



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

### **PUBLIC AUDIT COMMITTEE**

Wednesday 23 November 2011



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**Wednesday 23 November 2011**

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**PUBLIC AUDIT COMMITTEE**

**8<sup>th</sup> Meeting 2011, Session 4**

**CONVENER**

\*Hugh Henry (Renfrewshire South) (Lab)

**DEPUTY CONVENER**

\*Mary Scanlon (Highlands and Islands) (Con)

**COMMITTEE MEMBERS**

\*George Adam (Paisley) (SNP)  
\*Colin Beattie (Midlothian North and Musselburgh) (SNP)  
\*Willie Coffey (Kilmarnock and Irvine Valley) (SNP)  
\*Mark McDonald (North East Scotland) (SNP)  
\*Tavish Scott (Shetland Islands) (LD)  
\*Drew Smith (Glasgow) (Lab)  
\*Humza Yousaf (Glasgow) (SNP)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Catherine Dyer (Crown Office and Procurator Fiscal Service)  
Eleanor Emberson (Scottish Court Service)  
Leslie Evans (Scottish Government)  
John Ewing (Scottish Prison Service)  
Joe Griffin (Scottish Government)  
Jim Hunter (North Strathclyde Community Justice Authority)  
Donald McGillivray (Scottish Government)  
Anne Pinkman (Fife and Forth Valley Community Justice Authority)  
Baillie Helen Wright (Community Justice Authority Conveners Group)

**CLERK TO THE COMMITTEE**

Jane Williams

**LOCATION**

Committee Room 2







## Scottish Parliament

### Public Audit Committee

*Wednesday 23 November 2011*

[The Convener *opened the meeting at 09:45*]

#### Interests

**The Convener (Hugh Henry):** Good morning and welcome to the Public Audit Committee's eighth meeting in 2011. I remind everyone to ensure that all electronic devices are switched off so that there is no interference with the recording equipment. I have received no apologies for absence.

Agenda item 1 is a declaration of interests. We have a new member of the committee, Mary Scanlon MSP, who is replacing Murdo Fraser. I put on record my appreciation for all the work that Murdo Fraser did as deputy convener of the committee. He made a sterling contribution to our reports, some of which excited a lot of attention, and he played a significant part in the committee's deliberations. We thank him for that and wish him well in his new post. Equally, we look forward to working with Mary Scanlon. I will say more about her role in a minute, but first I ask whether she has any relevant interests to declare.

**Mary Scanlon (Highlands and Islands) (Con):** I have nothing to declare.

## Deputy Convener

09:46

**The Convener:** We move to the choice of a deputy convener. Because Murdo Fraser was the deputy convener, we need to replace him. I invite nominations for the post.

**Humza Yousaf (Glasgow) (SNP):** At the risk of not being allowed to forget this by my Scottish National Party colleagues, I will happily nominate Mary Scanlon of the Conservative and Unionist Party.

**The Convener:** Is there a seconder for that nomination?

**Drew Smith (Glasgow) (Lab):** I second it.

**The Convener:** Thank you.

I welcome Mary Scanlon as the deputy convener. I know, from the contribution that she has made to the Parliament, that she will play a fantastic role in the committee.

Sorry—I should ask whether the committee agrees to the nomination. I just dare anybody to say no. Are we agreed?

**Members indicated agreement.**

*Mary Scanlon was chosen as deputy convener.*

**The Convener:** Mary has played a fantastic role in the life of the Parliament as a back bencher and as a front-bench spokesperson. I hope that she will bring the same enthusiasm and skills to this committee. Congratulations, Mary, and welcome to the committee.

**Mary Scanlon:** Thank you. I enter this all-male domain with a degree of trepidation, but I look forward very much to working on the committee.

**The Convener:** Mary is also a member of the Scottish Parliamentary Corporate Body and therefore, at least for the first meeting, if not the first couple of meetings, there will be a clash because the corporate body meets at the same time. Mary therefore has to leave the meeting early, but that is no sign of a lack of interest in the meeting, just a consequence of the fact that she has prearranged business on the corporate body. I know that steps have been taken to try to avoid a clash in future.



## Decision on Taking Business in Private

09:48

**The Convener:** Do members agree to take item 5 in private?

**Members** *indicated agreement.*

## Section 23 Report

### “An overview of Scotland’s criminal justice system”

09:49

**The Convener:** Item 4 is a joint section 23 report from the Auditor General for Scotland and the Accounts Commission entitled “An overview of Scotland’s criminal justice system”. The committee decided that it wanted to examine the issue in a bit more detail. We have three panels of witnesses. First, we have Catherine Dyer, the Crown Agent and chief executive of the Crown Office and Procurator Fiscal Service; and Eleanor Emberson, the chief executive of the Scottish Court Service. I welcome them to the committee. Do either of you want to make an opening statement?

**Catherine Dyer (Crown Office and Procurator Fiscal Service):** No.

**Eleanor Emberson (Scottish Court Service):** No.

**The Convener:** Okay. We have several questions.

I will set the context of financial constraints and other committee members will go into more detail. When budgets are being cut significantly and staff levels are being reduced, when legislative pressure from politicians for changes and improvements to the justice system is increasing, and when police numbers are at record levels—police who are there both to detect and to prevent crime—how do you ensure that the public will see justice being served?

**Catherine Dyer:** In any event, all who work in the justice system are well aware of the need to improve and to become more efficient. Many things that we have put in train are coming to fruition now. Investment in joint working and in information technology solutions will stand us in good stead. It is important that the public feel reassured that the justice system is fit for purpose, and that we are aware of the importance of how money is spent.

**The Convener:** You mention IT systems, but you have just scrapped the phoenix system. How much had you spent on that?

**Catherine Dyer:** We did not scrap it, as such. There is only so much that you can say in your accounts. Much of the work has been taken forward in a different way and, as you know, there is a section 22 report on that. A significant amount of money was involved, but we were not able to show that we had hardware or software for it. We were at the analysis stage of the project, and using that analysis in our offices has allowed us to



roll out improved processing speeds in case management systems. It is a catch-22 situation: from the accounting, it looks as if we have not gained anything from the money spent, but we were able to examine our systems in depth and consider what we needed to do next. We are rolling out what we call our virtual desktop integration system, in which speeds are significantly improved. We might have fewer members of staff, but we can maintain or increase our output.

**The Convener:** How much have you spent on the system to date?

**Catherine Dyer:** The written-down figure was £2.3 million.

**The Convener:** You say that there have been a number of improvements. Was there no way of achieving those improvements without spending £2.3 million?

**Catherine Dyer:** In a different financial climate, we would have continued with the original project. Throughout its operation, we had it gateway reviewed, and no suggestion of any difficulties arose. We had it gateway reviewed when we decided to stop it, because we were aware that capital amounts for our part of the overall justice system were likely to be severely affected. At that point, I think that it was the right decision.

**The Convener:** The system had proved valuable and, if you had had the money, you would have kept it going. What will be lost by not keeping it going?

**Catherine Dyer:** It is hard to describe things within a limited compass. However, from the late 1980s onwards, all the different parts of the justice system in Scotland were considering processing case management electronically. From 2004 onwards, the Crown Office and Procurator Fiscal Service had a national database, and we could transfer cases anywhere across Scotland in order that work could be done on them. At first, that could be done only for summary case work, but we wanted to improve that and to bring the same kind of productivity to solemn case work—sheriff and jury and High Court cases. We also wanted to integrate investigations into sudden deaths, which we also deal with. We wanted to make improvements in the way in which we provide information to witnesses.

We have considered what we explored with the initial phoenix project, and wondered what to prioritise in the years to come—when there will be no big project like phoenix, but when we can use what we have learned to improve our systems.

**The Convener:** I accept what you said, but what I want to understand is what will not be achieved because you are not continuing with the

project, given that you said that, if you had had the money, you would have continued with it.

**Catherine Dyer:** We will not have a comprehensive system in which all work can be processed automatically and electronically. We will have to make different arrangements for sheriff and jury and High Court cases and use another system for them; we were trying to get everything together so that we had one system.

Many aspects of the preparation of cases, whether we are talking about summary cases that come before sheriffs or justices alone, direct measures such as procurator fiscal fixed penalties or compensation orders, or indeed the preparation for court that is needed for High Court and sheriff and jury cases, rely on the police report coming in electronically. The decisions are made on screen by procurator fiscal deputies, who also indicate electronically on the system the witnesses and so on who will be required. If the case is going to trial, a lot of additional information comes in from the police and other reporting agencies—about 111 reporting agencies give us information. Currently, we have to make different arrangements for sheriff and jury and High Court cases, which of course are the cases for which the most information comes in.

That is what we were trying to achieve and what we have lost. An awful lot of it was about the kind of things that people would like us to do, in relation to putting out information and doing things on a personalised basis, in a more coherent way.

**The Convener:** Might the inefficiencies that were identified in the Audit Scotland report continue, because you cannot make the investment to improve the system?

**Catherine Dyer:** The reality is that throughout the system everyone is considering what they can do with what they have. We have done a lot of work during the past five years—indeed the past decade—to locate and analyse problems in the system, and we are much more efficient than we were five years ago.

That is not to say that we do not acknowledge that there is much more to be done; I am not complacent. However, we have moved on a lot in our understanding of the complexities that we are trying to deal with, the impact of agencies and systems on each other and how we can assist each other. I am talking about the Crown Office and Procurator Fiscal Service, the police, the Scottish Court Service, the Scottish Prison Service, the criminal history system and even the Scottish Legal Aid Board, in the context of the information that we provide.

It would be nice to have everything on our wish list, but we are working through our wish list and prioritising what is currently affordable, and there



will still be big improvements. For example, I think that all members are aware that disclosure has been a big issue in the justice system. Following a series of case decisions in 2005 and thereafter, the law of disclosure has developed in a way that has been hard for the Crown Office and Procurator Fiscal Service to absorb. However, we now have a website through which we disclose material electronically to defence agents and we will increase what we can do so that productions, photographs and so on can be put through that system. Such arrangements improve efficiency. We will still be able to do that.

**Tavish Scott (Shetland Islands) (LD):** Is there now a single electronic system? I felt for you when you said that you have 111 reporting agencies. Are all 111 agencies talking the same electronic language?

**Catherine Dyer:** The Crown Office and Procurator Fiscal Service sits at the very centre of the system, because things come into us and we then decide whether there is a case, put it out to the court, report back to the police on what is happening and provide information to the criminal history system. We have been very much aware that we must develop the system.

Our approach to the 111 agencies—that changes from time to time, depending on what happens—is an effect of the COPFS being unique in prosecution services, in that it is the sole prosecuting authority for Scotland. The situation in Scotland is unlike the situation in England and Wales.

10:00

We have developed a website through which the specialist reporting agencies, as we call them, report to us and provide information. We then translate that into our own internal electronic system. The police system, the court system and our own system have been joined up for quite some time now. In Scotland, we have approached this in a different way from elsewhere. Looking across the jurisdictions, I have to say that we are in a very good place compared with most, in the sense that we did not go for a big bang. Perhaps that has not come across in the report as well as it might have done.

We ensured that all the data standards of each system were compatible. That is how we exchange the data. It involves not just one system but a loop, which the information goes round. For the purposes of court prosecution, which is what the committee is interested in this morning, that is as effective as you can get. It is far more effective than the systems in England and Wales, which do not have this kind of system. We regularly get

visitors coming to Scotland to see what we have done with this.

An electronic report can go from the police to the procurator fiscal; it can then be transferred electronically, having been amended as required for a court case, to the Scottish Court Service. The results are then fed back from the Scottish Court Service, and the outcome of the case goes into the criminal history system. That process is unique. To answer the question, we have one system, but that is because the data standards are the same. Originally, it was not all the same system.

**Tavish Scott:** That is helpful, but I guess the system cannot be all that effective; otherwise, we would not have this Audit Scotland report in front of us. Presumably, there are some gaps that you might want to pick up on. Paragraph 68 of the report, which we received in the autumn, says that there is a pilot study under way in Glasgow because, when accused persons were scheduled to appear in court, the Procurator Fiscal Service did not know that they were in prison and the Prison Service did not know that they were in court. This loop that you have described is clearly not working. What have you done across the service to improve that?

**Catherine Dyer:** That issue was identified and, in the next month or so, a process will be rolled out electronically to provide a link with the Scottish Prison Service. For the past year or so, that has been done manually. Evidence was taken from a wide variety of sources to produce the report. How we work across the justice system is constantly changing, so these things update. That particular aspect has been done.

The report was also interesting because it identified the fact that perhaps only 25 per cent of transactions are done electronically and that many of the rest are done on paper. However, most of the transactions carried out by the Scottish Court Service and by the Crown Office and Procurator Fiscal Service—which people traditionally think of as the justice system, although the justice system is much wider than that—are done electronically. Again, I think that there has perhaps been some difficulty in getting that across in the report. In what people traditionally think of as the criminal justice system, all the work relating to cases coming to court and to people being offered a direct measure or compensation order is done electronically. The only thing that is done on paper is the offer that is sent out to the person.

**Tavish Scott:** On the point that Audit Scotland highlighted to the committee about different parts of the system not knowing where a particular prisoner was, can you confirm that that does not now happen? Have you now solved that problem in the system?



**Catherine Dyer:** That has been dealt with on a manual basis, and it is about to be dealt with on an electronic basis.

**Drew Smith:** Welcome, Catherine. Returning to the issue of efficiency in the organisation, may I ask you how many fiscals have left the service in, say, the past two years?

**Catherine Dyer:** It is hard to put a number on what you describe as fiscals, because people have been talking about trainees as procurator fiscal deputies. We have not recruited permanent staff since March 2010, because we appreciated that the financial climate was changing. We have taken on fixed-term staff, as we were required to do. It is a moveable feast.

The question of how many people have left is a difficult one to answer. People have retired and there are people whose contracts we have not renewed, but we might bring in someone else if we require to do so. It is like any other employment situation.

To some extent, we are demand led in that we require people with different skill sets at different times, and a lot depends on what work we do. For example, our serious and organised crime division does what it says on the tin and deals with very big cases that can take several years to process or which have particular complexities. We need a certain type of person to deal with those cases and, if we require more such people, we employ them—although not on a permanent basis.

**Drew Smith:** I will perhaps return to the issue of fixed-term fiscals. The figure for the number of staff who have left has been quoted in the press as 33. How accurate is that figure? I presume that, although there is churn, you have overall numbers.

**Catherine Dyer:** We do. That is probably accurate for the number of permanent staff who have either retired or left us on an early exit scheme. The difficulty is that, if work arises and we require additional resource, we look to see how to fund that and we bring in fixed-term staff, so the answer to the question on numbers will go up and down. That is not necessarily unreasonable—it is a matter of what the requirements are.

The justice system depends on what comes through the door month by month, and the question for us is whether what comes through the door is at the end where we use fiscal fines and compensation orders or at the other end, where we can have teams of people working on a single case, as opposed to the traditional approach in which a single fiscal marks a case and a single fiscal takes a case in court.

I am not trying to dissemble in any way, but we have decided to organise our workforce so that it is as efficient as possible and we have a core of

permanent staff. We are at that position now and, if we require additional staff, we look to see what we need and for what purpose.

**Drew Smith:** If you are at a core, does that mean that you do not envisage any further reduction in the numbers?

**Catherine Dyer:** We do not anticipate any particular reduction. From time to time, people will leave, and we will have to consider whether it is more efficient for us to use experienced people on fixed-term contracts. We have a pool of people on whom we can call who are experienced and who will work for us on a fixed-term basis.

**Drew Smith:** Is it fair to say that you use fixed-term contracts to ameliorate the effect of people no longer working permanently for the organisation?

**Catherine Dyer:** No. I am saying that we have to live within our budget. We have a permanent staff that we know is within the budget that we have been allocated, and we can bring in people if we think that it is necessary for any purpose.

For example, I was the procurator fiscal in Glasgow and I dealt with the ICL Plastics explosion. We do not get that sort of case every day, but we have to be able to put a team on to it. We have always brought in people to assist if required, and we will continue to do that. If the question is whether we are satisfied that we have a permanent core to deal with what we analyse to be our permanent work, the answer is yes.

**Drew Smith:** I am interested in your comment that the service is demand led, which certainly makes sense. The expectation would be that demands on the service increase in a time of recession. The report also refers to 20 new offences in recent years, and the Parliament is currently debating the sectarianism bill, which will introduce a range of offences if it is passed. In light of that, and in relation to fixed-term contracts, can you tell us how long it takes to recruit a fixed-term fiscal?

**Catherine Dyer:** It does not take long at all. We can revert to a pool of people who have indicated that they would be interested in working with us and who have had experience of working with us, so we can get people fairly quickly.

I should qualify my comment that the system is demand led. For the bigger cases that require us to bring in people, the timescales tend to be longer than for the immediate custody of a summary case. We are well used to dealing with that kind of demand. If you look at the statistics on custodies, you will see that virtually every day is different, and we are well equipped to deal with that. As I say, the timescales for getting people in tend to be longer only for big cases. We would shift



permanent staff to cases such as the ICL Plastics case or other big, complex cases that are reported and bring in staff to help us with the day-to-day work.

**Drew Smith:** I have a slight concern. It sounds as if some of the most experienced people have left the organisation.

**Catherine Dyer:** Most of our permanent staff have more than two years' experience, so there is not an issue in that respect. If you look at the figures relating to what has happened with the Crown Office and Procurator Fiscal Service, you will see that it expanded significantly from 2002 onwards. Indeed, at one point, one of our difficulties was that we had so many new staff coming in that our experience levels were not great, but we are not in that position now. As I said, we have not had any new permanent recruitment since March 2010.

**The Convener:** I want to clarify two things before I bring in Humza Yousaf. You do not need to answer my first question now; perhaps you could respond to us in writing. Can you tell us how much you have spent on overtime for lawyers and administrative staff to date so that we can work out whether overtime has been used to cover for any staff pressures or shortages?

**Catherine Dyer:** Absolutely.

**The Convener:** Secondly, on the service being demand led, none of us yet knows exactly what will happen as a result of Lord Carloway's report, but if what it says about corroboration, for example, is accepted, that would certainly—according to what I have read—place significant pressures on the fiscal service. Have you had an opportunity to assess how many more cases you could expect and how many more lawyers and administrative staff you would need?

**Catherine Dyer:** Obviously, the Crown Office and Procurator Fiscal Service gave evidence in the Carloway review—that is a matter of record. It is probably too early to say what the position is—we will have to wait. Obviously, there is a lot to be considered in the recommendations, and what recommendations are accepted has to be considered. It is not quite as simple as saying that corroboration will not be required; the question is what the rest of the law will look like. I presume that there will be issues to do with what kind of tests will be applied. If that position is accepted, that will put us in a different situation.

The reality for the Crown Office and Procurator Fiscal Service is that we have had to deal with some of the investigatory work anyway in cases of the sort that have been talked about in the press as being ones that may well be proceeded with—cases that involve sexual assault or whatever—to ascertain whether there was sufficient evidence.

Therefore, the picture is quite complicated, but we are well aware of it, and we are working on it.

**The Convener:** When you were making a submission for the Carloway review, did you do any contingency planning in relation to what could be expected if there were changes to the law of corroboration, for example?

**Catherine Dyer:** Yes, we did. We looked ahead and considered what that would look like. Again, it is a matter of looking at things over a rolling cycle. We always have work in progress. It is about what number of cases are custody cases and the number of cases in which it would be likely to take up to nine months for a person to appear in court. I do not think that there will be a sudden opening of floodgates on day one.

**The Convener:** I accept that, but can you tell us in writing what the contingency planning would be if there were changes as a result of Lord Carloway's review?

**Catherine Dyer:** It is an unknown quantity to some extent, as patterns of offending change all the time. For instance, in years past, we had large numbers of historical sexual abuse cases, which entail certain types of work with particular difficulties and complexities. In recent times, because of the greater understanding of that kind of offending, we have tended to have more recent reports of such offences, which is a different category of case. We are trying to work through the issues. I would not say that that is contingency planning in the sense that we have an absolute plan written out, but we have an awareness of the issues that would arise. I am happy to share some of that with the committee.

10:15

**The Convener:** I presume that, in relation to budgets, you will say to Government ministers—in developing your response and potentially their response—what the implications would be if certain bits were implemented and what the resource consequences would be. It would be useful for us to know what the resource consequences of implementation would be. Okay?

**Catherine Dyer:** Yes.

**The Convener:** Thank you.

**Humza Yousaf:** My question can be answered by either or both of the witnesses but, as Ms Dyer has answered all the questions so far, Ms Emberson might want to comment. Churn is a big feature in the report, and one of the big themes related to it is the lack of joined-up working between the partners, including the police, the Procurator Fiscal Service, the courts and lawyers. What is the state of joined-up working between the partners? Is it improving, and can you give us



evidence of that? Why has there been a lack of emphasis on joined-up working—or is it wrong to assume that?

**Eleanor Emberson:** That is the wrong assumption although, as Catherine Dyer said, the understanding and the ability to work effectively together have definitely improved markedly in the past few years. I have been in the Scottish Court Service for more than seven years, during which time we have implemented major reforms in the High Court and the summary justice system, which have had many benefits. We have learnt from those reforms and built on them and now we are doing a bit better.

Churn is a big subject. Obviously, cases churn at all stages of court proceedings and in all types of court, but the issue on which we have tended to focus—because it is such a big issue—has been churn at summary trial diets. In the first quarter of 2010-11, which was April to June of 2010, 38 per cent of summary trials throughout Scotland adjourned to another day with no evidence led, or churned. In the most recent quarter, which was July to September of 2011, the figure was 33 per cent. I accept that that is not a dramatic improvement but, given the complexity of the system, steady progress is the best that you can realistically expect from us. We are continuing to bear down on churn. We will continue to do that joint work with the Crown and the police to try to deal with the issue.

**Humza Yousaf:** Another issue in the report is the use of technologies. I am a member of the Justice Committee, which has also discussed the issue. It is worth reiterating that technologies such as videoconferencing are not being used as effectively or as much as they should be. Looking back, one imagines that videoconferencing could have saved a lot of money. What is the barrier or obstacle that is preventing you from using that technology?

**Eleanor Emberson:** There is no fundamental barrier. There is now a lot of will to use that technology. One of the many projects in the making justice work programme is considering making better use of videoconferencing. We have a pilot up and running across the Highlands and Islands, where there is a particular issue and where people sometimes have to travel long distances. There is a lot of will to make that technology work in such areas.

**Humza Yousaf:** My final question is on Lord Gill's review. How will it impact on your work? Will there be substantial efficiencies from the rationalisation of the court estate? Are you seeking more guidance from the Government on issues such as the timetable?

**Eleanor Emberson:** That was three questions, I think.

**Humza Yousaf:** I thought that I might as well get them all in at once.

**Eleanor Emberson:** We see huge potential in the recommendations of Lord Gill's review and also Sheriff Principal Bowen's review of sheriff and jury business. We will look to try to work with the Government and other justice bodies on the implementation of those recommendations. Obviously, legislation will be required for much of that, so it is not entirely under our control.

We are looking hard at the rationalisation of the court estate. As you know, that issue came up at the Justice Committee. Every year, around 40 per cent of our resource budget disappears into the running of all the court buildings. In a time of financial restraint, we have to look at how we can save that money, and we have done well so far.

We have closed four split-site buildings in Paisley, Perth, Ayr and Kilmarnock, where there were justice of the peace courts in annexes. We have moved all that business into the main sheriff court buildings in those towns. There is no loss of service, but we make a saving because we are not running two buildings. We have a major project running in Glasgow, which is looking at whether it would be possible to amalgamate the business from the justice of the peace court building in St Andrew's Street into the Glasgow sheriff court building. Operationally, that is very complicated but there is potentially a substantial saving, so it is well worth trying, and it is looking promising.

A review of the rest of the court estate, how we use it and where business is done is being conducted. We will have to go out to public consultation on any ideas that emerge from that sometime next year.

**Humza Yousaf:** Is there any danger that the rationalisation process that the Scottish Court Service is undertaking will be compromised by the fact that this is a difficult time in terms of financial constraints? It is important that the process is not driven by financial constraints—access to justice should always remain the priority.

**Eleanor Emberson:** Access to justice must always remain the priority. That is why, as I said, if we wind up looking at any further closures and so on, we will hold a public consultation and try to balance up the cost versus access issue and consider different people's needs.

You have touched on developments such as videoconferencing, which we can try to use more often. That might allow us to address some of the access issues while dealing with the estate issues.

**Catherine Dyer:** It might be helpful for me to observe that the access to justice review assists



the criminal justice process, because one issue in places such as Glasgow where busy courts operate in separate locations is that defence solicitors have to run between them. Some consolidation of the estate also makes things easier for our staff. We also see big potential in terms of what we can offer at court for victims and witnesses. The process has certainly been quite successful in the courts that have amalgamated so far.

**Mark McDonald (North East Scotland) (SNP):** Humza Yousaf touched on churn. In the report, the figures on churn dealt with late acceptance of guilty pleas and late decisions not to proceed. The totals for those added up to an overall cost of £87 million, which I am sure you will appreciate is not an insignificant sum. I appreciate that you cannot eliminate every single aspect of that, but what is being done to reduce the amount of money that is being lost in the system because of those issues?

**Catherine Dyer:** Again, this is about the work that we are doing in the making justice work programme on looking at what causes churn.

There is a difficulty with the idea that a late decision is necessarily one that could have been made earlier. The COPFS keeps details of the reasons given when a late decision is made not to take action to a conclusion in a case, and the reasons are varied. It might be that witnesses can no longer be traced, or that someone is ill and will not recover in time. It might be that the accused is in prison for something else and that, in terms of public money, it is better that we do not proceed with the second case because it is a more minor matter. It might be that forensic evidence that we thought would be forthcoming is not forthcoming or that a witness indicates that they have changed their position. Those are a number of the reasons why such decisions might be made.

A lot of work is going on just now on one of the big causes, which is witnesses not turning up to court. What is interesting for all of us is that that is not a one-size-fits-all situation. There are cultures around particular local courts. For example, there is sometimes a culture around the advice that defence agents give their clients as to when a plea should be tendered. We find—perhaps not surprisingly—that if certain defence agents think that a witness is in the habit of not turning up, their advice to their client seems to be that they should not commit to a position until they know whether the witness has turned up. That can cause difficulty in relation to churn.

Across the country, more or less all courts have a scheme for dealing with witnesses. For example, Airdrie court is publicising the fact that if a witness who has been cited fails to attend, rather than put off the trial, a witness warrant will be issued and the police will go out there and then and look for

them. That in itself causes difficulties. In one case, the police successfully got the witness but had to take them to hospital because they were too drunk to turn up, to the point of illness. That is what we are grappling with—these are the human stories underneath the cases. We are very focused on trying to make the system as efficient as possible and trying to use the tools that we have. However, even when we do that, it can still be that the case does not go ahead.

**Mark McDonald:** Okay. I appreciate that you will not be able to eliminate churn entirely, for the reasons you have articulated. We had a written submission from the Law Society of Scotland. I do not know whether you have had the opportunity to study that.

**Eleanor Emberson:** I have, yes.

**Mark McDonald:** The Law Society talks about delays by the Crown in providing

“information to the defence, which impacts on the direction the defence case is to take”,

and about pleas that were offered at an earlier stage but not accepted by the Crown then being accepted by the Crown at trial.

I am also interested in touching on another issue that the Law Society highlights. It gave a response to the summary justice review committee in 2004 about the need for more time before trial for the procurator fiscal and the defence to meet in order to discuss the case and possibly arrive at an agreed position before proceeding to trial. What has been done in the seven years since the society made that recommendation?

The society does not quantify the problems that it raised, so I would be interested to know how prevalent they are. Regardless of that, what are you doing to tackle the issues that the Law Society of Scotland has identified?

**Catherine Dyer:** Okay. Again, you have asked quite a lot of questions. I will deal with the COPFS not providing the information that agents require. In several cases, we thought that we were providing what was required. However, until we had the secure disclosure website that the COPFS provided for agents, through which we now have an audit trail of what has been provided to which agent and when, we found increasing difficulty with people saying that their firm had not received this or that. The secure website gives us an audit trail—it gives us a printout that we can show the court. Since its introduction, these problems have reduced. We have regular meetings with the Sheriffs Association and with part-time sheriffs. In previous years, the sheriffs said that the problems were constant, and we were aware that that was being said in court. However, this year, since we introduced the website, the sheriffs have said at



our meetings with them that the problems have completely reduced, partly because we have the audit trail.

I will skip to the question of what we are doing about negotiating with agents early enough. Our plan, which we are shortly to roll out, is to provide a secure e-mail system. Obviously, the COPFS, the police and the Scottish courts are all on different secure e-mail systems that can speak to one another. The agents are in individual companies or partnerships, or they are sole practitioners—there is not necessarily a coherent way of dealing with them. However, the COPFS has sourced a secure e-mail system that we will provide for them. That will greatly improve the opportunities for advance discussion of cases.

10:30

Of course, defence practitioners spend their lives partly in court and partly outside court meeting clients in their offices, while procurator fiscal deputies spend most of their day in court with cases rather than out of court, and difficulties in marrying up those two issues has definitely led to inefficiencies. The secure disclosure website, which provides the audit trail of what has been disclosed, has been successful and we are really looking forward to early and meaningful negotiations via e-mail that might well lead to arrangements for times for phone calls or whatever.

As for other inefficiencies, we are trying to deal with the individual components of cases—for example, the defence and the accused person—and to get the accused person to contact their solicitor in advance. Indeed, we are considering various suggestions for courts in that respect because, after all, it is not just the meeting between the solicitor and the procurator fiscal that is important; the solicitor needs to have met the client to know what the instructions are.

With regard to pleas, part of the summary justice reform programme was to provide at the earliest opportunity—in other words, when papers are served on the accused person—a summary of the evidence and an indication of the plea that would be acceptable to the Crown. If the situation changes and a witness becomes unavailable, the plea might well change. However, that is usually the only situation in which that might happen.

**Mark McDonald:** I highlighted the global sum of £87 million. Do you have a rough idea of the percentage of cases that fall within the categories of churn, late guilty plea or late decision not to proceed? How many of those are within your control and how many are influenced by factors that you cannot necessarily do anything about? For example, you mentioned the witness who did

not turn up to court because they were incapable, which is something that you physically cannot control. What percentage of cases are within your control—cases that you can therefore influence to try to reduce the global sum?

**Catherine Dyer:** Again, that is a difficult question to answer. The report itself uses the shorthand that we use in court about whether the defence or the Crown is prepared, which can sound at times as though people have not done their homework or have not paid attention to the case. In fact, it is all about the input to the case, which could include forensic reports or particular witness statements that people are waiting for. That might result in someone saying to the court that the Crown or defence case was not fully prepared.

As far as what we can control is concerned, that comes down to our audit of the case preparation process. For instance, our system gives us an electronic printout showing us the witnesses to whom citations have been sent and the execution of those citations—in other words, whether the witnesses have been served. We can show that information to the court, and the more we can do that for the different parts of a case, the more we will be able to quantify things. At the moment, the problem is not usually that the Crown has not done something or has not ordered another part of the system to do something; this is all about co-ordinating things to ensure that the information comes back in time for the case to proceed on the first diet.

In an awful lot of these cases—indeed, in the vast majority of them—the problem is the non-attendance of witnesses. It is not that witnesses were not cited but that they simply did not turn up at court. That is why we are so interested in the work that is going on in all the different courts; after all, there are different reasons why it happens in different jurisdictions. In that respect, Glasgow is different from Airdrie, which in turn is different from Dundee, but in each jurisdiction work is being carried out to quantify what we need to do to get witnesses to court.

**Willie Coffey (Kilmarnock and Irvine Valley) (SNP):** I was listening very carefully to that answer because it relates to my question, which is about the Crown and the defence agreeing joint minutes of admissions. If it has been agreed that certain evidence is non-contentious, officers would not have to attend court unnecessarily in order to present it. In that sense, my question is similar to my colleague Mark McDonald's question: does that happen already, or are we making in-roads into improving the situation?

**Catherine Dyer:** The number of officers who are cited to attend court dropped by 14 per cent between April 2010 and 31 August 2011. We have



been careful about when we cite them and the figure is going in the right direction.

When police officers are called to court, the matter is for the defence. We try to have evidence agreed, but we must recognise that—as is understandable—the contentious part is often what officers say that they saw. That is a difficulty. I look forward to the secure e-mail system—if we get it—providing a record that the Crown made the effort to ask whether the evidence could be agreed, which can be shown to the court.

The issue is difficult. The Law Society's submission does not touch on the matter but, having been a defence agent, I can say that defence agents, too, have quite a difficult job in dealing with the human element of persuading people to discuss their position on the Crown's evidence and what they want to do with that. That part of the system is out there and is beyond the control of the Crown or the court system.

**Willie Coffey:** Did the drop to which you referred result from evidence being agreed, so that officers did not need to attend court, or from another factor?

**Catherine Dyer:** The reason is a crackdown by my deutes in considering whether a police officer is essential to a case.

**Willie Coffey:** In general, is the tendency to attempt to make agreements or to hide your evidence?

**Catherine Dyer:** There is no hiding at all. Summary justice reform was introduced in 2008. People will remember that a lot of debate took place about whether it was right for the Crown to provide evidence to the defence at the stage at which that was proposed.

In every case, the defence receives a summary of the Crown's evidence as it is in the police report and a letter that says what the Crown considers to be an acceptable plea as a result of that evidence. The evidence is not hidden.

**Willie Coffey:** There no requirement, compulsion or expectation that the defence will respond by saying, "We agree the evidence, so officer time is not needed to speak to it."

**Catherine Dyer:** It is supposed to be a given that anything that can be agreed should be agreed, but I have to say that not much agreement occurs. That might well be because people who plead not guilty do not want to agree the evidence.

**Willie Coffey:** Of course—I understand that.

I will ask another question, which is not really about efficiencies or the committee's remit. Everyone is interested in the victim's journey through the justice system. Page 7 of Audit Scotland's report has quite an elaborate chart

showing the offender's journey through that system. When committee members previously discussed the report, we were concerned about the impact on victims. When the fiscal decides to take no proceedings or to issue a fiscal fine, are victims routinely informed of the outcome?

**Catherine Dyer:** No. We are looking at what more we can do in that regard. The issue is another that relates to the evidence base from which we work. The Scottish crime and justice survey that was recently published contained the interesting statistic that 88 per cent of victims who were surveyed said that they did not want further information about what was happening. We balance that against the knowledge that a number of people clearly want such information. The question for us is: what is the most effective way of providing information to people who want it?

The committee might know that we prioritise victims who we think are likely to have been badly affected by cases. They receive a proactive service—our victim information and advice service. That tends to operate in the more serious cases and when the Vulnerable Witnesses (Scotland) Act 2004 applies, so we engage proactively with vulnerable victims and any vulnerable witnesses.

Blanket provision to every victim is not the position. We are discussing with the Scottish Court Service and the police the best way of ensuring that people know where to go for such information if they want it.

**Willie Coffey:** That is quite a surprise. Sadly, I speak from bitter experience. In my case, no information whatever came to me, and I was never asked whether I wanted any. It might be an idea at least to engage with all victims to ask them whether they wish to be contacted about the outcome.

**Catherine Dyer:** The majority of police forces provide a victim card that indicates where information can be obtained, including from the Crown Office and Procurator Fiscal Service. We have an inquiry point, with operators who can deal with any call that comes through and provide information. We might need to make that more public. We are having lots of discussions in the making justice work programme about engaging more effectively with the community at large, so that people know more about how the justice system works and about where they can get information if they want it, especially if they are directly affected.

**The Convener:** Before I bring in Colin Beattie, I will pursue a point touched on by Willie Coffey about victims. Everyone would agree that victims should be better informed, and that it can be very distressing and traumatic if they hear information



at second or third hand. In a sense, this brings us to an interesting philosophical issue about the roles of the Lord Advocate and the Crown Office and Procurator Fiscal Service. We would not want to detract from your responsibility to ensure that victims were properly informed, but in the key messages document prepared by Audit Scotland is the statement that:

"Procurators fiscal act on behalf of the State, in the public interest, not on behalf of victims."

What is your view of that statement?

**Catherine Dyer:** We act in the public interest. To me, the public includes victims, witnesses and the accused. This is a challenge for the Crown Office and Procurator Fiscal Service that perhaps does not sit with some of the other agencies. At the end of the day, we are the people who are asking a witness to come to court to give evidence in the public interest. There is a balance to be struck. I have no difficulty with the philosophical part of that; the issue is about how we implement it practically. The evidence shows that there is no need for blanket implementation. As in so many areas of the criminal and civil justice systems, this is about the individual's needs. It can become quite complex. We must work out how we can provide that balance, but the interests of victims and witnesses have to be at the centre of what the Crown Office and Procurator Fiscal Service does. Equally, so do the interests of the accused person and their right to a fair trial.

**The Convener:** That is right; there is a balance to be struck. Sometimes, particularly in political circles, the prevalent view is that the Lord Advocate and the Crown Office and Procurator Fiscal Service should be the champions of victims, but you seem to be saying that although you are committed to ensuring that victims receive a better service, you have to strike a balance and cannot be seen to favour one side rather than the other.

**Catherine Dyer:** That relates to the definition of the public interest. It is a much wider thing, and it has to take into account all the varying competing interests. Far more information is now provided to victims, but the word "victim" is a fairly emotive one. Some people do not consider themselves to be victims. Also, the Crown Office and Procurator Fiscal Service is the sole prosecuting authority, so it deals with everything, including the very minor cases, which still have to be marked by warnings, fiscal fines or fiscal compensation orders. If a person receives a fiscal compensation order, the victim will certainly know what is happening. There are also commercial victims out there, however. Shoplifting does not create a victim in the usual sense, for example, but we still have a duty to deal in a professional manner with the people and organisations that are affected. That is what we are aiming for, as opposed to claiming to

represent any one of the parties involved in the criminal justice system.

10:45

**Colin Beattie (Midlothian North and Musselburgh) (SNP):** I want to explore what was said about manual workarounds, which I think were a response to Audit Scotland's comment in paragraph 75, which says:

"there is no mechanism to track people through the system".

If the manual workarounds cover offenders, victims and witnesses, they cover a huge number of people. How effective are they?

**Catherine Dyer:** I did not agree with the statement in the report. For its own purposes, the Crown Office and Procurator Fiscal Service tracks witnesses, victims and accused persons. That is what we need to do; that is what our case management system does. Similarly, the Scottish Court Service must track cases. There is certainly an issue about what lies beneath some of the higher-level figures, which is what Audit Scotland was talking about, but it is not the case that there is no tracking of what is happening with cases. It is just that someone has to go down to the level of the individual case to ascertain what is happening with it. We can do that.

**Colin Beattie:** Are you talking about tracking on a manual basis?

**Catherine Dyer:** No.

**Colin Beattie:** So it is automated.

**Catherine Dyer:** It is, completely. That did not come across in the report—that may be our fault; we did not sufficiently convey what happens. The justice system part—the police, the prosecutor, the court and the criminal history system—is electronic and we all have the ability to get high-level statistics.

There are things that the system is not designed to count. We live in a 24/7 world, and when people are pursuing a particular interest or a specific answer on what happens in a particular type of case we can give some information but we cannot always give all the information that is asked for. However, it is certainly not the case that we are not tracking what is happening with cases. The whole purpose of the Crown Office and Procurator Fiscal Service is to be able to say, "That accused has been reported to us; these witnesses are here; this victim is here," and to say what stage a case is at or what its outcome was.

**Colin Beattie:** Audit Scotland also says in paragraph 75 that

"there are limited assessments of quality or cost."



Such assessments are essential if you are to build improvements into the system.

**Catherine Dyer:** Are you talking about the system as a whole?

**Colin Beattie:** Audit Scotland says, in relation to its comment about there being no mechanism to track people through the system, that

“there are limited assessments of quality or cost.”

Assessments are obviously essential if you are to build improvements into the system and develop it in future.

**Catherine Dyer:** I do not want to hog the meeting, but I should say that the independent Inspectorate of Prosecution in Scotland looks at what is happening from a number of angles, for example by individual office or by theme. The Crown Office and Procurator Fiscal Service also has a self-assessment regime, which we open up to the inspectorate, to show that we are looking at the quality of decision making and how cases were prepared for court.

In relation to tracking what happens between the Scottish Court Service and the COPFS, we use a vast number of statistics that can tell us what is happening. That is why we can say what the churn looks like and what percentage is caused by witnesses not attending, so that we can consider what to do about that. I am not sure what Audit Scotland meant by its comment.

**George Adam (Paisley) (SNP):** Mark McDonald and Willie Coffey asked about churn, which costs £87 million. Catherine Dyer said that the culture among defence agents varies from area to area. I understand that, because agents are experienced and know the system. Is a large proportion of the £87 million the result of experienced defence agents using the system to negotiate a position for their client—so that they plead not guilty until the end of the process, when they plead guilty? Should we look at the whole process? How do we do that while retaining the integrity of the justice system?

**Catherine Dyer:** At the moment, the Crown can be put to the test in our adversarial system. It is not for me to second-guess what advice agents are giving to their clients. Each client will be different. Different players have different responsibilities in progressing things through the courts. We, the police and the courts have to ask how we can have an effect. One thing that we can do is ensure that witnesses turn up, which will influence whether a plea is forthcoming at the trial diet.

Before the reform of summary justice, the criticism was rightly made that not enough information was always available to the accused at the outset to allow them to decide whether they

understood the Crown case against them. That is not the position any more: everybody gets their summary of the evidence, and everybody gets their acceptable plea letter telling them what the Crown would be prepared to accept. I think that it was the Lord Justice Clerk who said that, at the end of the day, it is the person who is being accused who knows whether or not they did what is being alleged, and it is for them to make the decision on when they plead. We are trying to make the system as efficient as possible, ensuring that they have all the information on what the Crown will present as a case against them, so that they can make a decision.

**George Adam:** If I were being blunt, I might say that some defence agents might tell a witness not to turn up on a certain day, just to keep the case moving. That costs money—and £87 million is a lot of money.

**Catherine Dyer:** That would be a serious situation, and I do not think that it happens at all.

**George Adam:** I am just a cynic.

**Catherine Dyer:** In summary cases, the fee for agents is fixed. The chaotic lifestyles of the people whom they are dealing with have to be taken into account. Having been a defence agent, I know that trying to get people to court can be difficult. Sometimes, all that they handed in was the complaint—if you were lucky. They filled out the legal aid form, and you did not see them again. They did not turn up at court, a warrant was taken out, and you saw them in the cells. That is what agents are trying to grapple with.

The more information we can provide to the accused person and their agents at an early stage, and the more we do to ensure that forensic reports are ready, that statements have been disclosed in time and that witnesses have been cited and are present, the better.

In some courts, there is a culture in which sheriffs ask very pertinent questions of both the Crown and the defence. If a person is not ready to go to trial, those sheriffs will want to know what is causing the lack of readiness. That is a very effective way of dealing with things.

**George Adam:** Convener, if I may crave your indulgence, just one—

**The Convener:** We need to move on; we have a stack of witnesses to see, and we have already run over time. George Adam raised a serious issue, and I say on record that we have no evidence that lawyers are making any such suggestion to their clients. If any evidence of that nature existed, it should be reported to the appropriate authorities.



I thank the witnesses for their contribution, and we look forward to receiving information from you in writing.

We welcome the next panel to the committee: John Ewing, chief executive, and Eric Murch, director of partnerships and commissioning, from the Scottish Prison Service; Bailie Helen Wright, chair of the community justice authority conveners group; Jim Hunter, chief officer of north Strathclyde community justice authority; and Anne Pinkman, chief officer of Fife and Forth Valley community justice authority.

We will go straight to questions. I refer the witnesses to part 4 of the Audit Scotland report, which deals with "Effectiveness in reducing reoffending". Some of the statements and figures on page 33 are staggering, such as the fact that

"almost half of those receiving prison sentences had been in prison more than three times before ... between 15 and 22 per cent had been in prison more than ten times before"

and

"7,000 prisoners had 47,000 spells in prison".

Who has the lead responsibility in reducing reoffending?

**John Ewing (Scottish Prison Service):** Reducing reoffending is a partnership operation with a number of different organisations. In the Scottish Prison Service, we have a responsibility to develop programmes and interventions that enable us to work with the offending population that we have. Ultimately, research has shown that tackling an offender's behaviour involves a number of things, including finding them a house, finding them a job and getting them established in a stable relationship. Those are the critical things that will deliver success.

The body of evidence also shows that some categories of offenders grow out of offending. They have a period of their lives in which they follow a pattern of consistent, low-level offending, and they then reach a point when they stop doing that and they recognise the damage that their offending is doing to them and the relationships around them. We have to work in partnership with colleagues in local authorities and elsewhere to ensure that attempts can be made to enable people to change the pattern of their lives. However, that is dependent on their willingness to change that pattern.

**The Convener:** I do not doubt for a moment that partnership working is essential if we are to make a difference. I understand that, politically, the responsibility lies ultimately with the Cabinet Secretary for Justice and the Government but, from a managerial perspective, who takes the lead if the partnership is not working or the results are not as they should be? We surely cannot have

four or five agencies all looking at each other saying, "We are all partners." Someone somewhere has to get things moving. Who has the lead?

**Jim Hunter (North Strathclyde Community Justice Authority):** When CJAs were established, one function that was given to us was to prepare, in partnership with our statutory partners, an area plan to reduce reoffending in our areas. The area plans cover a three-year period. In 2006-07, we were given the target of reducing reoffending by 2 per cent across Scotland by 2010-11. The justice analytical services division published the Scottish reoffending rates a couple of weeks back, which showed a reduction over the period of 2.1 per cent. CJAs certainly have a co-ordinating role in reducing reoffending through our area plan arrangements.

**The Convener:** You have a co-ordinating role and you have plans. There is a lot of managementspeak in that, although you also said that there has been a welcome reduction in reoffending. Of all the agencies, who has the lead if things are not working? Who cracks heads together and makes things happen?

**John Ewing:** That would be the responsibility of the Scottish Government, because it runs activity such as the reducing reoffending programme. I am answerable to the cabinet secretary on what we do.

**The Convener:** I have said that I understand that, politically, the responsibility rests with the cabinet secretary. From a managerial perspective, who takes the lead?

11:00

**John Ewing:** There is no one organisation, apart from the Scottish Government, that can act in that capacity.

**The Convener:** Is one of the problems the fact that a range of agencies are involved but no one at a high level will take day-to-day responsibility other than the Government? We are talking about 7,000 prisoners having had 47,000 spells in prison. I know that that is a difficult situation and that sometimes—with short sentences, for example—the Prison Service does not have the time to work with people, but are you suggesting that there is no one other than the cabinet secretary who can take decisions that will make things happen?

**John Ewing:** Consideration was given to developing a single offender management service in Scotland, but that was rejected some years ago. The model that we have reflects the local dimension and the ability of local areas to determine priorities. As Jim Hunter said, the role of



the CJAs is to co-ordinate that and, as well as operating at a national level, part of our job is to collaborate with our CJA colleagues on managing that service. There is a choice to be made, and a debate could be had about that.

**The Convener:** Who makes the decision about the allocation of social work support from the time at which someone enters a prison until they come back into the community and beyond?

**John Ewing:** We will have an arrangement with the various social work authorities to deliver social work services in prison. A change that we have been making recently is that, in consultation with the Association of Directors of Social Work, we have been agreeing a series of service level agreements on which services we can expect councils to provide, as a minimum, in the prison setting. We pay for those. We are in the process of concluding those negotiations with ADSW and individual local authorities. Once an individual passes out of our care and into the community, social work support becomes a matter for the local authority concerned with that individual.

**The Convener:** Is the level of social work support in prison adequate?

**John Ewing:** We believe that it is at the moment, but there is always a demand for additional services. Those additional requirements are dealt with as part of the negotiations that we have with the colleagues who deliver those services for us.

**Humza Yousaf:** This question is probably also for Mr Ewing, but I would be happy for anyone else to chip in. I think that all of us recognise that there are huge savings to be made from cutting reoffending. Mr Ewing touched on the point that is made in paragraph 105 of Audit Scotland's report, which says:

"People who repeatedly offend often have many problems. For example, limited education or training, no paid work, nowhere to live, problems with alcohol or drugs, mental health problems".

When people with those problems are in prison on short sentences, how much can you do to rehabilitate them?

**John Ewing:** It is very difficult. How much we can do depends on the length of the individual's sentence. When such a person is on an extremely short sentence, at times there is little more that we can do than stabilise their alcohol or drug problem. However, we ensure that we assess people and seek to identify their needs with a view to developing a case management record that can be made available for partner bodies to act on when they are released from prison. The longer an individual stays in prison, the more we can develop programmes and tailor them to their

behaviours. We tend to find that that takes a certain amount of time working with people.

In addition, over the years our focus has been on the longer-term prisoners rather than on the shorter-term prisoners. We would identify that there is a gap in the interventions that we can make with offenders who are on very short-term sentences. One of our priorities as we think about the services that we can deliver over the next three to four years is whether there are any meaningful short-term interventions that we can start off in prison that can be picked up and run with by colleagues in the wider community.

**Humza Yousaf:** Have you had any feedback on that? Are there short-term initiatives that you think you could use?

**John Ewing:** We are looking at that at the moment. We have completed an exercise to map the interventions that we offer in the Prison Service. That information is now available and we are sharing it with our partners. We are looking to see how we can extend that in a way that is meaningful and which picks up what is in the communities.

We need to make a concerted effort over the next three years to develop some of those interventions and to find out whether there is anything useful that can be done on a psychological basis to get people to think about their offending behaviour earlier. We provide services such as drug addiction services, but their success is dependent on people following that up later.

**Humza Yousaf:** I suppose that I am asking about when it is more beneficial to the individual, and to society at large, for somebody who has been found guilty of an offence to be on a community justice programme rather than in prison. Do you have a timeframe in your mind?

**John Ewing:** Community justice programmes have demonstrated over time that they are more effective in reducing reoffending by the participants, and we do not dispute that. The programmes that we offer are probably best suited to individuals who are in our care for a minimum of six months or so. That is the general kind of intervention that we make. However, the simple fact is that the longer someone is in prison, the less likely they are to reoffend.

**Humza Yousaf:** I have a follow-up question, although perhaps Bailie Helen Wright is the best person to answer it. I presume that the CJAs welcome the focus on preventative spend, but how closely do you work with the Government to ensure that you are an essential part of that? I imagine that you see yourselves as having a pivotal role in the preventative spending approach.



**Bailie Helen Wright (Community Justice Authority Conveners Group):** Yes. The Government has tasked us with reducing reoffending. One strength of the CJAs is that they are well placed to facilitate contact and joint working between the partners. A concrete example of that is the Tayside community justice protocols for short-term prisoners, which have been customised by other CJAs and their partners. That is an example of the CJAs fulfilling their requirement to promote and share best practice across the country. Those aims have been achieved in broad terms. The funding for criminal justice social work services in the 32 local authorities is now focused through the eight CJAs. However, how those funds are managed and spent and how the outcomes are evaluated is not the subject of a co-ordinated performance process.

**Humza Yousaf:** Will you say that last part again? Did you say that it is not part of a co-ordinated process?

**Bailie Wright:** In the absence of a national performance framework, the CJAs have developed local performance frameworks. I am pleased to say that the Tayside and Lothian and Borders CJAs, working with Audit Scotland, are developing pilots for criminal justice service performance management. That will go a long way to remedying the situation and will give us all the data that we need to determine where money is being well spent and to forecast more effectively where and how it should be spent in future.

**Humza Yousaf:** That framework does not exist, but you are developing it.

**Bailie Wright:** We are piloting that.

**Humza Yousaf:** How do you evaluate whether programmes have been successful? I just assume—although I suppose that I should not do so—that community justice programmes provide a lot more benefit than locking somebody away does, although there is the public safety element to consider, too. How have you measured success in the past?

**Anne Pinkman (Fife and Forth Valley Community Justice Authority):** In the absence of a national performance framework, the CJAs have developed local performance frameworks. I concede that much of the performance data that we collect from partners is qualitative rather than quantitative. Several CJAs deliver, through local authorities, a range of accredited programmes that have been approved by the national accreditation body and which are funded by the Scottish Government. Those programmes have an integral performance framework.

As I said, the local performance frameworks have largely been developed from the information

that our partners already collect. Our boards can scrutinise that information. For example, they can monitor the number of individuals who have been remanded; the number of young offenders who are placed in prison or on community-based programmes; or the conversion rates of recommendations for sentences. There is still much to be done, but we have developed local performance frameworks.

**Humza Yousaf:** I will not take up much more time, convener, but I have a final question, which is for Mr Ewing. Given all that we have just heard, are there people in prison who probably should not be there but who should be on a community justice programme? If so, are they a significant portion of the prison population or a minority?

**John Ewing:** Ultimately, that is a decision for the judiciary. My job is to keep in safe custody those whom the judiciary sends in my direction. It has to make that judgment call, not me.

**Humza Yousaf:** And you are not willing to say anything more about that.

**John Ewing:** I would prefer not to.

**Humza Yousaf:** That is fine.

**Willie Coffey:** Having worked with colleagues of Jim Hunter, Bailie Helen Wright and Anne Pinkman in the south-west CJA for a number of years now, I have been very impressed by the range of interventions that they have made, particularly in Kilmarnock prison in Bowhouse, in my constituency. Following on from Humza Yousaf's question on performance and outcomes, I suppose that the big-ticket question is this: what do we get for the £100 million that goes into CJAs? Jim Hunter mentioned a 2.1 per cent reduction that glided past us but which I was trying furiously to write down, and I wonder whether he can say more about it, the period to which it refers and whether it applies to one or all CJAs.

**Jim Hunter:** I will be delighted to say more about it, because I believe it to be a good-news story. In 2006-07, the national rate of reoffending was just over 44 per cent; that has fallen by 2.1 per cent to just over 42 per cent. That might not seem like a big number, but I point out that the Audit Scotland report makes it clear that, in the base year 2009-10, there were more than 900,000 crimes and offences and 825,000 victims. You cannot do a straight read-across but, given those figures, 2 per cent represents quite a large reduction in the number of victims and the number of crimes and offences committed.

Our role is to continue to drive down reoffending rates and we are currently consulting a wide range of partners on how we will do so through the Government-led reducing reoffending 2 programme, which will get under way this year.



We are also holding a number of consultation events across Scotland; in fact, I believe that one such event is taking place today in Dundee. Basically, we need to keep our foot on the pedal and ensure that the trend continues downwards.

**The Convener:** Before Willie Coffey develops his questioning, will Mr Hunter clarify a point that I believe contradicts the Audit Scotland report? He said that reoffending has fallen by 2 per cent to 42 per cent, but the report says:

“To date this has not been achieved; the national reconviction rate has reduced by less than one per cent in the last three years, with around 44 per cent of offenders reoffending within two years.”

Is that statement inaccurate?

**Jim Hunter:** It is not inaccurate—that was the position when the report was written. After the report was published, the justice analytical services division published more recent figures for reoffending, which showed a 2.1 per cent reduction over the period. The report was accurate at the point it was published, but it has been superseded by newer information.

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

**Willie Coffey:** I am delighted to hear about that progress. However, a Public Audit Committee looking for opportunities for improving things and making efficiencies has to ask whether 2 per cent is enough. I know that I am a member of the Scottish Parliament but, as a layperson, I do not know the significance of such a reduction and whether it represents a fair target for any Government to set. I suppose that, now that you have achieved that target, you will be hoping to raise the bar and make further achievements. How in your local performance reports or whatever it is that you produce do you connect the figures showing that success with the work that you are doing in order to claim that your work and interventions are leading to those figures?

**Jim Hunter:** That is the magic bullet—and unfortunately we have not quite got there yet.

The national performance framework was intended to demonstrate that very thing. We worked closely with Government and other partners to develop the framework, the pillar of which was an assessment tool called level of service case management inventory that was supposed to come on stream much earlier in our history but has not yet been rolled out across Scotland. The tool would be used periodically during people's periods in custody and on community sentences, to review progress on a load of offender outcome indicators—excuse the managementspeak again, convener. That never happened, so we did not get the national performance framework information that we hoped to get and we ended up with some local

arrangements. The situation is not ideal, to be frank, and, as soon as LSCMI is rolled out throughout Scotland, I hope that we will be in a better position to get the information.

11:15

**The Convener:** When will that be?

**Jim Hunter:** That might be a question for later in the meeting. I hope that the work will be completed later this year.

**The Convener:** Later in 2011?

**Jim Hunter:** Yes.

**The Convener:** Okay, so before the end of December.

**Jim Hunter:** I am sorry, I meant 2011-12. I do not think that the roll-out will be completed by the end of December.

**Tavish Scott:** To whom are CJAs primarily responsible for the £100 million of Government spend that is available in every year?

**Baillie Wright:** We are responsible to the Government. CJAs are tasked with certain things, including contributing to progress towards meeting the Government's aim on reducing reoffending. We have to ensure that the money that is available to reduce reoffending is properly targeted at offenders who present the highest risk of reoffending and is spent on programmes that have a proven success rate in reducing reoffending. We also work to consolidate services in a way that enables effective performance management, so that outcomes can be effectively identified and analysed.

It cannot be doubted that reducing reoffending will bring significant benefits, not only to the criminal justice system as a whole but to communities' social and economic wellbeing. Community payback schemes have been successful and the public have warmed to them. Offenders were used—and used well—to clear roads and pavements during last year's bad weather and people were grateful for the job that was done in their streets.

It is about getting an offender to cut the grass for an old lady who cannot get that done. Community payback schemes are working and the public can see what is happening and know that offenders are working. That is money well spent. We do not have a big budget and every penny counts. We are good at what we do—sorry for going on.

**Tavish Scott:** You should feel free to make that case.

Are the three-year plans that Mr Hunter talked about your form of accountability to the



Government? Are CJAs monitored against the plans?

**Jim Hunter:** Yes. We submit our three-year plans to the Government, which appoints an independent scrutiny panel to ensure that all eight plans are fit for purpose. The panel, which is made up of independent experts from the justice sector and the academic sector, provides advice to the minister on whether the plans are fit for purpose.

We then translate the plans into annual action plans, allocating tasks to ourselves and our partners in pursuance of the aims that are set out in the three-year plans. We are held to account on progress against the action plans by our boards and by the Government's justice division, to whom we submit our annual action plans, to ensure that they tie in with our three-year plans. I have never felt that our three-year plans or our action plans are underscrutinised.

**Tavish Scott:** How frequently does the justice department look at your performance? Is it monthly?

**Jim Hunter:** It does not do it as frequently as that. There is a process whereby we get approval from the minister for our three-year plans, and we then get approval from the justice directorate for our annual action plans. We report on progress on the action plan and the area plan through our annual report. We therefore have a loop for reporting progress. The annual report is a publicly available document.

**Tavish Scott:** Do the annual reports include specific targets that are agreed between each CJA and the Government?

**Jim Hunter:** The annual reports will have a summary of progress on the previous year's annual action plan. In fact, the action plan will probably be in an appendix and the report will indicate what actions have or have not been successfully completed and explain why that is the case and what we intend to do about it.

**Tavish Scott:** But they do not necessarily have individual targets on specific policy issues whereby the Government states, "We wish you to do X and there is the target that you must achieve." The report does not necessarily have such targets.

**Jim Hunter:** The Government does not set us targets; we set our own local targets. We are autonomous organisations that are made up of elected members from each of our constituent local authorities; it is that board that agrees targets for the CJA.

**Tavish Scott:** So how does Government—

**Jim Hunter:** We work within a national policy that—

**Tavish Scott:** But I thought that we were told earlier that there is no national policy framework.

**Jim Hunter:** We do not have a national performance framework. There may be a bit of confusion about this. The national performance framework was a management tool for measuring progress across the eight CJAs and their partners towards the objective of reducing reoffending.

**Tavish Scott:** Whose management tool is it?

**Jim Hunter:** It does not exist.

**Tavish Scott:** It does not exist.

**Jim Hunter:** No.

**Tavish Scott:** So it is something in the ether; it just does not exist.

**Jim Hunter:** Yes. As I explained earlier, we tried to develop jointly a national performance framework. The pillar of that framework in terms of offender outcomes was the risk assessment tool that I referred to earlier—the LSCMI tool—but that has not yet been rolled out. It was delayed for a variety of reasons and is only now being rolled out across Scotland. That is the tool that generates a load of management information that would have enabled us to populate a national performance framework, but we did not get that tool at the start, so we have parked it for now and developed local performance frameworks.

**Tavish Scott:** Looking at it from John Ewing's perspective—not that I wish to put words in his mouth—I note that he runs and represents a national organisation and he has to deal with eight separate performance mechanisms and eight separate action plans every year. It is a big ask, is it not, to ensure that we have joined-up Government policy at one level and the Scottish Prison Service providing services in prisons across Scotland to prevent reoffending, alongside eight separate plans, which you have described very ably for us?

**Jim Hunter:** John Ewing will have his own view on how successful we are, but we try to be reasonably joined up between ourselves when we negotiate with the Scottish Prison Service on its involvement in action plans. We have developed jointly with the Prison Service and the local authorities four national strategic aims that are common to all eight CJAs, which are about improving information sharing, joint resourcing and community integration. There is therefore quite a lot of joined-upness among us.

**John Ewing:** I agree. Tomorrow night and on Friday, we will participate in an event that CJA colleagues are holding that will look at how to go forward. In turn, we expect to involve them in the development of our corporate plan for the next three to four years. There is that engagement and



there is some understanding. However, it is still a matter for local discretion as to what the priorities are in a local area. We seek to fit our plan into that.

**Tavish Scott:** Okay, that is helpful in terms of our being able to ask questions later this morning.

I have one further question for Mr Ewing. You made a fair observation about the need to deal with longer-term prisoners. I presume that you can apply more services to assist them over a period of time. The policy issues on short-term sentencing are for the Government and the Parliament to sort out. However, I presume that increasing shorter sentences just creates more difficulties for both the prison service and CJAs in how you provide a basket of services, whether in social work or other areas, to help to ensure that we reduce reoffending in the area.

**John Ewing:** That is right. It increases the turbulence that we are trying to deal with, which creates a more difficult situation. We need to get smarter at identifying the needs of individual offenders—we are trying to work together to do that—so that we can pick them up and continue to maintain a relationship with them as they go forward through their offending career.

**The Convener:** I want to clarify something that Mr Hunter said. When I asked who has the lead responsibility to sort out problems where they exist, I was told that there is partnership working at a managerial level but that it would ultimately be the responsibility of the Government minister. We then heard from Mr Hunter that there is no one at a local level who can take responsibility.

You have spoken about what happens in North Ayrshire or Glasgow, for example, if targets are not met. It is not even so much about meeting the targets, as you set your own targets, but if there is no reduction, who takes the lead responsibility for sorting things out?

**Jim Hunter:** As John Ewing explained, no single agency has overall responsibility for reducing reoffending; it is a common responsibility across all our organisations. As the committee will be aware, the CJAs have some powers under the Management of Offenders etc (Scotland) Act 2005. We have a duty to co-operate, which extends to the Scottish Prison Service and to local authorities in our areas, and those bodies also have a duty to co-operate with one another.

Ultimately, if that duty to co-operate is not fulfilled, CJAs can report the matter to the Scottish Parliament. At the extreme end of that process, the Scottish Parliament can shift some social work services from local authorities to the community justice authority, but that would be the end of a very long process and it is not something that any of us has contemplated so far. We are getting

good co-operation from all our statutory partners, and particularly from those that have a duty to co-operate.

**Bailie Wright:** We have been working in partnership for many years now. At the community justice table, we have the national health service, the SPS, the Procurator Fiscal Service, the police service, the Scottish Court Service, the local government criminal justice officers, and Victim Support Scotland and other voluntary organisations. We are well placed to take decisions about where the money will be spent.

We have worked well with the NHS: in Dundee, it has paid for two nurses to be in the police cells to help with drug and alcohol-related problems. We have regular meetings with the Procurator Fiscal Service—over and above its representatives sitting at our table—to consider how we can produce different initiatives to reduce reoffending, and we are grateful for the diversion schemes that it has implemented. The community justice authorities are tasked with keeping people from going to prison; that is what we are about.

**The Convener:** With regard to what Mr Hunter said about the most recent statistics that have been produced since September 2011, what is the figure for the reduction in reoffending in your CJA?

**Bailie Wright:** I am sorry; I do not have that information with me, but I will certainly—

**The Convener:** Have you been given that information?

**Bailie Wright:** Yes, I have.

**The Convener:** Okay. We will move on.

**Mark McDonald:** Most of what I wanted to cover has already been covered, which is the way of things, but a couple of things have come out of our discussion. Bailie Wright mentioned the large number of organisations that are involved. Given that there appears to be no lead organisation within that, how do you ensure that all the agencies are pointing in the right direction and working towards the same goal? Often, the more organisations are working towards a goal, the harder it is to make sure that everybody is keeping the same pace, as it were. How do you ensure that that happens?

I might have another question after you have answered that.

11:30

**Bailie Wright:** At the community justice authority committee meetings, people are encouraged to put items on the agenda about what is happening in their area, and those are discussed fully. Over and above that, we have regular meetings with different officers in themed



groups on, for example, domestic violence, drugs and alcohol. I think that there are about six groups in Dundee. They discuss issues that are problematic for offenders and a report on each of those will come to the committee eventually.

**Mark McDonald:** Okay. I think that that helps.

I am pleased that there appears to be work to get a national performance framework rolled out, but I presume that there will still be a need for local performance frameworks. Within the region that I represent—North East Scotland—are the Tayside and Northern criminal justice authorities. I imagine that they will not have the same priorities, because there will be different offender profiles for each area. How do you ensure that the targets that are set are measuring the same areas? There are statutory performance indicators that all local authorities have to meet, but beneath that, they set local key performance indicators depending on local circumstances. How do you ensure that the setting and monitoring of local targets complements the overall objective of a national reduction in reoffending, if you follow my convoluted logic?

**Anne Pinkman:** We do that through discussion with partners. Each public sector body that we work with is required to provide a range of management performance information and we select from that menu, if you like, what will best contribute to a reduction in reoffending. For example, with our colleagues in housing, we look at the level of service that is provided in homelessness services. There is also a range of measures that our local authority and community planning partners use, and they, too, contribute to the safer Scotland initiative. It is a question of regular gathering of the range of measurements, agreeing what the sweep of information will be, and reporting, monitoring and scrutinising that at board level.

**Mark McDonald:** I am pleased to hear that an overall reduction of 2.1 per cent has been achieved. Does each local CJA set its own reoffending reduction target, or does it simply set a number of targets for certain areas of work that will lead to a national reduction of 2.1 per cent, rather than local reductions?

**Anne Pinkman:** We monitor in relation to national performance, which is set for us.

**Tavish Scott:** That is not what Mr Hunter said earlier. I was trying to tease out whether the CJAs follow nationally agreed targets, by which I mean Government targets, or whether you set your own. I thought that Mr Hunter told the committee that each CJA sets its own.

**Anne Pinkman:** I beg your pardon: I thought that Mark McDonald meant the 2 per cent reduction in reoffending.

**Tavish Scott:** The reoffending target is a nationally set target. The question is whether the CJAs set a different target or whether they follow the nationally agreed target.

**Jim Hunter:** I am happy to clear up the confusion. We follow the national target, which was given to us in 2006-07. It is a 2 per cent reduction in reoffending by 2011.

We perhaps got confused earlier by the difference between the national performance framework and national policy. We clearly work within national policy, and the latest Government policy that we work under is the umbrella of fair, fast and flexible justice. We were set up under the previous Administration's policy, which was the Scottish offender management strategy. That is where the 2 per cent target came in—it existed when we were established. We have continued to follow that target, although there has also been a slight policy shift towards the fair, fast and flexible justice agenda during the period.

CJAs are autonomous bodies. As I explained, they are given the freedom to create, along with their partners, their own area plans, which have been aimed at reducing reoffending in their areas by 2 per cent by 2011. We each do the work slightly differently, although as I also indicated, we have agreed four joint national aims with the 32 local authorities and the Scottish Prison Service. We are trying to make it as easy as we can for our partners to engage with us and for us to engage with one another.

**Tavish Scott:** Let me be clear: there is an agreed national target of reducing reoffending by 2 per cent, which all the CJAs have signed up to, but they all follow different policy prescriptions to achieve the target.

**Jim Hunter:** Correct.

**Tavish Scott:** I will ask one follow-up question as a result. We have sorted out the target on reoffending. Are there other targets that are set by the Government that the CJAs seek to deliver on, albeit that they follow different policy prescriptions to achieve them?

**Jim Hunter:** No. That is the one major target that we have been set.

**Tavish Scott:** Thank you. That is very helpful.

**Colin Beattie:** At the time that the Audit Scotland report was published, one significant point that I picked up on was the difference in reoffending rates between male and female offenders. The female reoffending rate appeared to be much higher. At the time it was 47 per cent, although there may be additional figures that show that the rate has now improved—I hope that there are.



Is there an increased focus and allocation of resources on female prisoners to prevent reoffending and bring down that high level? Are there any regional variations? Is there any trend in the figures? Given that overall reoffending is down at 42.4 per cent and that females are a minority among the prison population, I presume that they do not distort the figures too much compared with male reoffending. I have not seen a figure for that, so I would be interested in knowing whether you have one.

**Anne Pinkman:** The reconviction rates that the convener referred to earlier are broken down across the CJA areas, but I am not aware that those figures are broken down by gender. The gender breakdown is done solely for the national figure, so I cannot comment on any local variation.

Over the past two years, each CJA was given an additional £200,000 to invest specifically in women offenders. We can provide the committee with a report on how the money has been invested in different ways across the eight CJA areas. In fact, the Audit Scotland report refers to one investment, which is the effective work that Circle Scotland has undertaken. That is one of a variety of projects that have been invested in to address the specific needs of women offenders.

**Colin Beattie:** Have any specific targets been set for the reduction of female reoffending rates? You said that £200,000 was allocated. Was that a one-off sum, or has it been allocated over several years?

**Anne Pinkman:** The £200,000 was a one-off sum this year and in 2010-11. We received the first one-off sum in 2010-11 and the Government agreed to provide a similar sum this year.

No targets for reducing the number of women offenders have been set. Way back when the document "Women Offenders—A Safer Way" was produced in 1998, the population of women offenders was about 200, and a target was set for reducing that to 100 by 2000. As members know, we now have a record number of women offenders—more than 500.

**Colin Beattie:** If you get £200,000 to reduce the number of female offenders, surely a target must be set. You are not being given the money and told to do your best. A plan must exist.

**Anne Pinkman:** The money is in addition to the criminal justice social work budget that CJAs receive under section 27 of the Social Work (Scotland) Act 1968. It is intended to supplement services that are provided to women offenders. No target was set for reducing the overall number of women offenders.

Locally, CJAs have monitored the number of women who go into prison, which has varied

among CJAs. Nationally, the numbers have continued to increase. That said, the number of women offenders who are placed on community-based criminal justice social work sentences has increased. We have succeeded in that respect, but that has not impacted on the number of women who go into custody.

**Colin Beattie:** You say that the number of women who go into custody continues to increase and that there is no indication that the percentage who reoffend is reducing—the latest figure is 47 per cent. Do we have an up-to-date figure? Despite the money that is being provided, is the trend a continued deterioration in the reoffending figure?

**Anne Pinkman:** I do not have later figures than those that were recently published.

**The Convener:** The point is that, although information about a reduction in reoffending was recently published, you say that reoffending among female prisoners is at a record level and has increased substantially. My questions follow from what Colin Beattie said. Is the reduction in reoffending to do with males? Are females excluded from that?

**Jim Hunter:** There might be a bit of confusion. Anne Pinkman said that the number of female prisoners is at a record level. That number has increased by 103 per cent in the past 10 years.

**The Convener:** If that is not to do with reoffending, are few of those prisoners reoffenders? Are they first-time offenders?

**Jim Hunter:** The most recent reoffending figure for women offenders is the 47 per cent that Mr Beattie quoted. That is higher than the male rate. Women offenders' reoffending rate has always been higher.

**The Convener:** You spoke about achieving the target of a 2 per cent reduction. Has that target been met for female offenders?

**Jim Hunter:** The target for female offenders was never separate. The target of reducing reoffending by 2 per cent was national.

**The Convener:** So we do not know the position.

**Jim Hunter:** No.

**The Convener:** Is there a way of finding that out? Female offending is a particular problem and all parties are signed up to doing something about it. We know the problem's extent, but we do not know whether successful movement has occurred. Could we get figures that show whether reoffending has been reduced among women offenders?

**Anne Pinkman:** We will certainly try to get such figures.



**John Ewing:** It is worth making the point that we have a record number of male offenders in the system, too. We have more prisoners, for longer.

**The Convener:** They are not just short-term prisoners.

**John Ewing:** No—the numbers of long termers, remand prisoners and short termers are up. The number of young offenders is down.

11:45

**The Convener:** Do the statistics show how many women offenders have drug problems?

**Bailie Wright:** I cannot give you the figures for Dundee right now, but I will certainly let you have them. We spent the money that was specifically for women on women's workshops in our bail hostel, and on getting a female social worker to ensure that everything that was being done for women was co-ordinated. We chose a certain point—it was a couple of months ago—and considered how many females from Dundee were being sent to prison. The figure had jumped from 22 to 40 in less than a year. I was shocked by that, because a lot of good projects are taking place in the community, and more people are being diverted from the courts. Many of the cases were drug related. At the moment, we are trying to find out what the offences were, how old the women were, and whether they were habitual offenders. Some people are reoffending—coming out of prison and then going back in.

**The Convener:** Would it be possible to obtain more information—not only for Dundee—on female offenders, drug addiction and the rate of reoffending? Has there been a reduction in reoffending among women?

**John Ewing:** We will look at our database and we will be able to provide you with some information. We have taken a snapshot for the Angiolini commission.

**The Convener:** Thank you.

**Mark McDonald:** Mr Ewing mentioned the on-going review by the former Lord Advocate, Elish Angiolini. If information is being fed into the review, is it necessary for this committee to receive it too? We can discuss that at the end.

**The Convener:** There are two separate pieces of work; any information that we can receive will be useful.

**Drew Smith:** I do not want to prolong this part of the discussion too much, but I want to be clear on one point. Has the Scottish Government given £200,000 to every CJA?

**Anne Pinkman:** Yes.

**Drew Smith:** But there is absolutely no way of measuring the level of female reoffending by CJA.

**Jim Hunter:** That information will be available. Analytical division will show that information.

**Drew Smith:** But the CJAs do not.

**Jim Hunter:** I do not think that we obtained female reoffending rates broken down by CJA; I think that we obtained only the national reduction. However, the national figure will be able to be broken down to CJAs.

**Drew Smith:** That is great. This question is probably for the Government rather than for you, but what have you been asked to report back on? Are you simply being asked for receipts for how you spent your £200,000?

**Jim Hunter:** As Anne Pinkman said, the amount of money was a one-off for one year—we got £200,000 each. Over the course of a year, there is not a great deal that you can plan with that. By the time you have recruited staff or got people into post, you have already lost a number of months. We were not given an indication that the funding would continue beyond the first year until about the January preceding the start of the following financial year. The system was not ideal in allowing us to plan for services for women even in the short term. If things are to continue beyond the current financial year, we will get into dialogue. However, initially it was a case of, "You've got this money for one year and one year only."

**The Convener:** At what point in the financial year were you given the money?

**Jim Hunter:** We are usually given our financial allocations the January before the succeeding financial year.

**The Convener:** But when were you given that first tranche of £100,000?

**Jim Hunter:** I am pretty certain that it was February.

**Anne Pinkman:** It was February.

**The Convener:** Okay. We can probably ask the Government about that.

I believe that Bailie Wright mentioned the success of the community payback scheme. Forgive my ignorance, but what is the difference between the public works that are done under that scheme and similar works that were and are done under community service orders?

**Anne Pinkman:** They are the same.

**The Convener:** They are just the same. So—

**Bailie Wright:** But the scheme has been very successful.



**The Convener:** I am sure that it has. However, we have heard that it is a new initiative that is making a great deal of difference. Now you tell us that it is the same scheme that has been running successfully for a number of years.

**Anne Pinkman:** Community payback orders have replaced probation, community service and supervised attendance orders. They contain a number of conditions, one of which—the requirement to undertake unpaid work—is the same as that set out in community service and supervised attendance orders. Much effort has been made to increase the speed and visibility with which offenders undertake unpaid work under community payback.

**The Convener:** Essentially, then, the public works element of the community payback scheme has been running for years.

**Anne Pinkman:** Yes.

**John Ewing:** The kind of work involved has been running for years; the focus now is on making it happen much more sharply.

**The Convener:** But the principle has been running for years and is not anything different.

**Anne Pinkman:** I should add, however, that local authority criminal justice social work services are now required to consult communities on the nature of the unpaid work that offenders undertake. That is a distinct difference.

**The Convener:** What are the requirements for such consultation? Who do the services consult and how do they do it?

**Anne Pinkman:** It is undertaken in a variety of ways across the country. In my area, we had a formal consultation that was supplemented by, for example, contact with local community councils, radio campaigns and advertisements on the council website. Much use is made of the local media and local councillors.

**Jim Hunter:** The prescribed list of people to be consulted includes the chief constable, the sheriff principal, victims organisations, community planning partnerships, community safety partnerships and so on. If I remember, the list contains about 10 people and groups.

**The Convener:** But those are all top-level consultees. What about local consultation?

**Jim Hunter:** Community councils are consulted.

**The Convener:** Okay. Thank you very much for your informative evidence. We look forward to receiving the further information that you have indicated you will provide.

I suspend the meeting for five minutes.

11:53

*Meeting suspended.*

11:58

*On resuming—*

**The Convener:** I welcome our next panel of witnesses: Don McGillivray, Leslie Evans and Joe Griffin from the Scottish Government. Leslie is the director general for learning and justice; Don is the deputy director for criminal justice and parole; and Joe is the deputy director for community justice. We will go straight to questions.

**Mark McDonald:** We have heard a range of evidence this morning from a number of different areas. One of the things that was highlighted was IT links between organisations. What is being done at a Government level to improve IT links between organisations to ensure better working?

**Leslie Evans (Scottish Government):** As you will be aware from some of the evidence that you heard this morning, the front-end justice system now does a significant amount of electronic reporting. The police report directly to the Crown Office electronically; indeed, I think that they have just started reporting to the Scottish Children's Reporter Administration electronically, too. I know that the Crown Office has done some work to ensure that it now has the opportunity to use secure e-mail for work with defence lawyers.

Over and above that, we are looking at producing a five-year IT strategy, which I think is due for completion in the early part of next year. That will take account of the fact that we do not intend to take a big-bang approach—in other words, produce a Government infrastructure for IT—because there are a number of examples of where that has not worked particularly well. We are more interested in seeing how systems can talk to each other and whether a hub or a system connection could make a substantial difference to the speed and efficiency with which information is transferred through the system.

We are taking forward the draft IT strategy in consultation with criminal justice organisations, some of which you heard from this morning. We are also looking to find small amounts of money to support some of the significant changes that do not cost huge amounts of money in relative terms—although they do cost money—but which can make a significant difference to the efficiency, effectiveness and speed of transactions.

12:00

**Mark McDonald:** I have a number of questions that will probably touch on different areas, convener. Do you want to check whether anybody



else wants to come in on the IT angle first, so that we cover the different areas?

**The Convener:** Okay. No one else wants to come in on IT.

**Mark McDonald:** Okay. I will crack on.

Earlier, we discussed the issue of cases not being resolved as early as possible. What work is being done at Government level to try to incentivise the legal profession as a whole to resolve cases as early as possible, where it is within its power to do so?

**Leslie Evans:** Are you talking in terms of IT or in terms of—

**Mark McDonald:** I have moved off IT now. Sorry, I did say that I was going to jump about a bit. This morning we discussed the fact that around £87 million in the system is lost through things like churn, late guilty pleas and late decisions not to proceed. What are you doing to incentivise the legal profession as a whole—not just the prosecution side—to resolve cases as early as possible, where that is within its power?

**Leslie Evans:** We are trying to make a number of changes that will help with that. The first is changes to the criminal legal aid fund to support changes in procedure, which mean that payment rates for an early guilty plea are not so different from payments for a non-guilty plea. We know that sentence discounts are taking place, which has made a measurable percentage difference. Sentence discounts of up to a third are now in place for early guilty pleas. Of course, sheriffs can apply sanctions where the system is getting jammed up, for example by issuing warrants for those who do not attend, including witnesses. Don McGillivray might wish to add specific examples of that.

We are also trying to ensure that each part of the system has its own accountabilities and targets, some of which you will have heard about earlier. We are looking at accountabilities and how the whole system works across the piece. We are trying to provide support—and challenge—for that collective impact.

**Donald McGillivray (Scottish Government):** Two things really influence the behaviour of defence agents. One is how they are paid, so the reforms to criminal legal aid to introduce block fee arrangements have had quite a significant effect on early guilty pleas. The other is the early availability of evidence. You heard the Crown agents say something about that earlier. What is probably needed to move that on further is to ensure that closed-circuit television evidence is available as quickly as possible to convince defence agents to plead as early as possible. Similarly, forensic evidence has to be made

available as early as possible. We have to ensure that the critical evidence—the key evidence in the case—is available at the first pleading so that an early guilty plea can be secured. Those are the avenues that are being pursued.

**The Convener:** I will bring other members in and then come back to you, Mark.

You said that you want to encourage early pleas and you talked about marshalling the forensic evidence and so on. We heard earlier that next year there will be 33 fewer procurator fiscal deputies than there are this year. How do you do what you suggest when fewer fiscals are available?

**Leslie Evans:** I can speak a bit more generally about that. The work on making justice work that you have heard about has given us a much better understanding of where efficiencies are to be gained across the system and, frequently, between organisations. Each of the organisations that is taking part, including the court service and the Crown Office, will have to live within budgets that are reducing as a result of the spending review. The spending review was based on the work that was done on making justice work, which demonstrated those areas where efficiencies could be made. Ultimately, it will be for the accountable officers in charge of those organisations to make decisions about where resources are best placed. Catherine Dyer gave some information about how she is doing that in terms of the number of fiscal staff—

**The Convener:** Sorry, but that would be the Crown Agent making the decision to work within a budget. In allocating money to each of the different departments and services, the Government has clearly decided that, despite more people being arrested and convicted, it can operate with fewer fiscals. Is that correct?

**Leslie Evans:** No. When we look at the spending review as a whole, we try to strike a balance between where efficiencies can be made—which is why the work that was done on making justice work was so important—and where there needs to be clear prioritisation of money and money needs to be protected. The phrase that I would call on, which I think is a particularly good phrase, was used by Eleanor Emberson, the chief executive of the court service, a couple of weeks ago. She said that we should

“separate the genuine potential savings from those costs that are unavoidable in a fair system of criminal justice.”

I think that—

**The Convener:** Forgive me, but you have made a calculated decision that you can operate next year with 33 fewer fiscals than you had this year.



**Leslie Evans:** We have not calculated that decision. We have spoken to the individuals who are in receipt of Government funding on the basis of work that we have carried out on making justice work. We have talked to them about the areas in which there are opportunities for reductions, which are efficiencies that will make the system work better. After that, it is up to the individual accountable officers to decide where their resources are placed, which they do very responsibly. That allows us, in the spending review, to place money where we think that front-line services really do require additional funding.

**Donald McGillivray:** In the context of summary business, which is what the Audit Scotland report focuses on, we have seen a significant reduction in the number of police reports to the fiscal over the past three or four years—the reduction is in the order of 10 per cent over that period. Cases are getting more complex and there has been an increase in solemn business. However, in summary business, which constitutes the bulk of business, we have seen a significant reduction in the number of police reports to the fiscal.

**Tavish Scott:** I want to ask about community justice authorities, which we had a bit of discussion about earlier. How effective are they in delivering Government objectives?

**Leslie Evans:** Well, we were held to account this year on achieving a 2 per cent reduction in reoffending and we achieved that 2 per cent reduction, so they have been effective. However, as you will have heard in the two evidence sessions that you had this morning, the landscape is complicated and we know that we can do better. I was going to talk in my opening remarks about that area as an area in which we need to do better—we are very much aware of that—but I appreciate that you are on a tight schedule. It is a national responsibility as well as a local/regional responsibility as reflected in community justice services.

**Tavish Scott:** Thank you. I understand from our earlier evidence that that is the only target that the eight CJAs have to achieve. They can use whatever policy mechanism they like to reach it, but it is the only one that they have. Is that your understanding of the situation?

**Leslie Evans:** That is the indicator that we use for the outcome that we are pursuing.

**Tavish Scott:** It is an indicator rather than a target.

**Leslie Evans:** Yes. It is an indicator that we publish and that we hold them to account for in terms of joint efforts to reduce the level of reoffending by 2 per cent.

I would be the first to admit—I am sure that Joe Griffin feels the same—that we have quite a blunt instrument for collecting the data on that target at the moment. We collect it on the basis of a two-year cohort of people coming out of the system and whether they reoffend, which means that there is a delay and it is not very sensitive. At the moment, Joe Griffin is talking to colleagues in the criminal justice fraternity about how we can develop a better set of indicators and a stronger performance management culture to address not just the inputs and outputs, but the things that really matter and the things that work—the things that encourage people to desist from crime and not to reoffend. As you heard before, issues can include housing and stability of housing; family or mentoring relationships; whether people are economically active; drug, alcohol or other mental health problems; and how the package is tailored to an individual's requirements.

**Tavish Scott:** I am more than happy with the policy direction. I do not think that anyone on the committee, never mind in the Parliament, would disagree with it. However, I want to understand the process by which the Government achieves its objectives, given that it has set out something clear on what CJAs are to do. As we heard, they are semi-autonomous bodies that can, and I presume do—because you pass the eight annual plans that they provide to you every year—come up with any number of different policy prescriptions for how they will achieve the objectives, depending on local circumstances. How do you monitor that?

**Leslie Evans:** We are now outlining a change in the way that we monitor and support CJAs in taking such action. We are looking at examples of good practice and how we get a more consistent national picture of what really works. That is connected to how CJAs are funded, but we might want to come back to that in due course.

We are establishing a different way of collecting the data. We are also looking at having intermediate outcomes for specific interventions of the kind that I have talked about—which the CJAs would be party to and would respond to—instead of taking a block approach and looking at how many offenders have come in and gone out. When you link that sort of approach to funding, it can become a perverse incentive, because funding is provided on the basis of there being more offenders rather than according to the success rate in turning people from the criminal path.

Would Joe Griffin like to add anything?

**Joe Griffin (Scottish Government):** Measuring reconviction rates as the sole indicator is such a blunt instrument. Particularly with the lag built in if you look at a couple of years' worth of activity, it makes it very difficult to understand whether the



rate relates to performance, current performance or the range of other complex factors that affect an individual's likelihood to reoffend. We want to move to a situation where we measure those factors as well as the reconviction rate.

**Tavish Scott:** When would you hope that Parliament would see an improvement in our understanding of what you are achieving statistically and therefore in outputs? How quickly will it all happen?

**Joe Griffin:** We plan to publish a draft outcomes framework in March 2012. We would look to agree that with partners so that it can drive a better understanding from next year.

**Tavish Scott:** I understand the point that there is one target indicator for reoffending. Why are there not other national targets or indicators that you wish CJAs to achieve?

**Leslie Evans:** Perhaps I can explain that in terms of the national performance framework, because that is where the target appears. We have a set of 15 outcomes and a series of national indicators that support them. The 2 per cent target is the one that is most appropriate for CJAs to contribute to. That is not to say that what they do might not have a connection to other indicators and outcomes that we are pursuing, for example to do with the quality of life for communities. If the CJAs get it right and make an impact, the quality of life for individual communities will increase, because the level of offending in communities would be reduced.

The 2 per cent target is set out in the current national performance framework, which is being refreshed as the new Government looks at it again. It is unlikely that the outcomes that are being pursued will change, but we are taking the opportunity to consider whether we can get a more granular and more precise handle on the kind of interventions that make a difference rather than taking the input approach that has been taken so far.

**Tavish Scott:** The CJAs spend £100 million of taxpayers' money every year, which is a lot of public money by any standards. Does their work accord with the 15 priorities that you have described?

**Leslie Evans:** They are asked, in particular, to look at the dimensions of reoffending, and not every outcome is about reoffending. Some of the outcomes are to do with quality of life and some are to do with young people and so on. Although there might be a connection to those, the one that we really want to concentrate on is the outcome about reoffending and the connection to reoffending. That is why the work that Joe Griffin and his team are taking forward is so important.

On when Parliament might see an impact, the publication of the draft outcomes framework in March is one milestone, but it would be foolish of us to say when or how the impact might start to be felt in the numbers. Although we have met the 2 per cent target, we are determined to make a greater impact on the level of reoffending, not only to reduce costs but to improve life chances.

One of the things that has worked particularly well is the work on youth reoffending in Aberdeen, which you might be aware of. It has just won an award from *The Herald* for its whole-system approach to keeping young people out of the system in the first instance. Another part of our work that we are interested in developing is on early intervention at key times in people's lives when they might make a choice, or feel forced to make a choice, between going down one route and another, which could affect their life chances for years to come.

12:15

**Tavish Scott:** I have one last question. Do you envisage changes to the funding formula, which you mentioned earlier, and therefore to the Government's relationship with CJAs, given that they are currently constituted as semi-autonomous bodies?

**Leslie Evans:** We cannot change the legal framework within which they were set up, and of course we would not wish to do so. That is set down in a decision taken by Parliament not long ago, and that regional and local accountability is important. We would, however, be foolish to look at the performance information without looking at how it will impact on financial accountability. So, rather than creating a perverse incentive by saying that numbers are the only driver, we are talking to CJAs about whether we can get a more incentive-based and outcome-based approach to the funding formula. We would of course have to take account of the numbers, and the associated costs, but we would also take into account the nature of the community involved and the challenges that exist there, as well as the resulting levels of reoffending in the area. Joe Griffin might want to supplement that answer.

**The Convener:** Before I bring Drew Smith in, may I ask when the latest statistics on improvements in reoffending that you and earlier witnesses have mentioned were published?

**Leslie Evans:** I would need to check that. This is one of the indicators in the national performance framework, which is regularly updated on a website called Scotland performs. However, the information tends to involve things like arrows going up, arrows going down and arrows going along. Joe might have more detail on that.



**Joe Griffin:** I do not recall the exact date, but we could certainly find it. It was between the period in which the Audit Scotland report was written and its publication. When Audit Scotland published the report, it acknowledged in media and public-facing statements that the reoffending rate statement had been made in that intervening period.

**Leslie Evans:** I think that it was sometime in November. We can get that for you.

**Drew Smith:** I want to come back to the criminal justice authority issues that Tavish Scott raised earlier. First, however, can you tell us how robust and ambitious the overall target of 2 per cent is? My understanding is that reoffending rates fluctuate somewhere between 42 and 45 per cent. Is the target for reduction not just floating towards the lower end of what we tend to have anyway?

**Leslie Evans:** It has been challenging to get the rate to the level that it is at now. I think that we can do better, and we need to keep our targets under constant review. There is no point in having a target that we feel fairly comfortable with if it is not going to stretch the process or ensure that we get best value out of it. In respect of the performance management processes that we have talked about, we will want to look at what the target might be in future. We should be pleased that we have got to that target, but we should not be satisfied that it is going to be enough.

**Joe Griffin:** We should certainly be ambitious. A range of things have happened over the past couple of years through the reducing reoffending programme to put in place some of the infrastructure for a really effective system of community justice, which should help us to go beyond that 42 per cent. Other countries in Europe have much lower reoffending rates than that, and that is the kind of thing that we should be aiming for. We should be ambitious in this area.

**Drew Smith:** Thank you. I have just a few more short questions. Are you aware of any example of the Scottish Government having sent back a three-year plan or annual action plan from a community justice authority?

**Joe Griffin:** No.

**Drew Smith:** So the Government has accepted everything that has been submitted in the period in which the CJAs have existed. That is fine.

In addition to the national performance framework that you have been talking about, there is one that the CJAs were talking about, which does not exist. Why does it not exist?

**Leslie Evans:** Sorry—I was not party to all the evidence. Were they talking about a national performance framework that should exist?

**Drew Smith:** The CJA witnesses said that, in the absence of a national performance framework to evaluate the CJAs' work, they are developing local frameworks to do that.

**Leslie Evans:** Some of the work that Joe Griffin is talking about will give us an input to the target that we have discussed, which is part of the Government's national performance framework. It will also give us an opportunity to look nationwide at local initiatives and how well they operate. Joe Griffin might want to add to that.

**Joe Griffin:** I simply add that, when Parliament legislated to create the community justice authorities, there was a clear emphasis on the importance of local and regional accountability. That has been important throughout the life of the CJAs. We are now reflecting on the issues together with the CJAs and other colleagues in the sector. I have nearly finished a tour of all eight CJA areas, which has involved speaking to front-line practitioners about what the priorities need to be for this session of Parliament and reflecting with them on whether the current situation is adequate or whether it would be helpful to have a national framework. I do not think that such a framework would be prescriptive, but it would allow people to measure impact and outcomes, rather than process and output, which we have tended to measure historically.

**Drew Smith:** Are you able to tell us which community justice authority is doing the best in reducing reoffending among women and which authority needs more support to do that?

**Leslie Evans:** We do not have that information now, but we can give it to you.

**Drew Smith:** How would you go about giving us that information, given that the CJA witnesses said that reoffending rates are not measured at CJA level? What test would you use to decide which ones are doing best with the money that is provided?

**Joe Griffin:** Overall reoffending rates are measured right down to local authority level, but I am afraid that I do not know whether it is possible to extract rates of female reoffending from that. I would not want to mislead the committee on that but, if it is possible, we will certainly provide information. If it is not, we would clearly want to reflect on that. Dame Elish Angiolini's commission might produce a practical recommendation on that.

**The Convener:** We keep hearing that reducing female offending and reoffending is a priority. If it is a priority, why do you not know what is happening?

**Joe Griffin:** To have the information now, we would have had to put arrangements in place



three or four years ago to measure the cohort. That did not happen. The issue of women offenders has gained a much higher political profile in recent times, with the establishment of the commission under Elish Angiolini and, as I said, one of the commission's practical recommendations might be about whether we can extract that specific information.

**The Convener:** You have several experienced officials in your department, but no one has ever thought to ask questions about female reoffending, such as questions about the number of reoffenders or where they are.

**Leslie Evans:** I am not sure that that is the case. I do not know whether that conversation has taken place, although it is extremely unlikely that it has not—I am sure that it has. We have talked about how we change the way in which we gather data. Much of the making justice work programme has been based on changes that we have undertaken in the past few years, rather than months, in gathering data. We are still improving how and what we gather and the granularity of the information.

As Joe Griffin said, the issue of women offenders is crucial. Dame Elish Angiolini's comments will be carefully scrutinised to find out what we need to change to do better. There are examples of how we are addressing female offending. We know that women have particular issues, and good work is going on in the prisons. A unit in Aberdeen is dealing with the issue of how women come back out into the community after being in Cornton Vale. There are good examples and we know what works. As we have said, we are considering carefully the data that we collect, how granular it is and how effective it can be in driving improvement in future.

**The Convener:** You say that you are sure that a discussion has taken place about the number of female reoffenders and where they are. If it has taken place, what was done, leaving aside Dame Elish Angiolini's commission?

**Leslie Evans:** I am sure that a discussion of the particular circumstances of female offending has taken place, but I cannot give you chapter and verse on when that happened. However, I know that Dame Elish Angiolini's commission was set up to consider the issue following a report on Cornton Vale and discussions about the difficulties there and the offending around that.

**The Convener:** You are in charge of the department, but you do not know the level of female reoffending or which CJAs are doing better than others. You just cannot tell us that.

**Leslie Evans:** I cannot tell you that now, no, and I do not know how detailed the information that we hold on that is, but I am sure that we will

give you the information that we can provide you with on that. What I am saying is—

**The Convener:** Why can you not tell us now?

**Leslie Evans:** I am sure that Joe Griffin will tell us whether the data is available through one source or another, through the justice authorities themselves. The point that I am making is that we are not saying that the level and quality of the data and how we collect it are satisfactory. That is one of the reasons why we are working hard to change the way in which we collect data on reoffending.

**The Convener:** You say that if some information is available, you will give it to us, but given that you knew that you were coming before a committee of the Parliament to discuss a specific issue, surely you should have been prepared for questions on the subject. If the information is there, surely you should have it.

**Leslie Evans:** I cannot tell you any more than what I know at the moment. I do not know whether Joe Griffin can give you any more information on the granularity of the data that we access.

**Joe Griffin:** I do not know. The data that I see is the overall data on the offending population broken down by local authority area. I have not seen data that extracts from that the level of female reoffending. I agree that it is desirable to have such information. Looking forward, as we come to recast the indicator, having achieved it, that is the kind of detail that we should get, if that is possible analytically.

**Leslie Evans:** I think that such data would not be collected through our auspices alone; we would work with the CJAs on collecting the information locally and then aggregating it.

**The Convener:** Yes, but we heard earlier that it is the Government that is responsible for ensuring that things happen, not the CJAs. They made that specific point.

**Leslie Evans:** I am sure that they did. They have their own regional responsibilities for collecting information on their plans—they lodge their own plans and have to produce data to prove whether they have been enacted satisfactorily. I am not exempting ourselves and the Scottish Government from our data collection responsibilities, but we often have responsibility—not just in justice, but across the Government, as you will know—for other people's collecting of data, which we then aggregate and use to inform future policy.

**The Convener:** Okay.

**Willie Coffey:** I know from my time on the Equal Opportunities Committee in the previous parliamentary session that it held an inquiry into Cornton Vale, female reoffending and so on. As



part of its examination of the subject, it was certainly mentioned that the south-west Scotland CJA was doing some work to tackle reoffending among women that appeared to be bearing some fruit—I think that Anne Pinkman referred to it.

Given that the overall outcome target has been met and exceeded—we are all delighted about that—how can the CJAs that are doing pilot studies and pilot work feed that across to the others to ensure that that good practice is picked up and carried on?

**Joe Griffin:** The CJAs meet on a regular basis—every couple of months, I think. Those meetings, which involve the conveners, the elected members and the chief officers, provide a forum for picking up areas in which people think that their solutions are working particularly effectively.

The Government is thinking about what more we can do to support the dissemination of best practice around the country because, as you say, it makes no sense to reinvent the wheel when people think that they are doing particularly well. We think that one possibility would be to allow people to self-declare best practice and then use Government websites and so on to disseminate it throughout the country.

We are doing a number of other things, including setting up a national directory of commissioned services that operate in prison and in the community, which we will be able to interrogate to find out where the best practice is. In addition, for the past few years, we have had awards to recognise best practice, particularly as regards the use of community payback orders in different parts of the country.

**Leslie Evans:** The other thing that we have instigated recently is the bringing together of people who are important in justice and beyond—social workers and people on the criminal justice side, as well as people from education and so on who are part of the wider initiatives on offending and reoffending. The first such meeting was about a month ago. The purpose is to enable people to exchange information, to get updates on the reform programme, including making justice work, and to give them the opportunity to exchange good practice, which Joe Griffin mentioned. The meetings can also be used as a consultative forum. We held the first one in October and we will hold another in January. It is the first time that we have had such a breadth of people in the same room at the same time. I detect a real appetite among the people who were present at the first meeting and among the leadership of those organisations to look at the whole system in that way.

12:30

**Willie Coffey:** I do not know the full details of the piece of work that the south-west Scotland CJA did, so forgive me if I use the example unfairly, but it would be useful to follow it through to find out whether it was concerned with reducing reoffending among women. It seemed to be bearing fruit, so if it has been pursued and shared with the other CJAs, I would be interested in whether they are adopting similar practices in their areas.

**Mark McDonald:** I have a couple of questions that follow on from our discussion on reducing reoffending. Joe Griffin highlighted the fact that other countries perform much better on reoffending rates than we do. Is he examining any specific countries for best practice that we can try to copy in Scotland to achieve a similar outcome?

**Joe Griffin:** Norway performs particularly well when it comes to reducing reoffending. I think that its equivalent reoffending rate is 28 per cent—I would need to check the exact figure, but it is certainly in that ballpark.

That illustrates the importance of public services across the piece. Not only criminal justice interventions, but access to services in the community, are important. I understand that Norway is about to introduce a statutory entitlement for ex-prisoners to access such services in the community. It is an extremely wealthy country and has the ability to do that.

We are also looking at the United States with a lot of interest. A number of states there are changing their approach to law and order and to reducing reoffending. They are not the usual liberal, east-coast states, if I can put it like that. I recently met a senator and a member of the House of Representatives from Kentucky, a state that has directed a lot of investment and time into community alternatives and away from prison building.

There are lots of different jurisdictions around the world. We do our best to build contacts with them and understand how they are being effective.

**Mark McDonald:** The report highlights a number of areas for improvement. Are there areas in which we could expect to see improvement if we were sitting round the table again in 12 months, in 18 months or over a slightly longer period?

**Leslie Evans:** Data collection would be one. [Laughter.] That is a serious point, of course.

We would also want to ensure that the strong efficiency drivers in some of the pilot work that has been carried out were better shared and more consistently used across the different police authorities and within the court service and the Crown Office.



I would also like many of the work streams that are happening, such as videoconferencing, which has been rolling out, to be more consistently applied.

As you might imagine, we would want to ensure that the effective performance information and management process that Joe Griffin talked about was well bedded down. That will start in the spring.

We would also want to ensure that organisations were able to live within their stretching budgets, and were able to produce efficiencies in them and protect money for the front-line services, which are important.

**The Convener:** What stipulations did you put on the £200,000 that was given to each CJA when it was allocated?

**Leslie Evans:** That was particularly intended for exploring innovative approaches to working with women offenders. Is that correct, Joe?

**Joe Griffin:** It was to promote innovation in the different areas. We did not put particularly strict criteria on the money and the different CJAs have used it in different ways. From memory, I think that the Glasgow CJA used the money to employ a co-ordinator who can get the different agencies around the table to consider how to take an holistic approach to individual women's cases and to promote their desistance from crime.

**The Convener:** Have you measured how effective the allocation of funds has been?

**Joe Griffin:** My team has talked to people about their experiences locally, but we have not measured effectiveness in terms of outcomes because the data do not allow us to do that at the moment.

**The Convener:** We have heard not just today but across the piece that because of restrictions on finance more and more attention is being paid to outcomes and the effective use of cash; however, you have given out £200,000 to each CJA on the strength of very general expectations and with no measurements. We have also heard that that will continue. It sounds as though, despite not knowing whether the money you have given out has led to improvements, you are simply reinvesting more in the hope that something might happen.

**Joe Griffin:** Reliance on the reconviction rate as the sole indicator of success has prohibited our setting more challenging outcomes and incentives. The new performance management framework that we put in place will measure a range of other things that services are able to measure in real time, including the progress made by a person, either male or female, in recovering from a drug problem, getting stable accommodation, learning

to read and getting closer towards the labour market. When all that is aggregated up to regional and national level, it will give us a much clearer idea of both how effective people are being and the contributions to different outcomes, not just justice outcomes.

**The Convener:** But you are describing how you measure the success of your overall policy and investment; I am asking specifically about the extra £200,000 for each CJA. Although you do not know how that is being used and cannot measure its effectiveness, you are going to repeat the exercise.

**Leslie Evans:** I am not sure where your understanding about the continuation of the £200,000 has come from. I have two comments to make on that. First, we would look at the CJAs' reports of how they have used their funding against their own plans; indeed, that is part of the current system. Secondly—and this is where some of the confusion might be arising—we have agreed to establish for the time of the spending review a reducing reoffending change fund of around £7.5 million, which will be based on the performance management information and intermediate outcomes that Joe Griffin has just described. As a result, there will be a very clear added value dimension and process of reporting results. To return to the previous question, I expect that if we come back before the committee next year we will be able to give you some updates about and feedback on the fund's impact.

**The Convener:** Finally, we have been told that England has lower reconviction rates, particularly among those who have been sentenced to more than 12 months in prison. How are you learning from that experience and what lessons will you apply to ensure that Scotland has the same success with those sentenced to more than 12 months in prison?

**Joe Griffin:** We talk to colleagues in England, because we need a good understanding of the reforms that are being implemented there and what they have done over the past few years. It is very hard to give a simple explanation of why the English reoffending rate is slightly lower than ours for that cohort of people—the picture is very complex.

**The Convener:** In England, there is a legal requirement to support on release everyone sentenced to more than a year. Is there a requirement in Scotland to support people and does it have a legal basis?

**Joe Griffin:** It is known as statutory throughcare and happens for those sentenced to more than four years. A couple of weeks back, the Cabinet Secretary for Justice announced that we would be reviewing the throughcare arrangements under



which those serving under four years are subject to what is known as voluntary throughcare. We need to take a really good look at the issue because, as you seem to be suggesting, the experience of other jurisdictions suggests that four years is too high a tariff in this respect.

**The Convener:** When will the new guidelines be issued?

**Joe Griffin:** The cabinet secretary announced the review two weeks ago and we have not yet put in place deadlines for concluding it. However, we will need to do so with haste.

**The Convener:** Thank you very much for your evidence.

12:39

*Meeting continued in private until 13:07.*



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