont young offenders institution or any other institution.

Kenny MacAskill: Prison costs approximately £40,000 and a secure place costs approximately £240,000. If a youngster commits a horrendous murder, they must face the consequences. If they stab someone it is likely that there will be no alternative to sending them to an institution, be it a residential secure unit or Polmont YOI, and the costs must be met.

We are anxious to break the cycle of crime, which is why we welcome the steps that have been taken, for example in Glasgow, where the Labour-led Glasgow City Council is trying to intervene early to provide the care and support that is needed in many instances and the diversionary measures that can prevent someone from going into the system in the first place. The cashback approach adds to that, but the primary movers are more likely to be at local authority level.

We support local authorities in what they do, because the statistics that you mentioned are shameful. Some 50 per cent of the children of women who are in Cornton Vale prison are likely to end up in an institution themselves. More youngsters are likely to suffer a parent's imprisonment than a parent's divorce, which has consequences for them. There is no simple or easy approach. For some offences there is no alternative to imprisonment and prison is where the offender will go, but action to keep people out of the system and prevent them from ending up in prison for a long time is a better direction of travel.

The Convener: I am glad that you mentioned Cornton Vale, because I was going to mention it. You talked about alternatives not necessarily to prosecution but to custody for women. As you said, the recent statistics are shocking. I think that all members of the Parliament have seen the statistics on the mounting number of women in prison and are concerned about the consequences for children and so on. What is your thinking in that regard? Is the Government considering pursuing programmes for women as an alternative to prison?

Kenny MacAskill: There is a problem and I am glad that many members recognise it. There is something wrong when crime is going down but the number of women prisoners is going up. There is a dislocation in that regard and we need to try to resolve the problem.

On what the solution is, I prefer to leave the matter to Elish Angiolini, who has kindly accepted the position of chair of a commission that will review how female offenders are dealt with in the criminal justice system. During the next week or so, we will give details of the other members of the commission, who are of equally high standing, so I will not second-guess their conclusions or cut across their bows. There are a variety of options.

The Government will look with interest at what emerges from the review and we will trust in the commission's judgment and ability.

The Convener: It is useful to have that on the record.

Roderick Campbell: In relation to the police consultation, to what extent will you be able to take account of the findings of the Christie commission on the future delivery of public services?

Kenny MacAskill: We are sending what we have to Christie and we are waiting for what Christie has to come to us. We undertook in a statement to the Parliament, and we have undertaken to all stakeholders, that we will not make a final decision before then. Parties that are represented on the committee wanted me to make a pronouncement, but I think that it is appropriate to hold on and see what Christie says and to try to get assurances on the legitimate concerns about the three areas that I mentioned. We await with interest to hear what Christie says and we will try to tie up the two issues.

Alison McInnes: On reducing reoffending and the need to improve rehabilitation in prison, we saw the damning report from Cornton Vale, which said that there are not adequate work opportunities for the women in the prison. A previous report on Peterhead prison identified a similar situation, with the workshop not being available to people. During this parliamentary session, what priority will you give to improving opportunities in prison?

Kenny MacAskill: Many of the issues that you raised are operational matters for the chief executive of the Scottish Prison Service, whom I meet monthly for a regular catch-up—our next meeting is tomorrow. The SPS does what it can do in the context of the difficulties that it faces with challenging budgets and prison numbers. From prison officers to the people who work at headquarters, SPS staff do an excellent job with difficult people—many troublesome and some troubled—and it is about getting the balance right.

We will support the SPS in that respect. As for alleviating pressures, work is progressing on HM Prison Grampian, to which we are committed. The fact that it will be a community-facing prison will provide some comfort; it will, for example, take women prisoners and, with the local focus, we will not have women from Fraserburgh or Aberdeen going as a matter of routine to Cornton Vale. To its credit, the SPS has already taken action to provide spaces at Aberdeen and Inverness in order to break the cycle of offending and women nearing the end of their sentences can go there and try to make a seamless return to their communities by securing housing, keeping in touch with doctors

and in various other areas where local matters take over from the national direction.

Graeme Pearson (South Scotland) (Lab): I seek a response to three questions. You mentioned the police reform agenda. However, there has been some controversy over the police complaints commissioner's future role. Have you made any decisions about what should happen in that regard, or do you have a timescale for any such decisions?

Kenny MacAskill: I met John McNeill just a few days back and, indeed, I believe that there will be a parliamentary debate on the issue tomorrow. Obviously, there has to be a police complaints commissioner and a review group that is being set up by our Administration in conjunction with the Parliament—which, given that we are talking about a commissioner, clearly has a role to play—will examine and review the various issues. After all, if there are moves towards a single police service, there will be a clear shift in emphasis. No precise time limit has been set for the review, but I imagine that people will move as expeditiously as they can. In any case, I remain in regular contact with John McNeill and his organisation, and they have done an excellent job in providing focus, dealing with what has to be dealt with and getting rid of some of the more frivolous complaints.

Graeme Pearson: For the sake of accountability, there certainly needs to be robust oversight of police complaints.

My second question is connected to your statement about victims. The system itself faces the real task of dealing properly with victims and one constant cause for concern is the crime of rape, which, according to the statistics, we are not doing too well on. You have not specifically mentioned such victims but do you have any views on how we should deal with the proper management of rape reports? Indeed, do you plan to deal with that issue in this session?

Kenny MacAskill: You are right to suggest that we face challenges in that respect. Indeed, the Lord Advocate has already commented on the issue. Of course, we do not have a silver bullet to deal with those difficulties across the board and, in any case, we are waiting to see what Lord Carloway will come back with. In our manifesto, we as an Administration committed to ensuring that juries will be directed and that no adverse inference will be drawn from either a delay in reporting or any lack of resistance; of course, both measures will require legislation. It is clear that victims have to endure a great deal of suffering under cross-examination and we will have to examine a variety of issues. The police are always on the case with regard to improving Crown matters and, as far as legislation is concerned, we

will have to see what general evidence Lord Carloway returns with.

The two commitments that were made in our manifesto will be beneficial and will to some extent alleviate suffering, but we are open to ideas and discussions with parties and individuals. Indeed, we regularly meet Sandy Brindley and a variety of other complainers to discuss how we can change attitudes not only in the judicial system but out there among the general public, where such problems can sometimes arise.

Graeme Pearson: I am grateful for your commitment to changing the culture around dealing with those who suffer rape.

Finally, I am glad that the Solicitor General for Scotland has instituted a root-and-branch review of asset recovery, because it is long overdue. I feel that the £30 million mentioned earlier is something of a false limit, although in fairness it has not affected business up to now. I gather from comments over the past year or so that some assets that are recovered are diverted back to either the Crown or the investigating services. Is that view accurate and, if so, do you think that that is an appropriate way of spending assets?

10:45

Kenny MacAskill: Yes, it is true, and yes, I think that it is appropriate. We do not have the same incentivisation as there is south of the border, but we recognise that to get more out we sometimes have to put a wee bit more in. Money was taken from the proceeds of crime and put towards financial investigators and financial analysts, which has allowed us to increase the amount that we have recovered to £40 million.

Your colleague Richard Baker suggested that the money could be used for routine police matters, but we have drawn a line at that and said that it will not go into the baseline police budget. However, it seemed appropriate for us to use it to allow financial investigators to follow the money trail and recover more assets. That has been sought by the chief constables, and we have done it. We are open to discussions with colleagues who are working on wildlife crime, for example, on whether we could do specific things with regard to targeting and recovery in that area.

The answer to your question is yes, but those funds will allow civil recovery and the police to continue to do an excellent job.

Graeme Pearson: Can we have some transparency on the proportion of funds that go to services? We might revisit the issue later.

Kenny MacAskill: I am happy to write to you to provide the detail. I remember that at one stage we signed off on £500,000 for financial analysts.

The money has gone towards specific services to support the good work of civil recovery and the SCDEA. That is, as Mr Pearson well knows, a complex and specialist area, and we felt that it was appropriate for us to fund it.

The Convener: I will take John Lamont first, as he has waited a long time, and then Humza Yousaf.

John Lamont (Ettrick, Roxburgh and Berwickshire) (Con): Good morning, cabinet secretary and minister. What is the status of the Scottish Government's drugs strategy?

Roseanna Cunningham: The drugs strategy that the Scottish Government is pursuing is recognised by many as extraordinarily successful, but that is not to say that we are by any means managing to deal with every single drug user. As John Lamont probably realises, big strides have been made towards reducing the waiting times for people to get on to programmes against a very challenging target, which was to get the time down to a maximum of three weeks by March 2013.

Members certainly ought to be experiencing fewer complaints and problems now in comparison with a few years ago, when folk could wait for a very long time once they had made that decision. When people decide that they need help, that is the point at which we need to be able to get them on to the programme.

We are moving to a situation in which recovery is becoming a reality. That was the whole point of the strategy: that we would get to a point at which we could begin to talk about people making a real recovery. However, we do not want to minimise the huge challenge and the problems that we still face. I have a meeting coming up with the Minister for Public Health, because he and I want to work together on the issue, which is both a legal and a public health matter.

John Lamont: My second question is about the effectiveness of some of the schemes. There are a number of Government-backed schemes, but some of the projects are more successful than others. Has the Government considered auditing the schemes that it funds to ensure that those that produce the best results in terms of recovery and rehabilitation receive the funding while those that are less successful perhaps do not?

Roseanna Cunningham: As you know, I am fairly new to this, but my personal take is that the schemes should be constantly reviewed. We could then begin to establish which schemes are successful and which are not. The point of the strategy was to get to recovery, and in that context we would want to fund the most successful schemes.

However, different schemes tackle different parts of the problem, and sometimes success is not just about sheer numbers, but about the difficulties that you start with. The point is to ensure that people reach a situation in which they are recovering from the addiction, and I intend for that to continue over the next five years of this session of Parliament.

Humza Yousaf: My question is about legal aid, which the cabinet secretary touched on in his opening remarks. As other diligent committee members did, I read the previous committee's legacy paper. The refining of the legal aid budget seems to be an on-going process. How far along are we in that process? Are you still open to taking representations? I suppose that this question is for the convener, too. Will the committee take representations? Particular concerns have arisen—certainly in Glasgow, the region that I represent—about the duty scheme, the perceived expansion of the Public Defence Solicitors Office and the cutting of the travel scheme and how that might affect those in urban areas.

Kenny MacAskill: Work is on-going on both an immediate and a longer-term basis. The Cadder situation has arisen—not as a choice of this Government, but as something that we had to address—and the Cadder judgment has come at a cost to legal aid. The Government made it clear before the election that the cost of Cadder would have to be dealt with from the current legal aid budget. I was not going to take the money out of the police or fire service budgets, nor was I going to have Cabinet colleagues take it out of the health or education budgets, so cuts have had to be made to the legal aid scheme to factor in the additional costs caused by the Cadder judgment.

The Law Society is represented on the working group and measures have had to be taken to deal with the changes that were initially introduced under the Lord Advocate's guidelines. There is a further police duty scheme, which is a matter of concern to some legal representatives, but we have to do what is necessary to preserve good order and the scheme is supported by the police and the Crown. We have said that it will be reviewed once Lord Carloway has finalised his report, so we will return to the issue once Lord Carloway has published his report.

On the wider issue, I have always said that our legal aid scheme depends upon our court structures and as we change court structures—civil or criminal—the scheme will have to change, because there are financial challenges. The one assurance that I can give you is that we will not be prepared to follow the path that has been taken south of the border, which has led almost to the abolition of legal aid as we know it in my lifetime. However, there will have to be changes, some of

which will have to be more immediate than others, especially in criminal law. Some of the changes in civil law will be longer term. We will work with the legal profession and other stakeholders to resolve matters, but the door is always open.

The Convener: I have some questions of my own, which follow on from the cabinet secretary's comments about Lord Carloway's review. As you know, in the debate on the emergency legislation following Cadder I raised issues about what seemed to be a reduction in the authority and power of the Scottish Criminal Cases Review Commission. Even if the SCCRC considers that there may have been a miscarriage of justice, it has to consider the need for finality and certainty and, even if there is a referral to the High Court, the High Court can reject it. I want to clarify that that matter is part of Lord Carloway's review and that I can look forward to some comments on it.

Kenny MacAskill: As I said, we have set up Lord Carloway's review. He will report back and there will have to be legislation as a consequence. We will be happy to work with his findings. I am happy to give you an assurance on that. Nothing is happening out of view.

The Convener: On the SCCRC and the abandonment of appeals, I asked in parliamentary question S3W-38294 whether you would introduce primary legislation to allow the reporting and publication of SCCRC reports when there has been an abandonment. You said that the proposed legislation will facilitate, as far as possible, the release of a statement of reasons by the SCCRC in circumstances in which an appeal has been abandoned. I did not hear you say anything about that legislation when you talked about forthcoming legislation. Can you advise us on the situation?

Kenny MacAskill: We are committed to that.

The Convener: Thank you.

You said that you fully support the Gill review. Which recommendations do you specifically support? Is there a timescale for the implementation of the recommendations?

Kenny MacAskill: A short while ago, we published a response that set out the Government's position. I met the Lord President yesterday for our regular catch-up and chat. We remain committed to the broad outlines of Lord Gill's recommendations. I do not think that I can give you chapter and verse at the moment, but we can send you a copy of our response. We have set a direction of travel; the question is how we achieve the aims.

There are interim steps to be taken that do not require the primary legislation that was debated in the previous session, but legislative changes

might still be needed regarding the rules councils, because one of the ways of making some progress without fundamental court reform would be to change the rules councils. We are discussing that aspect with the Scottish Court Service. If need be, we will legislate on that before we legislate on the broader matters that Lord Gill dealt with, which are on course to be addressed later in the parliamentary session.

The Convener: I am trying to get an idea of what legislation might be coming our way, and I gather that there might be legislation other than that which is—understandably—in embryonic form at the moment.

We know that we will have the quasi-stages 2 and 3 of the Offensive Behaviour at Football and Threatening Communications (Scotland) Bill before the end of November. Will the victims' rights bill that you mentioned be introduced in September, so that we end up dealing with both of those bills at the same time?

Kenny MacAskill: I do not anticipate that happening. We are having on-going discussions with stakeholders on the matter. The Administration is committed to the victims' rights bill. It is fundamentally important, and we want to take time to get it right and create a consensus. I can give you some assurance that it will not interfere with your other requirements.

The Convener: We will have plans. We do not know what they are yet, but we will have them.

I thank the members of the panel for their attendance. The session has been helpful with regard to giving us some idea of what we will be doing in the next four and a bit years.

10:56

Meeting suspended.

10:57

On resuming—

Subordinate Legislation

Knife Dealer's Licence (Historical Re-enactment Events) (Scotland) Order 2011 (SSI 2011/263)

The Convener: We have one instrument for consideration. Members will see from paper 1 that the Subordinate Legislation Committee reported that the order failed to follow proper drafting practice, as article 2(2) is unnecessary. The Subordinate Legislation Committee considers that that is unlikely to affect the validity of the order, but it observes that it would be desirable for the Scottish Government to revoke article 2(2) at the first available opportunity.

As members have no comments to make, are we content to note the instrument?

Members indicated agreement.

10:57

Meeting continued in private until 11:39.

Members who would like a printed copy of the *Official Report* to be forwarded to them should give notice to SPICe.

Members who wish to suggest corrections for the revised e-format edition should mark them clearly in the report or send it to the Official Report, Scottish Parliament, Edinburgh EH99 1SP.

PRICES AND SUBSCRIPTION RATES

OFFICIAL REPORT daily editions

Single copies: £5.00

Meetings of the Parliament annual subscriptions: £350.00

WRITTEN ANSWERS TO PARLIAMENTARY QUESTIONS weekly compilation

Single copies: £3.75

Annual subscriptions: £150.00

Available in e-format only. Printed Scottish Parliament documentation is published in Edinburgh by RR Donnelley and is available from:

Scottish Parliament

All documents are available on the Scottish Parliament website at:

www.scottish.parliament.uk

For more information on the Parliament, or if you have an inquiry about information in languages other than English or in alternative formats (for example, Braille, large print or audio), please contact:

Public Information Service

The Scottish Parliament
Edinburgh EH99 1SP

Telephone: 0131 348 5000

Fòn: 0131 348 5395 (Gàidhlig)

Textphone users may contact us on **0800 092 7100**.

We also welcome calls using the Text Relay service.

Fax: 0131 348 5601

E-mail: sp.info@scottish.parliament.uk

We welcome written correspondence in any language.

Blackwell's Scottish Parliament Documentation

Helpline may be able to assist with additional information on publications of or about the Scottish Parliament, their availability and cost:

Telephone orders and inquiries

0131 622 8283 or

0131 622 8258

Fax orders

0131 557 8149

E-mail orders, subscriptions and standing orders

business.edinburgh@blackwell.co.uk

Blackwell's Bookshop

**53 South Bridge
Edinburgh EH1 1YS
0131 622 8222**

Blackwell's Bookshops:

243-244 High Holborn
London WC1 7DZ
Tel 020 7831 9501

All trade orders for Scottish Parliament documents should be placed through Blackwell's Edinburgh.

Accredited Agents

(see Yellow Pages)

and through other good booksellers

e-format first available
ISBN 978-0-85758-706-0

Revised e-format available
ISBN 978-0-85758-721-3

Revised e-format ISBN 978-0-85758-721-3