

AUDIT COMMITTEE

Tuesday 4 February 2003
(*Afternoon*)

Session 1

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AUDIT COMMITTEE

3rd Meeting 2003, Session 1

CONVENER

*Mr Andrew Welsh (Angus) (SNP)

DEPUTY CONVENER

*Mr David Davidson (North-East Scotland) (Con)

COMMITTEE MEMBERS

*Sarah Boyack (Edinburgh Central) (Lab)

*Rhona Brankin (Midlothian) (Lab)

*Margaret Jamieson (Kilmarnock and Loudoun) (Lab)

Mr Lloyd Quinan (West of Scotland) (SNP)

*Mr Keith Raffan (Mid Scotland and Fife) (LD)

COMMITTEE SUBSTITUTES

Miss Annabel Goldie (West of Scotland) (Con)

Mr Duncan Hamilton (Highlands and Islands) (SNP)

Janis Hughes (Glasgow Rutherglen) (Lab)

Mr Jamie Stone (Caithness, Sutherland and Easter Ross) (LD)

*attended

THE FOLLOWING ALSO ATTENDED:

Mr Robert Black (Auditor General for Scotland)

Barbara Hurst (Audit Scotland)

Tricia Meldrum (Audit Scotland)

WITNESSES

Elizabeth Carmichael (Scottish Executive Justice Department)

Mr Jim Gallagher (Scottish Executive Justice Department)

Mr Robert Gordon (Crown Office and Procurator Fiscal Service)

Mr Norman McFadyen (Crown Office and Procurator Fiscal Service)

Chief Constable David Strang (Association of Chief Police Officers in Scotland)

CLERK TO THE COMMITTEE

Shelagh McKinlay

SENIOR ASSISTANT CLERK

Joanna Hardy

ASSISTANT CLERK

Seán Wixted

LOCATION

Committee Room 2

Scottish Parliament

Audit Committee

Tuesday 4 February 2003

(Afternoon)

[THE CONVENER *opened the meeting in private at 14:30*]

14:32

Meeting continued in public.

The Convener (Mr Andrew Welsh): I welcome everyone to the third meeting in 2003 of the Audit Committee. I ask that all mobile phones and pagers be switched off. The only apologies that I have received are from Lloyd Quinan.

Mr David Davidson (North-East Scotland) (Con): I offer my apologies for being late.

The Convener: I welcome David Davidson to the meeting.

As previously agreed, today's meeting began in private to allow us to consider the lines of questioning that we wish to put to witnesses under agenda item 4. That is in line with our standard practice.

Items in Private

The Convener: We move to agenda item 2. I seek the committee's agreement to take agenda items 6 and 7 in private. It is usual for such items of business to be conducted in private, and the results of our deliberations will become public in due course. Do members agree?

Members *indicated agreement.*

"Hospital cleaning"

The Convener: Agenda item 3 is a briefing by the Auditor General for Scotland on his "Hospital cleaning" report. The report is a follow-up review of the baseline report by Audit Scotland, "A clean bill of health? A review of domestic services in Scottish hospitals". That report, which was published in April 2000, made a number of important recommendations that were aimed at improving the quality and effectiveness of hospital cleaning.

The report that we will consider today assesses the progress that the national health service has made in implementing those recommendations. It includes a review of the levels of cleanliness that have been observed in hospitals and provides the first national snapshot of hospital cleanliness. The report investigates the reasons for the variations in levels of cleanliness and considers issues that were identified in "A clean bill of health?" Among the issues that it considers are the frequency of cleaning tasks, staff inputs to cleaning and monitoring, recruitment and retention of staff, management arrangements and the application of policies and procedures. The review also incorporates a baseline assessment of compliance with the standards for cleaning services that were issued by the Clinical Standards Board for Scotland in January 2002.

I invite the Auditor General to brief the committee on his report.

Mr Robert Black (Auditor General for Scotland): When I presented "A clean bill of health?" in April 2000, I made a number of recommendations. NHS trusts were invited to consider those recommendations and to take action on them. It was agreed that I would revisit the issue in a few years' time. "Hospital cleaning" is the follow-up report. The first report did not name individual NHS bodies, but the new report does. That is because we consider that all trusts have had an opportunity to consider the original report and to make progress on delivering improvements.

It goes without saying that the cleanliness of hospitals is a priority for patients, for the health department and for everyone who works in the service. Therefore, it seemed appropriate to include a snapshot review of the levels of cleanliness that have been observed in hospitals. As well as showing a need for improvement in a number of hospitals, the review identifies the issues that make it more difficult for hospitals to achieve acceptable levels of cleanliness and makes recommendations that are aimed at improving the situation.

We looked at levels of cleanliness in 74 hospitals throughout Scotland. More than 70 per cent of the wards that were reviewed were considered to have achieved a very good or acceptable level of cleanliness. What I will go on to say should be seen in that context. In 19 per cent of the hospitals—one in five of them, roughly speaking—the review found a clear need for improvement in the cleanliness of at least one ward. In 16 per cent of hospitals, it found a clear need for improvement in the cleanliness of at least one public area. The findings are based on a snapshot review, which looked at cleanliness in a sample of wards and public areas at a particular point in time. Although it is possible that some hospitals might have been reviewed at a particularly difficult time or that they might have had only one ward in which cleanliness was poor, hospitals should be clean in all places at all times.

My report identifies a number of issues that make it more difficult for hospitals to achieve acceptable levels of cleanliness. In common with other public bodies, many hospitals have problems in the recruitment and retention of staff, which result in vacancies and high turnover rates. The number of sickness absences is also high in a number of hospitals.

In some hospitals, we found that staff had less time to do cleaning than the hospital had planned for. That was true in a quarter of the wards. In other words, although a standard had been set, hospitals were not achieving it because the necessary staff time was not being delivered. That makes it more difficult for cleaning to be as thorough as hospitals would wish.

I note that the Scottish Executive has recently agreed a pay increase with Unison and I hope that increased salaries for ancillary staff will go some way towards easing staffing problems. Ensuring sufficient staffing levels should be a priority for senior trust management. Trusts should agree and monitor key staff indicators, assess what action needs to be taken to improve performance against those indicators and put in place contingency plans that are backed by adequate resources to deal with staffing shortfalls.

We found variation in the levels of cleanliness, both in hospitals with in-house providers and in those with external providers. The terms of contracts made it more difficult for some hospitals with external providers to ensure that they had acceptable levels of cleanliness. Unclear and inflexible terms, limited penalties and lack of management information made it difficult for a few hospitals to manage their contracts appropriately.

The work of cleaners is an extremely important element in achieving clean hospitals, but it is only one of the requirements. There is also a need for proper maintenance facilities, so that cleaners are

able to clean effectively. Poor maintenance contributes to low levels of cleanliness in some hospitals and also influences the public perception that hospitals are not clean.

Some cleaning tasks, such as the cleaning of external windows, inaccessible areas and clinical equipment, are not the responsibility of the cleaning staff but still need to be carried out to ensure that hospitals overall are at an adequate level of cleanliness. The review found that such tasks were not being carried out as necessary in a number of hospitals.

I want to mention the work of the former Clinical Standards Board for Scotland, which is now part of NHS Quality Improvement Scotland. In 2001, the board was asked by the Scottish Executive health department to produce standards for health-care associated infection, which is sometimes called hospital-acquired infection. A sub-group was set up to develop standards for hospital cleaning.

The sub-group worked with Audit Scotland on a collaborative review of cleaning services. Local auditors were used to undertake all aspects of the review in local hospitals. The review, which included a baseline assessment of trusts' compliance with the standards for hospital cleaning, is an example of the benefits of good working between agencies, so that we avoid duplication and deliver a more comprehensive picture of the situation.

My report is complementary to and sits alongside the report "Improving Clinical Care in Scotland—Healthcare Associated Infection (HAI); Infection Control Standards". My report shows that, although many trusts have undertaken considerable work to implement the standards for hospital cleaning, further development is required. I understand that NHS Quality Improvement Scotland is also working with the Scottish centre for infection and environmental health on reviewing decontamination processes in trusts.

Arising out of my report, action plans have been agreed locally with all trusts to address the concerns that were found in the report. I expect those action plans to be a priority for trusts and I recommend that there should be a continuing programme of reviews of cleanliness to ensure that improvement is sustained into the future.

Both Barbara Hurst, who co-ordinated the study with colleagues from Audit Scotland, and I will be happy to answer any questions that the committee may have.

The Convener: I thank the Auditor General for an excellent report that has certainly concentrated minds. I remind the committee that we should keep our questions general at this point, as we will look at the issue in detail under agenda item 6.

The Auditor General's report says that

"trusts should agree performance indicators and targets for staffing indicators such as sickness absence, turnover and vacancies. However, half of the trusts did not have these in place."

Is there a timetable for that work? Who will be responsible for delivering those results?

Mr Black: When we first reported some two years ago, we suggested that we wanted to see improvements in the areas that the convener has mentioned. It is disappointing that a number of trusts have not shown those improvements. I invite Barbara Hurst to comment on the extent to which we can anticipate plans being put in place with agreed timetables.

Barbara Hurst (Audit Scotland): Following the first report, we would have expected serious consideration to have been given to those issues, especially because we know that there are difficulties in recruiting and retaining staff. We expect that our local auditors will carry on monitoring those issues to ensure that things are happening at the local level.

Margaret Jamieson (Kilmarnock and Loudoun) (Lab): I want publicly to congratulate the staff in the Ayrshire and Arran NHS Board area. The Auditor General's report says that they achieved category 1 for both public areas and ward areas.

I have a number of observations to make about Audit Scotland's informative document. I am concerned that the perception out there is that every hospital has particular problems, despite the report's indication that 70 per cent of wards have achieved category 1. We should be congratulating people, but the press obviously thinks that we should be dumbing down that aspect. I am also concerned about the way in which the report has been put into the public domain and about the areas of the report that have been picked up. Perhaps that is not an issue for Audit Scotland, but it needs to be addressed.

I am particularly concerned about the comments that have been made on levels of cleanliness in hospitals that use external providers. I want an assurance that those contracts are examined to ensure that we continue to get best value—as we are supposed to—and that they are monitored against the measurements that were used by Audit Scotland. I want to know whether there is any way in which that issue can be addressed and how those contracts will be continually assessed.

I note the point about internal auditors' continually auditing the work that is being undertaken. My question might be asked more appropriately under agenda item 6, but what is the possibility of having that work reported in the performance assessment framework under which

the NHS system is measured by the centre annually? Sometimes, individuals receive the reports, which, although they are topical for a wee while, go on to a shelf and gather dust.

14:45

Mr Black: I am not sure whether there was a question in there, but I will make a couple of comments that might help the committee.

As I said in my introductory remarks, 70 per cent of the wards were in category 1. When we release our publications to the media, we work very hard to achieve a balanced picture. However, for whatever reason, the media coverage tends to focus on the challenges and the failures in performance rather than report in a balanced way in all cases. We are well aware of that, and it is difficult for us to control.

With regard to the level of cleanliness in hospitals that have externalised services—if I can call them that—I emphasise that the number of hospitals that we considered in our sample was very small; therefore, it is not possible to generalise. One of the concerns was that, in a small number of cases, the information that was available to the client was not adequate to enable them to monitor the contracts well. It is a challenge for those hospitals to address that.

The other question concerned how we could monitor in the future. This was a one-off exercise for us, using external auditors who are not professionals in the service and working with a peer group to get a snapshot of data. All that the exercise does is draw attention to the variations that we found. Nevertheless, that is a significant achievement. The challenge is now for hospital management to put in place adequate monitoring procedures and for the boards—probably at unified board level—to take an interest in cleanliness and cleanliness performance. That is where accountability should lie primarily. There may also be an issue for the committee to consider with the health department regarding whether the overall performance assessment framework should ensure that proper questions are asked of boards to ascertain whether they are monitoring the issue as carefully as they should be.

Mr Keith Raffan (Mid Scotland and Fife) (LD): I have two questions. First, in evaluating hospital cleanliness, were the same standards applied to old buildings as were applied to much more modern buildings? Secondly, the interface between hospital cleaning and maintenance is a grey area. The convener and I were at a health board meeting on Friday, at which reference was made to maintenance of windows. Maintenance is also an issue in relation to clinical equipment. To

what extent do you feel that that issue needs to be re-examined?

Mr Black: I invite Barbara Hurst to comment on that.

Barbara Hurst: The standards that we used for the spot checks—which is probably the most powerful part of the report—were agreed with hospital cleaning managers and the checks were carried out by those managers in liaison with external auditors, as the Auditor General said. We applied those standards in the same way, irrespective of the age of the buildings, because we felt that although older buildings will be more challenging to clean, there is no reason why they should not reach the same level of cleanliness as new buildings. It is interesting to note that we have a number of older hospitals that are clean and a number of newer ones that are causing concern. We did not think that it was our place to apply the standards differently.

Mr Raffan: What about my second point, which was about the interface with maintenance?

Barbara Hurst: That is an interesting point and it is clearly the most challenging issue for hospitals on receipt of the report. We made it clear that we were examining not only the quality of cleaning, but the cleanliness of the hospital, irrespective of who was responsible for that. There is a real issue about maintenance and ensuring that areas that are not cleaned by cleaners are clean. Mr Raffan is correct that we should pay attention to that significant point.

Mr Davidson: I am delighted that the hospitals in Grampian came out well in the study. However, within those hospitals, some of which I visited on Monday, there is quite an age difference—buildings range from being very new to being almost on their last legs. If one board achieves a good result in the study regardless of the status of the buildings—I am sure that some boards have done that—that flags up to me that there is an attitude of dealing with the issue in that board.

I assume that some of the boards commented back after the previous report. Did they comment at the start of the present investigation on what they had done since the first report was dished out roughly two years ago? Did the boards comment to the audit teams on the measures that they had taken?

Barbara Hurst: Do you mind if I check with the person who knows the details?

Mr Davidson: Please do.

The Convener: Direct communication is always preferable.

Barbara Hurst: It will come from the horse's mouth, as it were.

Mr Black: This is our last port of call. If we do not get an answer here, we are sunk.

The Convener: We know the feeling.

Tricia Meldrum (Audit Scotland): The auditors had a list of questions and topics to look at with the trusts that they visited. One question was what had been done to put into practice the recommendations in the previous report, and some of what had gone on previously was picked up.

Mr Davidson: Did your people pick up the fact that there was a divergence in the approaches taken by different trusts after the first report?

Tricia Meldrum: Yes, there was variation in what they had done and how they had approached the matter.

Mr Davidson: That gives my brain something to think about before item 6.

Sarah Boyack (Edinburgh Central) (Lab): The report was useful. I would like to pick up on the Auditor General's comment that the matter should not be constantly monitored nationally, but should be monitored by the unified boards. Is that the right framework? It is appropriate for the unified boards to identify their priorities, but there must be benchmarking. It would be easy for boards to set lower standards that were easier to achieve. How can the process be developed so that, if there is a similar report in a couple of years, there will be a demonstrable improvement and more information will be available on, for example, externalised services? How can we raise everybody's game?

Mr Black: It is important that we try to avoid driving too much from the centre, which is why the national report is accompanied by a report for each NHS trust that was covered. A number of the local reports present local management with challenges for improvement. An action plan is in place that should be followed through if standards are to be improved. The exercise undertook a lot of groundwork, on which trusts and unified boards can pick up as a base for the future. They could draw on our methods to ensure that current, good-quality information about what is happening in hospitals is received locally.

The Convener: I thank the Auditor General for his briefing. We must give credit where it is due, which is to the hospitals that have produced and continue to produce high standards. However, I am sure that we wish to guarantee the highest standards for Scottish patients. I thank Audit Scotland for its work in producing the first national snapshot of hospital cleanliness. I am sure that the work will continue, to the benefit of staff and patients.

Our next witnesses will be with us in six minutes. Therefore, I suggest that, in accordance with rule

7.8 of the standing orders, I suspend the meeting until 3 o'clock, when the committee will reconvene to take evidence.

14:55

Meeting suspended.

15:00

On resuming—

“Dealing with offending by young people”

The Convener: Item 4 is evidence taking on the committee's inquiry into the report by the Auditor General for Scotland entitled, “Dealing with offending by young people”. I welcome today's witnesses, who are Mr Jim Gallagher, head of the Scottish Executive justice department; his colleague Elizabeth Carmichael, head of the community justice services division at the Executive; and Mr David Strang, chief constable of Dumfries and Galloway constabulary and chairman of the general policing standing committee of the Association of Chief Police Officers in Scotland—the longest title that we have today. I also welcome Mr Robert Gordon, who is chief executive of the Crown Office and Procurator Fiscal Service, and Mr Norman McFadyen, who is Crown Agent designate of the Crown Office and Procurator Fiscal Service.

This is the second of three meetings to examine “Dealing with offending by young people”, which is a joint report by the Auditor General and the Accounts Commission for Scotland. It is a wide-ranging report that covers a complex area and involves services that are provided by a large number of public bodies. The committee has decided that the best way in which to approach the subject is to have two separate meetings focusing essentially on the children's hearings system and the criminal justice system, and then to have a third meeting to address outstanding points.

In our first meeting, we took evidence from the Scottish Executive education department, the Association of Directors of Social Work and the Scottish Children's Reporter Administration on the system of youth justice for under-16s. Today, we will hear evidence from witnesses about the adult criminal justice system as it applies to young offenders. At our third and final meeting, we shall take evidence from key service providers, such as local authorities and voluntary organisations.

One slight qualification to the approach that I have outlined is that, as with the Association of Directors of Social Work at our last meeting, today we will put questions to the Association of Chief Police Officers about the systems for both under-16s and over-16s. That is to save ACPOS's representatives from having to attend two separate evidence meetings to answer questions. If there are no objections, and given that we have received written statements from the witnesses and that time is tight, I propose that we move straight to questioning.

My first question is to the justice department and the Crown Office and Procurator Fiscal Service. I direct them to exhibit 16, which indicates that a case takes an average of eight months to reach a court decision. What can be done to speed up decision making for 16 to 21-year-olds in the criminal justice system?

Mr Jim Gallagher (Scottish Executive Justice Department): Perhaps it will be useful if I start, then my colleague, Mr Gordon, might say a word.

First, we agree that delay is an issue in the justice system; it is an issue in virtually all justice systems throughout the world and it is a problem especially where young people are concerned. We all agree, and common sense tells us, that dealing with cases quickly—particularly youngsters' cases—is better than dealing with them slowly, but it is difficult to find documented research evidence that measures how effective doing so is. Many cases are already prioritised—obviously, custody cases are prioritised, as cases that involve children as victims or witnesses rightly are. However, the evidence in the Audit Scotland report reinforces the fact that we can and should do some things better.

The first area in which we can take lessons from the Audit Scotland report concerns data. We do not have enough quality data about the progress of cases through the system—the material in the report is helpful in that respect. The report makes it clear to us that we have more work to do in gathering data about the progress of cases. We hope that developments in our information technology systems, which have now been completed, will enable us to do much better over time.

Secondly, there is an issue about joining up—to use the jargon—on the one hand the different agencies that are involved in the system and, on the other, the Minister for Justice and the Lord Advocate. Recently, the Crown Agent, Andrew Normand, was asked to work on joint objectives and targets for the justice system. That work has not yet been published, but I think that it identifies areas in which we can join up better and measure the right things to indicate our aims.

Finally, on the system in general, the committee might know that ministers have asked Sheriff Principal McInnes to convene a committee to consider the summary justice system and its processes as a whole. That might produce recommendations that will help work to flow more smoothly and quickly.

On young offenders, the most important development which I want to draw to the committee's attention is the development of the youth court, which is a sheriff summary court that deals with persons who are under 21—indeed, in

some cases, it has the flexibility to deal with under-16s. We are about to pilot the court with the co-operation of the judiciary and the other agencies in Hamilton, if I remember correctly. The idea is to fast-track persistent young offenders to get them to court quicker; the target is for them to make their first appearance in court not later than 10 days from the point at which they were charged by the police, which is a very demanding schedule. It would mean great speeding-up of the process; the time taken from charge to conviction, for those who are convicted, and from conviction to sentencing, would be about half of the time that is identified in the report. The scheme is a pilot scheme and we will see how it works, but it might form the basis of a more generally speedy system—we are doing more work on that, too.

The Convener: I have a question for Robert Gordon. What can be done to speed up decision making for 16 to 21-year-olds?

Mr Robert Gordon (Crown Office and Procurator Fiscal Service): I would like to reiterate some points that Jim Gallagher made. We are part of an attempt to get better information across the system as a whole within the Crown Office and Procurator Fiscal Service. That is being done through the introduction of new IT systems that are designed to help to speed up processing of cases and to obtain better management information. We have also been part of the exercise with Andrew Normand, to which Jim Gallagher referred, which considers ways of joining up targets. In addition, we are working with the police and the Scottish Court Service on ways of improving liaison and joint working—that was recommended by the major management review of the Crown Office and Procurator Fiscal Service, which was published about a year ago.

We are keen to look at everything that the COPFS does in order that we can find out whether we can speed up decision making while maintaining—or indeed improving—its quality. We have been actively involved in the youth court pilot work at Hamilton and are positively engaged in it.

The Convener: Various actions to speed things up have been described. None the less, cases currently take an average of eight months to reach court decisions. That must mean that some cases go beyond eight months and that some are dealt with in less time. Mr Gallagher said that you aim for half that average time: an average of four months. What would be your target for getting people into the court system?

Mr Gallagher: If we pursue the proposition that is contained in the youth court pilot report, we could—in relation to the group of young offenders in question—get through the process in about four months. Whether we would be able to make that a target for the whole system remains to be seen, which is why we are carrying out a pilot.

It is true that averages conceal great variation. In the court system, in contrast to the children's hearing system, the decision of the accused person as to whether to plead guilty is a critical part of determining how long a case takes. If we consider the adult justice system, by which I mean the justice system that concerns people over 16, many cases are processed relatively quickly. However, there is a long tail of cases that take a long time to process. Those are cases in which the accused—perfectly properly—has pled not guilty. In a system where the accused has rights and is able to work their way through the system, such cases take time. It is inevitable that a court system in which guilt is disputed and rights are protected will require more time than a system in which that is not the case.

The Convener: If the measures work, the average time taken will, you hope, be reduced to four months, but the wheels of justice still grind slowly.

Mr Gallagher: They grind small, too.

The Convener: Is it acceptable for a young person to be brought before the justice system to have their case take more than four months to process—even if the proposed measures succeed?

Mr Gallagher: Any justice system that involves punishment must be careful to respect the rights of the accused. Those rights are: to plead not guilty; to have the charge proved beyond reasonable doubt in a court in accordance with the provisions of the European convention on human rights and within the normal provisions of the law; and to have sentence worked out on the basis of proper information and, if necessary, of a social inquiry report. Some of those processes take time.

We recognise that the present length of time taken is too long. Reducing that current level—if the sample that was used in the Audit Scotland report is typical, that will mean a reduction from eight months to four months—would be a substantial step in the right direction. Whether it would be possible in time to do better than that remains to be seen.

Mr Gordon: I agree with Jim Gallagher. We are trying our best to get the times brought down while respecting the rights of the people who are caught up in the system. The time that is taken covers the apprehension of the individual, the police making a report to the Procurator Fiscal Service, the procurator fiscal service making a decision about what to do next and then getting the case into court. There are a number of different players and there are different processes that cannot be completed overnight. We are considering how to cut the time that is taken and are examining the processes in detail to ascertain where things can be improved.

As Jim Gallagher has been saying, one of the targets under the youth court pilot is to try to cut substantially the time taken. We need to evaluate the pilot and see what lessons can be learned. Our organisation is looking every day at ways to do things better—we are evaluating experiences in different parts of the country and we are trying to assess how best practice can be spread across the organisation.

The Convener: We expect that, when people get to court, they will receive justice. At issue is the speed of the machinery that will allow them to get to the justice system and to be fairly treated.

Sarah Boyack: Will you comment on the role of the police and on how they can get their reports to procurators fiscal in better time?

Chief Constable David Strang (Association of Chief Police Officers in Scotland): There is an issue, which has been touched on already, to do with the balance between speed and quality. Sometimes, it is straightforward for the police officer to put a police report together; however, if there are multiple offenders, one of them might be cautioned and charged but—because we operate on a case-centred basis rather than on an individual-centred basis—that report might not go to the procurator fiscal until we have dealt with other offenders who were involved in the offence. Sometimes, we have to get other witness statements and so on, so it can take time to put together a case. We could submit the report more quickly, but that might be counter-productive because there might be gaps in it. In effect, we would only be shifting the problem further down the line. We need to ensure that we get the quality right and that we do what we can to meet the timeliness targets.

15:15

Sarah Boyack: Are there measures in place to try to deliver those targets? One of the things that stands out in the report is that, although police reports where the accused is not in custody should be with the procurator fiscal within a month of caution and charge, that was achieved in only 40 per cent of the sample of cases. That is quite a low percentage.

Chief Constable Strang: Yes, but the purpose of the targets is to change the behaviour. The targets are not supposed to be achieved easily. We acknowledge that the cases are taking too long and that, if we are to speed them up, we will have to set ambitious targets. I do not disagree with the targets' being set at that level.

We report all cases to the procurator fiscal. However, in a sizeable proportion of cases, there will be no proceedings and it concerns me that police officers are putting together full files for

cases that will never proceed to court. We could do more to identify cases that are likely to proceed to court and concentrate on them. However, the decision about whether to prosecute rests with the procurator fiscal, not the police.

Sarah Boyack: Do you keep track of the number of cases that are not proceeded with by the procurator fiscal?

Chief Constable Strang: Police discretion starts with the constable on the street. A person might technically have committed a breach of the peace, but officers have discretion with regard to how that is dealt with. Such an incident might be dealt with simply by issuing a caution. Once the matter is reported, however, the person is cautioned and charged and a report goes to the procurator fiscal, who will then make a decision about whether to prosecute. We have figures for how many cases are proceeded with and how many are not.

Margaret Jamieson: We have established that there are wide variations in the average time and you talked about various processes and the sharing of good practice. Would not it be a step in the right direction if there were to be a standardised process throughout Scotland? That would allow us to roll out the best practice and would assist the police in relation to the problem that many cases that are referred to the procurator fiscal are not pursued.

Every day, MSPs have to deal with constituents' complaints about the fact that, often, after they have called the police and the offender has been apprehended and charged, nothing else happens. That is the difficulty that we have. It would be easier for us if we knew that there was a standardised process, and it would save police time.

Mr Gordon: We are certainly standardising procedures as we introduce the next generation of IT. However, in each case the procurator fiscal must be discreet when considering the precise circumstances of each case. Such discretion is important in deciding how to proceed; for example, with a warning, a fine, summary proceedings or whatever. The Crown Agent can comment, but in some instances it is correct to decide that there will be no proceedings because there is insufficient evidence to proceed, or it is judged not to be in the public interest to proceed. That is partly why our system is as it is—fiscals make decisions on the basis of what the police report to them.

Mr Norman McFadyen (Crown Office and Procurator Fiscal Service): There is some scope—which Chief Constable Strang recognised—for considering areas in which we might agree with the police that giving a warning

or that action short of reporting to the fiscal might suffice. We have worked on that in the past, and we are continuing to work on it as part of the youth crime action plan, in particular in connection with restorative justice and warnings. That work is specifically focused on youth crime, but it has general potential.

We are anxious to discuss further with the police the idea of exploring areas for which the police could give warnings without needing to go as far as reporting the case to the procurator fiscal. That would save time and money, and cases would be dealt with to disposal. The police might simply give warnings, or restorative justice might apply, but cases would be dealt with more swiftly.

Chief Constable Strang: Often, the police's report to the fiscal stating that someone has been cautioned and charged has, in itself, a modifying influence on behaviour. Police presence on the street, the initial talking, the fact of having to report and possible prosecution in court each has an impact in its own right.

Margaret Jamieson: Mr Gordon mentioned that it is sometimes in the public interest for a case not to proceed, but fiscals' view of the public interest can sometimes be different from that of those who knock on our surgery doors. Perhaps we should aim to have similar ideas about what we understand to mean by the public interest.

Mr McFadyen: Ultimately, professional judgement and responsibility lie with the public prosecutor. We could improve explanations for our decisions and we are seriously considering that, but doing so is not free of difficulty. It is easy to say that there was insufficient evidence in an individual case; it is much more difficult to say, "I am sorry, I did not believe you." It is subtler than simply ticking a box. However, we are actively considering how we could explain ourselves better than we do.

Mr Raffan: Mr Gallagher and Chief Constable Strang commented on speed versus quality in achieving the right balance in cutting the length of the process from eight months to four. Is it a question of standardising procedures and ensuring that they are universally followed, or is it also about a shortage of staff? Perhaps it is a mixture of both.

If we manage to get a better system in place, and the average processing time for each case is reduced from eight months to four, would money be saved in any particular area?

Mr Gallagher: There is some truth in saying that shortening the time is, to some degree, a matter of applying resources in an individual area. That is one reason why ministers decided at the end of last year to put substantial additional resources into Mr Gordon's organisation. He will be able to say something about how that money is applied.

It is often important to examine the engineering of the processes and how they are matched together. We have lacked the good quality comprehensive management information that would enable us to do that, but I hope that that situation will improve. The sample material in the report is revealing because it tells us some things that we did not know. In particular it tells us that we need to find much more quality management information, which will enable us to make those choices and to apply the resources where they will be most effective.

As David Strang rightly said, there is a proper tension between not doing the job in a hurry and botching it, especially when one is dealing with issues that affect people's rights or when trying to make the right decision about prosecution of a young offender.

Mr Gordon: We have had a substantial increase in our resources: a budget of £63 million last year will rise to £93 million at the end of the spending review period. We are using those resources to invest in additional front-line personnel—lawyers and support staff—and in infrastructure support; namely, new and better IT systems, better financial management and better human resources. We have a large work force that needs to be managed, motivated, trained and developed well.

The Convener: Is that spread across the country?

Mr Gordon: Yes. Challenging targets to improve our performance have been set for us in the spending review and published in "Building a Better Scotland. Spending Proposals 2003-06: What the money buys". The targets are mainly to process cases more quickly, but we accept the point about quality. To pick up on Margaret Jamieson's point, I think that it is necessary to find the right or best way to do things and then to ensure that that is applied across the piece, in dealing with summary cases and with the small proportion of extremely expensive serious cases at the top end.

Rhona Brankin (Midlothian) (Lab): I want to revisit the issue of youngsters who go into the system and against whom there are subsequently no proceedings. I might have picked this up wrong, but do you expect that a significant number of the youngsters whom you refer to the youth justice system will not be proceeded against, but that putting them into the system is, in itself, of some value? It strikes me that such youngsters might be clogging up the system and that there ought to be some sort of alternative. You talked about different ways in which deal with them, so do you envisage that those youngsters whom everyone accepts are unlikely to go any further might be dealt with differently?

Chief Constable Strang: When I say that we expect that proceedings will not be taken against some people, I am stating a reality. We know that not everyone whom we report will end up in court. That is because of the proper separation of our investigative and reporting responsibilities from the Crown's prosecution system.

I am not sure whether the extent to which that clogs up the system outweighs the advantage of reporting them in the first instance, but we are certainly considering alternatives to prosecution and to reporting. With regard to younger individuals, reporters are involved in developing restorative justice, such as cautioning and other forms of intervention and diversion that do not have a court at the end of them.

Rhona Brankin: In a sense, it is therefore difficult to know the answer. Might a lack of resources in some cases be the reason why proceedings are not taken against such youngsters?

Mr McFadyen: There are a variety of reasons why cases are not proceeded with. If we leave aside the cases in which there is not enough evidence and those in which there is a particular public-interest aspect, cases tend not to be proceeded with on the ground of triviality, where the offences are minor. There are ways—short of prosecution—in which to deal with minor offences; for example, a warning by the fiscal or a fiscal fine. At the lowest end of the scale, there might be no proceedings. The question is whether some cases could be dealt with more quickly, through the police issuing a warning or through restorative justice. Not all cases would be suitable for that, but some would be.

15:30

Mr Gallagher: I have an additional point to make. My colleagues have referred to what is a process and management issue. A reasonable body of international research evidence supports the proposition that keeping young people out of the formal court processes for as long as possible is the most effective way of dealing with some of them, although not with all of them. No one is suggesting that young people who are committing serious offences or who are in some way a danger to the public should not be dealt with properly and formally. Young persons committing less serious offences, who can be caught earlier in their career, as it were, are better dealt with outwith the formal process.

The Convener: Sarah Boyack will continue with questions on performance and monitoring.

Sarah Boyack: I have a question for Mr Strang about the children's hearings system, which moves us into the younger age group. Time

standards have been in place for some time, but performance in relation to police reports is poor. Paragraph 47 in the main report highlights the fact that only Tayside police force came even close to meeting the target of making 80 per cent of referrals within 14 days. In September 2002, the multi-agency time intervals monitoring group reported even fewer returns from fewer areas than in the previous year. How can performance on police reports be improved and why is the monitoring group not succeeding in ensuring that standards are being achieved or even reported?

Chief Constable Strang: As you know, we welcome the recommendation from the main report. We acknowledge entirely that there are differences throughout the country and we are putting processes in place to examine the monitoring and have a standardised reporting system. The history is that these matters are dealt with differently in different areas. In some force areas every young person is reported to the reporter. In other cases, they might be dealt with initially by the police by way of a warning or a parental visit. Practices have built up differently throughout the country. We are not exactly comparing like with like, because we are not reporting exactly the same. We want to move to standardised reporting systems, so that we can compare like with like, not only in relation to what we report but in relation to the processes that we have in place. Very often, practices and systems of warnings have built up locally. Sometimes cases go to a reporter and the individual comes back to the police for a warning. At other times there is an agreed protocol where the police will make the decision in the first instance.

Sarah Boyack: The local police have told me that often when they make the effort to go through the process in the police system and send reports off to the children's panel, they get a form back saying, "No further action." The form does not say, "Child diverted to X project," or, "We have decided to do Y with child." I wonder whether different police forces check what happens to the referrals that they make. Do you keep a track of individual young people or is that something that we need to think about?

Chief Constable Strang: Historically, the police's responsibility has been seen to be that of collecting the evidence and reporting, whether to the fiscal or the reporter. We have almost been saying, "We've done our bit and it is now a matter for other people." We do not regularly monitor what happens. Within the reporter system, the reporter considers circumstances surrounding an individual and a family. The offending behaviour might just be one aspect that informs the decision that the reporter would make. The police involved in policing smaller communities will tend to know what happens and perhaps take a greater interest

in the disposals, but it is proper that the decision rests elsewhere. I think that we probably could do more to improve communication to ensure that people are aware of what has happened and the reasons for that.

Sarah Boyack: My next question is almost a counterpoint to Rhona Brankin's point that a young person takes a warning from the procurator fiscal or the police seriously. If a young person goes into the system and nothing happens to them, and the police and the local community know that nothing has happened to them, it sends a message to everyone that the system itself does not matter at all. The question is the point at which the kids begin not to take the system seriously.

Chief Constable Strang: Yes. It is slightly perverse that an intervention such as a police warning at a lower level of offending might have an impact on a young person's future offending, but that nothing might happen if they commit a more serious offence that goes into the system.

Sarah Boyack: Why has the time intervals monitoring group not been effective in ensuring that standards are achieved? Is it because delivering within the set period has been too great a task, or has the feedback been worse from one year to the next? I notice that a senior police officer is a member of the group.

Chief Constable Strang: To be fair to the group, I suppose that it was responsible for monitoring the situation, not delivering the service. The theory is that monitoring exposes and identifies where we need to change processes or examine what we are doing. As a result, I would not be overcritical of the monitoring group. Instead, it is the responsibility of those of us who deliver the service to improve time scales. The process is on-going; as the report will feed into what we are doing, I am confident that we will be able to deliver better results than at present.

The Convener: When will we compare like with like? When will standardised systems be introduced?

Chief Constable Strang: I do not have an exact time scale, but we are developing the matter. I know that Assistant Chief Constable Mrs Norma Graham is leading on it, and that a meeting will be convened later this month. I hope that, over the next six months, we will reach agreement on standardised warnings and reporting procedures.

The Convener: David Davidson will ask about variations in decisions made by police, reporters, fiscals, children's hearings and the courts.

Mr Davidson: The report shows a wide variation in the treatment of young offenders. Although that is acceptable because of natural variance, it appears as though the treatment that a young

person receives depends as much on where they live as on the case itself.

Exhibit 17 shows that, in a sample of 17 fiscal offices, the proportion of cases involving under-21s on which no proceedings were taken varied from 1 per cent to 17 per cent. Why has that variation occurred? Furthermore, how is the situation monitored and what action can be taken?

Mr McFadyen: There are a number of reasons for such a variation. I should point out that, as the report highlights, the sample focused on one month, and fiscal offices in some parts of the country were dealing with a relatively small number of cases. Moreover, the 17 offices in question include a number of very small ones. Indeed, the office in which the proportion of cases marked “no proceedings” was 1 per cent was one of those smaller offices, which presumably means that we would be talking about one case out of something like 100 at most. Some of the other offices have relatively small numbers as well. I should also point out that only one large office was included in the sample.

It is inevitable that there will be variations in the level of “no proceedings” decisions across the country, because it depends on the pattern of offending in particular areas—which will vary—and on the policy that the police adopt locally on warnings and so on. For example, if the police administer an informal warnings system, that will filter out some cases that would otherwise go to the fiscal.

As far as monitoring the situation is concerned, we are in something of a transitional phase with the development of our IT systems. One of the reasons why Audit Scotland got only a relatively small sample was that we were migrating from one system to another. We are now in the final stage of migration to a national database. That is important because it will make it far easier to extract information. At present, we extract information for our procurators fiscal and area procurators fiscal about the use of “no proceedings” instructions and other alternatives to prosecution. The procurators fiscal are responsible for local monitoring and for challenging and addressing variations in their area. There might be explanations for variations, but it is the fiscals’ duty to challenge that.

Until now, it has been difficult for us to analyse the information according to age groups but, when the new system is fully rolled out this year, it will be easier for us to break down the information into under-16s, 16 to 18-year-olds, 18 to 21-year-olds and over-21s. The new system will make it easier for us to challenge local fiscals as to what leads to a higher or lower percentage of “no proceedings” instructions in their areas.

Mr Davidson: So you think that the sample is a little simplistic and naive, but that the new IT system will get over that and produce national figures and show national trends. When the information with all the divisions is available, what action will you be able to take?

Mr McFadyen: We have national guidance on dealing with cases for children who are under 16 and for those who are under the supervision of the children’s hearings system. We also have national guidance on taking decisions on prosecution in general, which is being updated. When we have detailed information that breaks down into age groups, that will inform the process of developing the guidance. The situation is similar to painting the Forth bridge—we never stop revising or refreshing our guidance. The new information will influence the guidance that we adopt, but it will also enable our area managers to address local issues more effectively.

Part of the restructuring that the COPFS has undergone in the past year has involved putting in robust area management at a level that is more effective than with the old system, in which there were six regions. We now have 11 areas, each of which has an area fiscal who should be on top of what is going on in their area. At present, the area fiscals can talk to the local fiscals about how to deal with particular cases, but short of the rather labour-intensive process of ordering large quantities of case papers and reviewing them by hand, it can be difficult to monitor the situation beyond those discussions.

We are confident that the new system will make the process easier. I would not say that the figures that were given before were naive or simplistic, but they were the only figures that were available at that time.

Mr Davidson: My remark was a comparison and was not meant to be disparaging.

It sounds as if you are quite a way down the route. From the work that has been done so far, do you have any preliminary indications that there is enough variation to cause concern?

Mr McFadyen: The information is not causing us particular concern, but we must have the information for the whole country before we can do a proper analysis. We will keep a close eye on the situation. My point is that the figures in the table deal with a relatively small number of cases, whereas we wish to consider significant periods of time, such as three months or a year, and to consider the big offices and the country as a whole. We will then talk to the SCRA, reporters and the police about particular areas. In fact, we are already having that dialogue—we have spoken to the SCRA about joint reporting and we are in dialogue with the police.

The Convener: You said that you were in the final stage of migration to a national database. When will it be completed?

Mr McFadyen: It will be completed in this calendar year. If you wish, we will write to the committee about that.

The Convener: So you are up to nine months away from completion.

Mr McFadyen: It will certainly be completed by the end of the summer, although it is difficult to give a date with confidence. The system will need to run for a while before we can extract useful data. When it has run for a number of months, we will start to extract significant data.

Mr Raffan: My question is similar to the convener's and I do not want to repeat him. You said that the information will be gathered over time when the new system is rolled out. What is the time scale for producing more relevant, reliable and substantial statistics?

Mr McFadyen: This year. The roll-out will be completed in the summer. Statistics that cover three months for the whole country are much more useful than statistics for one month for a limited number of offices. The longer we run the system, the more useful the data will be.

Mr Raffan: So, from then on you will continue to undertake that monitoring on a regular basis.

Mr McFadyen: Yes.

Mr Davidson: I will turn to Mr Gallagher. In exhibit 23 of the report, the percentage of under-21s who were convicted and given a custodial sentence varied from 3 per cent to 24 per cent across court areas. Why did that variation occur, how is it being monitored and what action is being taken?

15:45

Mr Gallagher: Part of the answer lies in understanding the nature of the system, as the stages in the justice system are sequential.

The choices that the police make in relation to reporting influence the range of choices that is open to the fiscal in relation to prosecution. Those choices influence the range of choices that is available to the judge, sheriff or justice of the peace in relation to sentencing. Some of the variations have their roots in variations earlier in the system.

The second issue is one that none of us would want to change, which is that sentencing is a matter for the court and the High Court judge, sheriff or justice of the peace. Although it is controlled by the appeal court, sentencing is a matter for judges and not the Executive. Nothing

that I say should be taken as a suggestion that the Executive would seek to control sentences in which there is discretion.

That said, the important issue when one looks at the data in this way, is that we can see variations that cause eyebrows to be raised. We have to ask why those variations have come about. None of us would seek to introduce standardisation in which everything had to be the same everywhere. There are two reasons for that, the first of which is the need for the proper independence of the actors in the system—the judges, fiscals and so on. The second is that the justice system has to have some capacity to take account of local circumstances and variations. What will concern the community in Kilmarnock is not necessarily the same set of issues that will concern the community in Stornoway. The justice system has to take some account of those variations.

That said, the data show that we should ask ourselves what are the causes of the variation. If we started at the root, which is police reporting, and worked our way through the system, we could see whether the variations would level out if we had a national system of warnings that influenced what came to the fiscal. If we were to have more systematic monitoring of decisions that are taken by the fiscal, my suspicion, which is not based on evidence as yet but on faith, is that we would see a change towards a greater consistency in the decisions that are taken by the court.

Margaret Jamieson: Jim Gallagher mentioned Kilmarnock—

Mr Gallagher: I knew that Margaret Jamieson would not be able to resist it.

Margaret Jamieson: I could not let the reference go past. A lot of eyebrows are raised when people see that Kilmarnock court features at the top end of the variation in sentencing, particularly in the light of what was said about sheriffs taking account of the local community in determining disposals.

Given that we have a high number of individuals who are given custodial sentences and yet there continue to be problem areas in my constituency of Kilmarnock and Loudoun, I do not see that bearing any fruit in my constituency. I do not share Mr Gallagher's faith in the correlation that he provided. When a sentence is being handed out, we need to ensure that, although the crime is the most significant factor to affect the sentencing, social factors are also taken into consideration.

I am not confident that we have the individuals who are able to do that. I do not know what role the justice department or the Procurator Fiscal Service has to play, but the police probably have more of a handle on how sentencing affects the local community. How are you going to get more of a level playing field in the sentencing regime?

Mr Gallagher: Margaret Jamieson did not resist the temptation, but I had better resist talking about sentences imposed by any individual judge or sheriff.

However, Margaret Jamieson is right to suggest that sentencing is trying to discharge several different functions at the same time. Sometimes those functions are contradictory. As identified elsewhere in the report, sentencing is addressing itself to the question of reducing reoffending by any particular offender. That might point in one direction for that individual. It is also concerned with deterrence or denunciation—declaring on behalf of society that certain behaviour is wrong and unacceptable. That might point in another direction. Sentencers have a very difficult task.

Of course, there are variations in sentencing. However, it is important to remember that sentencing behaviour is regulated by the appeal court, particularly in relation to custodial sentences, so if an individual judge or sheriff gets a sentence markedly wrong in either direction, there is scope for the convicted person or the Crown to appeal.

Nevertheless, it is difficult for sentencers. For example, if—as is mentioned in the report—they are faced with a persistent offender from whom the community is understandably asking to be protected and who might have a mixture of social problems and difficulties such as drug problems, family problems or unemployment, that is a difficult mixture for a judge or sheriff to deal with and get the right answer. I do not think that any of them would claim that it is an exact science.

Mr Davidson: I would like to return to Mr Gallagher but I realise when the word “Kilmarnock” is mentioned in the committee, we have to give way immediately. I will return to the second part of my question. How do you monitor the variance? When you see the variance, what action do you take?

Mr Gallagher: It is not a matter for the Executive to monitor the variance in sentencers’ behaviour. Constitutionally, sentencing is a matter for the court and the judge, the sheriff or the justice of the peace.

Mr Davidson: Does that mean that the Executive does not enter into any dialogue with sentencers and their organisations?

Mr Gallagher: I was going on to say that there are two or three areas where the Executive contributes to the process. First, it is the Executive’s job—subject to Parliament’s view—to ensure that sentencers have the right armoury or selection of sentences available to them. Over the past couple of years, we have gone to considerable lengths in promoting legislation and in resourcing disposals to ensure that as many

tools as possible are available to the sentencers. Over the past year we have made restriction of liberty orders and electronic tagging available to all Scottish sheriff courts to give sentencers another option. We have also invested in community penalties, again to ensure that sentencers have a bigger choice.

Secondly, there is the very proper question about judicial training. That is a matter for the judiciary. Nevertheless, the Executive goes out of its way to invest in and support that. Judicial training helps sentencers to work through sentencing options. As I said in my answer to Margaret Jamieson, it is not easy to choose a sentencing option.

Finally, as I said before, there is the appeal court. If sentences are seriously out of line in relation to the accused’s view of what he—and it usually is a he—was due, or if the Crown thinks that the sentence is unduly lenient, there is the opportunity to appeal. That gives some uniformity in sentencing, although I accept that there are substantial variations between one place and another.

The Convener: However, the percentage of under-21s who were convicted and given a custodial sentence varied from 3 per cent to 24 per cent across all court areas. You have said that you do not want standardisation and I understand that, but should there not be greater cohesiveness? Do you think that that is not a problem?

Mr Gallagher: No, I accept that variations of that size are hard to understand and justify. I suspect that the variations described in the report are caused by variations that come about earlier in the process. If someone is appearing before the court because the fiscal has chosen to prosecute in one area a case that in another area he might have dealt with by a “no pro”, it is not likely that a custodial sentence will be given. If there is a fiscal in one area who has been operating a fairly rigorous process of issuing warnings or fiscal fines, a higher proportion of the cases that come to court are likely to be dealt with by custodial sentence.

The Convener: If it is a chain of decisions, how do you link that chain? It must involve working together.

Mr Gallagher: Absolutely. The answer is joint working. In particular, one must start at the beginning of the chain, where the work that David Strang was referring to is done, on the systematisation—if I can call it that—of police warnings and reports to the fiscal. The next place to go is the work that Norman McFadyen was referring to, in relation to decision making at fiscal level.

The Convener: I would like to ask the other links in the chain how they feel about that. Are you in any way responsible for the wide variations? What part does the procurator fiscal system play?

Mr McFadyen: We would have little or no part in determining whether someone goes into custody or not. It is really a question of statistics. As Jim Gallagher said, if in one part of the country a larger proportion of minor cases are going to court, it should follow logically that the proportion of cases receiving a custodial sentence will be smaller, because the minor offences will not be receiving a custodial sentence. That is the only extent to which our practice around the country would have any impact.

The Convener: Would that reflect less serious crimes in a specific area?

Mr McFadyen: It could reflect less serious crimes in that area, or it could reflect a difference in the policy of the prosecutor, which might have to be addressed. The reasons may be complex, but with regard to the cases that would be suitable for a custodial sentence I cannot see that the conduct of the procurator fiscal would have any impact. Those are not the cases that we would not proceed with.

Mr Davidson: Paragraph 33 highlights the varying use of police warnings, which others have mentioned and to which Chief Constable Strang's written evidence refers; I thank him for sending us that evidence. How do the police propose to achieve better practice and more consistent use of warnings?

Chief Constable Strang: I mentioned the working group that has been set up with representatives of all eight forces, and we will be informed by its report. We need to have standardised decision making, so that we have the same processes and so that, if an offence comes to light, each force responds and deals with it in the same way. We also need standardised recording processes for data. At the moment, warnings tend to be recorded locally and there is no national system. That is why there is a variation in practice between different police forces and even between divisions within a force. We propose to address the problem through a programmed approach.

Mr Davidson: Are such things as pressure on individual forces, manpower and the time that is available to write up reports factors, or do they not come into the picture? Is it just local working practice?

Chief Constable Strang: We would need to be careful about the impact that any changes we introduced might have on paperwork and bureaucracy. We would not want to invest so heavily in a fantastic system for monitoring

warnings, which are at the minor end of the scale—obviously, serious offences are reported—that we were taking officers off the street to fill in forms and do reports. We need a sensible, balanced approach. I do not think that the variation occurs as a result of differences in resourcing so much as in policing practices, as you suggested.

Mr Davidson: Could that not be got round simply by having a standard triplicate form that the officer would simply hand in without being involved in typing, dictating and so on?

Chief Constable Strang: Information technology varies from force to force. The way forward is to have a single entry point into an IT system rather than forms in triplicate.

Mr Davidson: I used that merely as an example. Forms always seem to be in triplicate.

Chief Constable Strang: The information that we gather needs to support the work that we do rather than to drive it. However, there is a need to monitor the process, because we are trying to speed it up and make it more effective.

Mr Davidson: When will the committee report back?

Chief Constable Strang: I do not have an exact date. As I said to the convener, I hope that we will have results within six months.

16:00

Mr Raffan: My question follows on from that point—although using standard forms in triplicate does not seem to me to be a good way of reducing bureaucracy, but never mind. Perhaps information technology is the way.

My concern with paragraph 33 is with the fact that consistent and comparable data on police warnings are available from only five of the eight police forces. We do not have annual figures even for David Strang's own force, which covers the entire area of Dumfries and Galloway. Despite David Strang's point that warnings are at the more minor and less important end of the scale, surely we need consistent and comparable data from all eight police forces if we are to make progress in this area.

Chief Constable Strang: Yes, indeed. That is a clear conclusion from the report. Such information is not held centrally because, historically, we have not needed and have not asked for it. The other area that will be quite tricky to address is that, because such warnings are at the minor end of the scale, some discretion and judgment is involved. There may be local alternative disposals, such as those that involve restorative justice or other youth justice teams. One of the variables is the provision of alternatives to reporting.

Mr Davidson: Do Mrs Carmichael and Mr Gordon have anything to add about what needs to change to ensure that the treatment of young people is more even across the country?

Elizabeth Carmichael (Scottish Executive Justice Department): I deal with alternatives to custody, which we have been developing over the past three years. We are now moving on to look at programmes. As Mr Gallagher said, we need to provide the courts with a range of different options in the hope that they will be ready and willing to use the alternatives, where those are appropriate. That is where my input has tended to be.

Mr Davidson: Are any trials being considered?

Elizabeth Carmichael: Yes. In the past three or four years, we have been trying to develop a broad framework of disposals, which are not just sentences; part of that is about not putting young people into the system if they should not go into it. We have therefore rolled out diversion schemes, which are used by the fiscals. Young people are one of the priority groups for diversion. If a young person has some sort of social problem or mental difficulty, they will be dealt with outside the prosecution system if that is more appropriate and in the public interest.

As well as diversion, we have been providing a range of sentences—a ladder, as it were—that takes the young person towards custody but allows for some work to be done with them in the meantime. In addition to the standard sentences, such as probation and community service, we now have the restriction of liberty orders that have been introduced and drug treatment and testing orders. We hope that the courts might use community sentences on a repeat basis in the way that they sometimes do with custody. It tends to be that, once somebody goes to custody, they will repeat custody. We hope to encourage the courts to use the community sentences in that way.

Our new piece of work, which picks up on the information in the report, is ensuring that there are programmes to support the sentences that are in place. The programmes work either one to one or in groups with the young people to look at their offending behaviour. That is the next part of the agenda that we are bringing forward.

Mr Gordon: Let me answer Mr Davidson's question by saying two things. First, we need much more effective management and monitoring of what is going on, as Norman McFadyen described. I believe that we are well down the road to having a clearer view of why things happen in the way that they do. Where we conclude that differences cannot be explained effectively, we need to take action to ensure consistency.

Secondly, we need much better joint working with the police and other criminal justice agencies.

We have come a long way in the way that we work with the police. Both David Strang and Norman McFadyen have described today ways in which we can work better together to achieve that consistency.

Mr Davidson: Thank you.

The Convener: The first meeting of the accreditation panel to improve the quality of community programmes is provisionally set for the second half of April. Will that meeting actually take place?

Elizabeth Carmichael: Yes.

The Convener: Good. The meeting will go ahead.

Elizabeth Carmichael: Yes. It is a matter of finding the right date for the people concerned. We announced the accreditation panel's membership in January. Some national figures, such as people from Wales and people who sit on the English accreditation panel, are involved. Some of them are academics, and the difficulty tends to be that they are tied up during term time. That, in essence, is why the date is in April. We hope to have a meeting in April.

The Convener: We turn to the effectiveness and efficiency of services.

Rhona Brankin: I will ask about community-based services for young offenders, so I am afraid that Mr Gallagher will have to answer again.

Paragraphs 186 and 187 of the report point out that there is no systematic inspection of community-based services for young offenders, whereas such inspection exists for residential and custodial services, as well as for police, fire and education services. Why does that inconsistency exist?

Mr Gallagher: That is something that we need to fix and that we are in train of fixing. We have expanded community-based services greatly, and they have operated to national standards, but in recent years we have had a gap in that we have been unable to resource the inspection of that work properly. Perhaps Elizabeth Carmichael could help me out by explaining what we are about to do with it.

Elizabeth Carmichael: We now have a full team of social work inspectors, who work within the education department but alongside my people. Four inspectors are in post and have drawn up a programme for inspection to begin this summer. They mean to have a rolling programme of inspections for each local authority so that, over a three-year period, they will cover all the authorities.

Rhona Brankin: In paragraph 166, the report describes the difficulties in providing consistent,

quality mental health services to young offenders institutions. As those institutions look after young people who have the greatest need for help and support, how does the Scottish Executive propose to guarantee a service for them?

Mr Gallagher: The report is right to identify that as an important issue. The number of young persons in custody is going down. Nevertheless, the difficulties that many of the young persons in custody display are, if anything, increasing. There are young people with serious difficulties. Some of them have mental health problems and many of them have drug misuse problems.

At an operational level, the Scottish Prison Service is dealing with that matter. Almost all our young offenders are now concentrated in Polmont, which the SPS now regards as its primary young offenders institution. The SPS has established a dedicated mental health team, which consists mostly of mental health nurses, in that establishment. The case load is about 50 young adults at the moment. I understand that the team has five full-time mental health nurses.

The SPS has also contracted with the local primary care trust for the provision of psychiatric services, which obviously have to match closely with the available nursing service. When young people leave Polmont, the aim is to refer them to their local psychiatric service.

The mental health team's aim is to provide what interventions it can. I understand that, at the moment, it provides interventions on matters such as basic social skills, anxiety management—that intervention appears to be in demand—and sleep management. The team also makes a specific contribution to the establishment's anti-suicide strategy; suicide is, as you will understand, a serious concern in regard to young people with mental health problems who are, inevitably, in custody.

For completeness, I should say that there are also some support facilities for the female young offenders in Cornton Vale. None of us would claim that, on mental health, we could guarantee to fix the young people's problems or prevent some of the unfortunate things that happen. However, resourcing mental health services for young offenders has recently been a priority for the SPS, and it has now done that.

Mr Raffan: How specialised are the five mental health nurses and what are they trained to do? Are they there in a caring capacity or do they provide treatment? If they provide treatment, how do they do so? Scotland has a shortage of child psychologists and psychiatrists, who are needed for initial assessment and who should see young offenders with mental health problems regularly. You touched on anxiety management and sleep

management. Anger management and cognitive behaviour courses might also be useful for many young offenders. To what extent are such courses available?

Mr Gallagher: I do not know each mental health nurse's individual qualifications, but I know that two of them have a special interest in working with young people who have learning disabilities, of whom substantial numbers are in the justice system in one way or another, unfortunately. One piece of recent good news from Polmont was that the Mental Welfare Commission for Scotland praised the institution's work for young people with learning disabilities at the end of last year.

Keith Raffan is right that the provision of specialist psychiatrists and psychologists is a major issue, not only in the justice system but elsewhere. In recent years, the Prison Service has employed at its own hand an increasing number of psychological staff to deal not only with young offenders, but with the adult population.

Most prisons offer the two interventions to which Keith Raffan referred—anger management and cognitive skills courses. Cognitive skills programmes have run in most of our establishments for a good number of years and have been partially evaluated. I was involved in them when they started and I had high hopes for them, but I am afraid that they have not been as successful as I had hoped. Nevertheless, they are an important intervention. The essential message involves helping prisoners—young offenders and adults—to think before they act, as many of them act impulsively.

Mr Raffan: Do you have the resources and the staff to undertake group therapy, which can be helpful?

Mr Gallagher: Group therapy is a method rather than an intervention. Much of the work that has been described is undertaken in groups.

Rhona Brankin: Paragraph 139 of the report refers to the lack of aftercare for young offenders who leave young offenders institutions after serving sentences of less than four years. The Executive proposes that young offenders should be a priority group for voluntary aftercare. Given the staffing pressures, how can you ensure that that service will be made available in practice? Is there a case for making that a statutory requirement?

Mr Gallagher: I have not properly thought through whether such aftercare ought to be statutory, so the answer is that I do not know at the moment. In the tripartite group, we have undertaken quite a bit of work recently with the Prison Service, local government and others on the provision of aftercare. It might be best if I ask Elizabeth Carmichael to explain the priorities.

Elizabeth Carmichael: I chair the tripartite group, which consists of the Executive, the Prison Service and local authorities. We realised that although we have placed much emphasis on community disposals, another issue is what happens to people when they leave prison; we might not have given enough attention to that. We established the group more than a year ago. Its report was published last month and we have started to take action to implement its findings.

Rhona Brankin is right that the task is a large one for us and local authorities to take on. We need to take time to build the service and to grow its capacity. In discussing the problem with the group, we decided that priorities had to be set. The first priority for throughcare is the statutory group, which comprises prisoners who have been in prison for more than four years, because they are the higher risk. Public protection issues mean that those prisoners must be dealt with first.

The circular on rolling out the new throughcare service was issued in December. Local authorities have been given an extra £15,000 to employ somebody in the past three or four months to produce a plan, so when we hit April, authorities will be ready to begin the service. An extra £2 million will go into the service next year.

Young people are the second priority. We realise that we need to get round to them, because they are at the start of their offending careers, so it is important to invest to save. There will be dedicated throughcare teams in each of the local authority groupings. Once those teams are in place, we will be able to grow the service. We want to move on to look at young offenders in the next year, starting in 2004. In the meantime, we want to set up a pilot for young offenders. We will develop best practice, so that in 2004 we have some evidence and material on effectiveness that we can use to develop the service. That is how we see the process growing. Women offenders are another group that we want to look at.

16:15

The Convener: I want to clarify whether aftercare will become a statutory requirement. Mr Gallagher said that, as he had not properly thought through the issue, his present answer had to be that he did not know. Is the question being given active consideration and can we expect some response to it?

Mr Gallagher: Once we have gone through the process of building the service that Elizabeth Carmichael described, we will know enough to be able to give you a sensible answer to that question.

Elizabeth Carmichael: The tripartite group discussed that very subject. There is the problem

of how to keep the young people linked to the service when they leave prison. Some people who have been in the job for much longer than I have been remember the time when there was statutory aftercare. One of the difficulties was that young people tended to breach that and ended up back in prison as a result.

We want to develop the outreach service, which will be different in that it will tell young offenders what it can do to help them—for example, it will tell them what training it can provide and whether it can provide housing. There will be benefits in it for the young people. If a voluntary approach does not work, we would need to rethink and to consider a statutory approach.

Mr Raffan: We are talking about an enormously important area. You spoke about young people being at the start of their offending careers. We should be more positive than that—we should aim to break the cycle of reoffending.

I prefer the word “throughcare” to the word “aftercare”. In relation to young people with drug problems, the important thing is to get them when they are in residential care or on community-based programmes. That way, they will have contact with people whom they will see afterwards. Do you agree that we need to spread out the Simpson House model of helping and supporting those in prison who have drug problems and of looking after them afterwards? Should not we develop that model, which deals with only 14 people in Scotland?

To what extent has the justice department considered halfway houses? They represent a way of helping those who might have been in residential care or secure units to get back into mainstream society by stages.

Elizabeth Carmichael: The Scottish Prison Service uses Cranstoun Drug Services Scotland, which picks up people as they come out of prison. The tripartite group has been good at not duplicating services. We want a service that involves a seamless transition and that works with Cranstoun Drug Services. At the moment there is no such provision for prisoners serving sentences of longer than four years. We will pick that up through the local authorities.

We thought about halfway houses. We had a consultation on supported accommodation about two years ago. Most people felt that halfway houses and hostels—we have hostels—tend not to be terribly helpful in reconnecting people with their communities. We prefer small accommodation, by which we mean supported flats, so that when people come out of prison, they are helped to reconnect with local services rather than having to face an institutionalised context.

Mr Raffan: I do not want to prolong the discussion. It is important to consider the issue again, particularly in relation to those with drug problems. I have been in many halfway houses in this country and in the United States, where the concept was devised. Although they provide a disciplinary framework, halfway houses are not institutional. For those with drug problems, they ease the transition back into society and help to prevent drug relapse. If one can prevent drug relapse, one is likely to prevent relapse into crime.

Elizabeth Carmichael: I accept that the situation is probably different in relation to drug rehabilitation services.

Mr Raffan: Okay. I had better move on, before I am told to.

The Convener: I commend the practice that Elizabeth Carmichael has described, which I have seen for myself.

We move on to the use of financial resources.

Mr Raffan: We have touched on a lot of these points. The report brings out what many might regard as the serious imbalance in spending on youth justice. Sixty per cent is being spent on process—in other words, on prosecuting and reaching decisions about young offenders—and only 40 per cent is being spent on services to tackle offending behaviour.

We want to change the balance. What scope exists to reduce the amount of money that is spent on reaching decisions in order, as was mentioned in response to Rhona Brankin's questions, to fund more and better services and disposals to tackle offending behaviours? That question is for almost all the witnesses, but I will start on the left with Mr Gallagher and move to the right.

Mr Gallagher: From where I am sitting, I am on the right, but never mind.

The ratio that you mentioned is striking. When the Auditor General first spoke to me about it, I was quite struck, because it is not a piece of arithmetic that I had done previously. One takes for granted the inheritance. On further reflection, I am not sure that the figures encourage us to ask the right question. The right question is not what is on either side of the little scales that are shown in the report, but where we put our marginal investment. Where do we put our extra resources? The choice that we face is where we put more and where we put less. Interestingly, the answer is not, as one might think, that we have to put a great deal more into the prevention end—although in fact we are doing so—because, if we are to address some of the issues that we discussed about the efficiency of the process, we need to make some investments at the process end. If we are to deal with things quickly, we also have to

resource that part of the system. It is a matter of striking the right balance in the choices of investment and change.

Mr Raffan: I take the point about investing in process to cut offending, but one hopes that that is investing to save in the long term. If we are to break the cycle of reoffending, I presume that that will require investment not only in prevention but in treatment, rehabilitation and throughcare. That is a much more major investment to save.

Mr Gallagher: One hopes that, in the long run, all the investments that we make in the justice system will be effective in reducing offending and reoffending, although that is a long-term aspiration. I agree that there is a lot of scope for further investment at the end that you have described—that is to say, in programmes that will help to provide disposals that give the court an option that it did not have previously.

If one considers the investment decisions that have been made over recent years—and those that are planned for the future—that is precisely what has happened. Leaving aside the substantial investment in the police service, which is about prevention as well as process, the investment in community justice services over the past 10 years has increased dramatically. For example, if we go back as far as 1991-92, we were spending about £18 million a year; in the year that is just finishing, we are spending £62 million. That is a substantial increase.

In the expenditure plans in "Building a Better Scotland", to which Robert Gordon referred, we have made provision in the community justice budget for the number of community disposals to increase—Elizabeth Carmichael will correct me if I have got the numbers wrong—from 12,000 in a year to about 17,000 in a year. A substantial amount of investment is going in to the funding of criminal justice social work services; we spent about £44 million in 2000-01 and by 2005-06 we will be spending about £88 million.

I found the analogy of the scales striking but perhaps a little misleading. The answer to the underlying question of where we put our investment is that we have put, are planning to put, and will put more investment into the cutting reoffending end of the business.

Mr Raffan: I have a supplementary question about the services side. I understand that the number of residential places has been reduced by approximately half in the past five years—it is down to about 2,300 or 2,500—and that residential treatment or disposal for young offenders is notably unsuccessful, with a high relapse rate in terms of reoffending. Residential treatment also comes at a high cost. To what extent will places be reduced further, and how practical is it to reduce them?

Mr Gallagher: I shall unpack that question into several parts. On the residential requirements of the children's hearings, I shall not offer any evidence, because it is not my business, so to speak. However, on the under-16s, the justice system takes an interest in those who are sentenced by a court to residential requirements for very serious offences. Our view is that we need to provide the resources that courts demand for that. The numbers involved are small.

The use of custody, which is the residential requirement for over-16s, has decreased markedly. The number of young offenders given custody on a daily basis and the number of young offenders received have both substantially decreased, and by a lot more than the number of young people in the population. We are collectively—the courts and society—locking up fewer young people than we used to. Looking ahead at budgetary provision, we have made between this year and next no increase in the provision for imprisonment, but we have made a substantial increase in the provision for community sentences. That is an indication of ministers' priorities.

Mr Raffan: I should like to ask the same question to the other witnesses.

The Convener: Since the police are on alert, I shall ask Chief Constable Strang to respond first.

Mr Raffan: Again, how can we reduce the money spent on process?

Chief Constable Strang: I would sound a note of caution. I do not want the committee to be misled on costing. I notice that well over a third of the costs attributed to spending on youth offending relate to the police. The note in appendix 3 says:

"This is a complicated area".

It is a complicated area because it is difficult to cost how much the police spend on dealing with house break-ins and drug offences, for example, and to assess how much is spent on crime prevention compared with dealing with youth offending.

I notice that the report says that 100 per cent of the £91 million is attributed to reaching decisions. It would be misleading to say that the police are spending 12 per cent of their time reaching decisions on young offenders. I therefore urge members to treat some of the report's figures with caution. Our activity analysis is not specific enough to say exactly how much we invest in processing offenders, as opposed to dealing with young people. The day-in, day-out work of policing involves an awful lot of young people, whether through education work in schools, which we try to encourage, or through dealing with young offenders. If we are providing services post-

offending, it is almost too late, so I am committed to early intervention and to investing in prevention. In terms of the scales, I would therefore want to add more to the first side.

Finally, we need to invest in crime prevention not only through police activity with 13, 14 and 15-year-olds, but by identifying vulnerable youngsters at an earlier age and introducing appropriate support so that children do not end up as repeat offenders at the ages of 13, 14 and 15.

The Convener: Could we get a Crown view on reducing the amount of money spent on reaching decisions so that we could fund more and better services and disposals?

Mr Gordon: The COPFS accounts for, as I calculated, about 6 per cent of the reaching decisions column and 4 per cent of the total figure in the balance column. Our resources have obviously increased considerably in recent times. I think that the rationale for that is that historic underinvestment has caused problems. As we receive more investment and as we perform more effectively, people know that they will be moved through the system more quickly and effectively.

Mr Raffan: Resources for criminal justice social work are hypothecated and ring fenced. Powers exist to ring fence resources for services for 16 and 17-year-olds in the children's hearings system. Why are they not used to ensure that services are in place?

16:30

Mr Gallagher: I cannot help you with that, as far as the children's hearings system is concerned. The history of criminal justice social work services is that we have had ring fencing and national standards for a good number of years. My recollection is that they were introduced in the 1980s—Elizabeth Carmichael has just reminded me that they were introduced in 1991. The issue then was local authorities' understandable concern that, when there was competition for resources, those services were not always at the top of the list. As far as we are concerned, the settled funding has worked well over the years.

The issue for us in recent years has been setting up the grouping of local authorities to provide what I suppose one might call a critical mass or a large enough management structure to provide the full range of criminal justice services. That has worked on the adult side. However, I do not think that one can translate that simply and say, "It works there, so it might work somewhere else." This is not the justice department's business, but, in relation to the under-16s, the support has to be considered in terms of the whole support that local authorities and their social work departments offer and not merely the support that is offered in pursuance of the determinations of a panel.

Mr Raffan: I understand that there is a great shortage of experienced social workers, particularly in this field. That situation has been made worse because a number of private organisations, such as Barnardo's and Children 1st, have taken some of the best social workers, as they can pay them more. What are we going to do to address that, which is a crucial issue in multi-agency working?

Mr Gallagher: I agree that the supply of experienced and committed staff is critical, because dealing with young offenders in any part of the process is difficult work, be it at the police end or at the other end. On the adult system, we have been fortunate in being able to maintain pretty settled staff—we are seeing the benefits of that. We try not to poach staff from elsewhere in the system, but obviously people will go where they find the opportunities attractive.

The Convener: We now move to the final section, which deals with multi-agency working and youth justice.

Margaret Jamieson: Paragraph 188 of the main report says that some youth justice teams do not have enough senior officials and that some key agencies are not participating. How well are fiscals getting engaged in multi-agency youth justice teams?

Mr Gordon: The short answer is that engagement is patchy—it is good in some areas and could be better in other areas. For instance, in Dumfries and Galloway, the area fiscal sits on a group chaired by David Strang, who will correct me if I am wrong when I say that the arrangements seem to be working well. In other parts of the country, the arrangements are not as well developed. As part of our response to the report, we will be considering what can be done better.

Part of the reason why we can engage better is that we have put an additional management structure in place. We now have area fiscals, who map on to chief constables or, in Strathclyde, divisional commanders. I found that, in the first few months of the area fiscals being in place, their capacity to engage with criminal justice partners and others interested in the criminal justice system increased considerably. We are certainly following that up in the light of the report.

The Convener: Can you give us a time scale within which you expect the patchy situation to turn into national provision?

Mr Gordon: We want to progress matters. The issue is one of our action points across the range of things that we are doing. Perhaps there will be progress over the next six months. It should be remembered that we have to address the issue with criminal justice partners to find out the best solutions and shapes.

The Convener: So you will be looking for progress over the next six months.

Mr Gordon: Yes.

Margaret Jamieson: I have a question for Chief Constable Strang. How are the police engaging in multi-agency youth justice systems? Are the people who are involved sufficiently senior?

Chief Constable Strang: I will talk about two bodies in Dumfries and Galloway. One body is the youth justice team, which is an operational multi-agency team. I have seconded a police officer to it, so it has a full-time police constable who works with social workers, a person from education services and a person from the mental health team. There is hands-on support of young offenders, who are involved in assessments and programmes. The team deals with referrals from the reporter.

It is vital that we work together at two levels across agencies. One level relates to sharing information and data. Often, we deal with the same families and young people, who might have educational or substance-abuse problems. They might be on health, housing, social work and education files as well as being involved with the police. We need to ensure that we share information and data.

Secondly, we need to share decision making, which is where the youth justice strategy group comes in. As Robert Gordon said, I chair the youth justice strategy group in Dumfries and Galloway. The area fiscal, the reporter and senior education, health, social work and enterprise company representatives are on the group, which considers training and employment opportunities. The group was set up fairly recently. A lead from the top has said that it is important that we work together. The group's work involves considering the education services, alcohol and drugs support and services that relate to offending behaviour, so that gaps can be identified and we can ensure that services are provided. That is what happens in Dumfries and Galloway. There is a commitment to such work throughout the police service in Scotland.

It is recognised that what we are trying to do in respect of community safety, reducing crime and building communities takes a long time—there are no instant answers—and that we will solve problems only by sharing them. The police alone or Customs and Excise enforcement will not solve the drugs problem. The education services should be involved so that drugs problems are prevented and health services should be involved so that there is treatment and care. Employment and training services and others should also be involved. That underpins our problem-solving philosophy.

The Convener: When will there be police involvement throughout Scotland?

Chief Constable Strang: There is police involvement—every youth justice team links in to some extent. In some areas, an officer's time might be a couple of days a week. It so happens that we have a full-time officer who is written off to do such work.

The Convener: You have given a good picture of Dumfries and Galloway, but when will that apply throughout Scotland?

Chief Constable Strang: Currently, the police are involved in every youth justice team throughout Scotland to some extent, depending on local circumstances.

Sarah Boyack: You rightly said that information sharing is the way of dealing with individual young people or with what could be collective problems across communities. Are there any obstacles to information sharing? The issue arose in an earlier question that we asked about sharing information and targets. Is there a cultural problem? It has been suggested that there might be a legal problem relating to whether social workers and the police are allowed to tell each other about cases or young people with whom they are dealing, for example. Is there anything that we need to think about in that respect? Are things as straightforward as you suggest?

Chief Constable Strang: I meant to suggest that the matter was important but not necessarily straightforward. There are three levels: the legislative, the cultural and the technical. There is a perception that the Data Protection Act 1998 prevents such information from being shared, but I do not think that it does. If the information were being recorded for the purpose of community safety, we would be able to overcome the barrier.

The cultural level is probably the most important. If one tried to get statistics from an accident and emergency unit, one would quickly become aware that there is a culture of confidentiality in the health sector. That barrier has to be broken down in relation to the professional view of the data. Another cultural aspect relates to the ability to trust that partners to whom information is given will keep it confidential and use it for the correct purpose. That level of trust must be built up on an individual and organisational level.

On the technical level, as I said earlier, we do not all store the data in a reasonably accessible way. We would want to have common data sets and be able to interrogate one another's systems. I do not think that any local authority is at that level yet, but that is where we would want to move to.

The Convener: Margaret, would you like to ask the final question of the day?

Margaret Jamieson: Mr Gallagher, how well do you think that the key agencies are getting involved with the multi-agency youth justice teams? How is the Executive ensuring that those involved are senior enough to deliver the aims?

Mr Gallagher: I will start with a big picture and work down. I sometimes think that operating in the justice system is a bit like herding cats. The various agencies in the justice system are properly independent: for example, judges are independent, chief constables are operationally independent and procurators fiscal have a great deal of discretion. There are good reasons for that being the case. However, the issue becomes one not of management in the conventional sense of command and control, but of encouraging co-operation and joint working. That applies in relation to the adult justice system, to young offenders and, in the broader confines of the justice system, to the youth justice teams. Those teams are working with the children's hearings panels, which are the responsibility of my colleagues in the education department.

We are making progress. The capacity of the organisations and the individuals to work constructively together has improved. I have been involved with the justice system on and off since the late 1970s and I can see that the capacity for joint working has markedly improved since then—indeed, it has markedly improved since the 1990s.

It is interesting that data and information were the subject of one of the first questions that we were asked and now form the basis of the last question. One of the lessons that I would take from the work that has been done by the Auditor General and the Accounts Commission is that we can start to ask intelligent questions only when we have information. One of the developments in recent years that gives me hope that the progress that we have made will continue is that we are now, through the use of IT, beginning to develop the capacity to ensure that we get quality, comprehensive and timely information, which we could not do before.

Previously, if one wanted to know what was going on in the justice system, one would mine the data in the statistical system, which are inevitably backward looking and reflect only what was collected for statistical purposes. Robert Gordon and Norman McFadyen have referred to the capacity for useful management information that the new systems in the COPFS will give us and, last year, we completed the joining up of the so-called primary loop of the integrated Scottish criminal justice IT systems. Once cases work their way through the ISCJIS, we will have a mine of further data. That will mean that we do not have to rely on the kind of examples that the Auditor General and the Accounts Commission have

relied on, but will have good-quality and reasonably up-to-date information that will enable us to ask intelligent questions and help people to work constructively together. The answer to your question is: we have got better, but there is a way to go.

16:45

Margaret Jamieson: We have some way to go. Initiatives exist that cut across all the agencies—local authorities, the police, the justice system and so forth. Have those been examined to see whether they are useful in any way? I am thinking of the better neighbourhoods fund, which involves many agencies. That is one pot and it represents one area where the barriers appear no longer to exist and where we are delivering.

Mr Gallagher: I agree. There are many good examples of area-based working in different Executive activities, not just in relation to justice. The better neighbourhoods scheme is one example, but there are also good examples of working across particular client groups, including the Executive's strategy on drugs. Drugs represent a challenging problem that requires complicated cross-agency work. We have not yet cracked that, but we have made substantial progress.

There are many such areas and many different approaches. We must improve our capacity to learn and replicate what works. That is challenging. We have made progress, particularly with community sentences, in that we have set the legislative foundations and have made the sentences available. Each time, we have tried something out and evaluated it; if it works, we have implemented it. I am thinking of the development of electronic tagging or the drug treatment and testing orders, for example. However, I do not claim that we have learned all the necessary lessons.

Rhona Brankin: How are multi-agency working and the need to have common sets of national performance indicators evaluated?

Mr Gallagher: You have saved the hard question to the end. Multi-agency working is not an end in itself—we are not just friends together. Multi-agency working is about a task and the ultimate measure of its success is the evaluation of the outcome against the task. Although the point is not germane to the report, I mentioned multi-agency working in relation to drugs. That can be evaluated only against the demanding targets that have been set. As regards crime, one can look at the multi-agency working that is implicit and, indeed, explicit in the community safety partnerships. Again, the success of that is judged by its outcome.

Judgment is important because there is no simple cause and effect in any of the areas about

which we are talking. For example, crime may still increase despite good-quality multi-agency working on crime prevention. There may not be a shortfall in the multi-agency working; other factors may be at work, such as the supply of drugs or how young people behave with alcohol. Therefore, there is no simple yes or no answer and no simple success or failure. The ultimate aim of multi-agency working is to make a difference in the real world. It is not a question of how the agents feel about it; it is a question of how successful the approach is.

Chief Constable Strang: I do not think that I can add anything less woolly. Youth crime may be reduced because the police forces are doing a wonderful job or because the youth justice team or community planning is working. It is difficult to say that this action will have these results or that we achieved this result because of that action. The national standards for youth justice will help to identify what we should be doing. I think that we can measure processes and ask whether we have services for this, that or the other. However, it is difficult to link outcomes to inputs.

Mr Gordon: I do not know whether I can add anything to what Jim Gallagher and David Strang have said about the long run. However, as far as intermediate outcomes are concerned, we have found that things have worked and that people have been able to work together. What has been a problem is no longer a problem and processes have become joined up. One could compare and contrast the situation in different parts of the country and find out the factors that make some aspects of joined-up working more successful than others. However, as far as the long run is concerned, it is difficult to determine the change that one will effect and the impact that joined-up working will have.

Mr Raffan: I have a quick question for Mr Gallagher. I agree that, as far as multi-agency working is concerned, we have to look at everything in its context. However, although your letter to the committee refers to the great achievement of more drugs seizures, that has to be seen in relation to the price of drugs. Street prices are still dropping alarmingly, which suggests that more drugs are coming in. I use that as an example, but I would like to know to what extent you feel that you are under political pressure to interpret results in a certain way by the four-year time scale to which we are limited.

Mr Gallagher: I would never admit to feeling under political pressure—well, perhaps only today. Some of the targets that we set ourselves are for intermediate outcomes—as Robert Gordon put it—and they can be swamped. The issue of drugs is a good example of that. You are right to say that the street price of drugs is not going down—

Mr Raffan: It is not rising.

Mr Gallagher: Sorry—it is not rising. However, this is counterfactual, in a sense. Who knows what would have happened if we had not had the seizure policy? That is why I said, in response to Rhona Brankin, that ultimately there are questions of judgment that have to be resolved. We are all capable of making such judgments, although we might not always agree with them.

The Convener: The note on which we end the meeting illustrates the depth, complexity and importance of the subject that we are addressing. Mr Gallagher talked of asking intelligent questions and encouraging people to work together—I think that that is always a useful activity.

I thank all the witnesses for attending today. This important and wide-ranging report affects absolutely every part of Scotland and is a fundamental element of the overall health of the society in which we live. The committee wishes you well in your work and appreciates the evidence that you have given today.

In accordance with rule 7.8 of standing orders, I suspend the meeting for 10 minutes.

16:52

Meeting suspended until 17:00 and thereafter continued in private until 17:29.

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