



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

PUBLIC AUDIT COMMITTEE

Wednesday 21 September 2011

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PUBLIC AUDIT COMMITTEE

4th Meeting 2011, Session 4

CONVENER

*Hugh Henry (Renfrewshire South) (Lab)

DEPUTY CONVENER

*Murdo Fraser (Mid Scotland and Fife) (Con)

COMMITTEE MEMBERS

*George Adam (Paisley) (SNP)

*Colin Beattie (Midlothian North and Musselburgh) (SNP)

*Willie Coffey (Kilmarnock and Irvine Valley) (SNP)

*Mark McDonald (North East Scotland) (SNP)

*Tavish Scott (Shetland Islands) (LD)

*Drew Smith (Glasgow) (Lab)

*Humza Yousaf (Glasgow) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Miranda Alcock (Audit Scotland)

Mr Robert Black (Auditor General for Scotland)

Angela Cullen (Audit Scotland)

Sally Thompson (Audit Scotland)

CLERK TO THE COMMITTEE

Jane Williams

LOCATION

Committee Room 1

Scottish Parliament

Public Audit Committee

Wednesday 21 September 2011

[The Convener *opened the meeting at 10:31*]

Decision on Taking Business in Private

The Convener (Hugh Henry): Good morning. I convene the fourth meeting in this session of the Public Audit Committee. I remind members to ensure that all electronic equipment is switched off so that it does not interfere with the recording equipment.

I do not know whether the sound equipment for translation is working, but I particularly welcome to the meeting a delegation from the Republic of Kosovo Assembly's Oversight Committee on Public Finance. I welcome the delegation to the Scottish Parliament and to Scotland, and hope that it will find the meeting useful.

Agenda item 1 is to decide whether to take item 4 in private. Do members agree to do so?

Members *indicated agreement.*

Section 23 Report

“An overview of Scotland’s criminal justice system”

10:32

The Convener: Item 2 is a section 23 report for the Auditor General for Scotland and the Accounts Commission entitled “An overview of Scotland’s criminal justice system”. The Auditor General, Robert Black, is accompanied by Angela Cullen, Sally Thompson and Miranda Alcock. I welcome all of them to the meeting.

I invite Mr Black to give a presentation.

Mr Robert Black (Auditor General for Scotland): Good morning. I echo the convener’s warm welcome to our friends from Kosovo, whom I had the great pleasure of meeting in Audit Scotland’s offices yesterday. We had a most interesting discussion. I hope that they enjoy their time in the Scottish Parliament.

“An overview of Scotland’s criminal justice system” was prepared by Audit Scotland for both the Accounts Commission and me, as the convener remarked, as it covers a significant element of what local government does. It is the first report to provide an overview of the whole of the adult criminal justice system in Scotland. We attempted to include an estimate of the costs involved, and we looked at the efficiency and effectiveness of the processes in the system.

For the report, we defined the criminal justice system as starting from the time when the police identify someone whom they consider may have committed a crime until that person leaves the system—for example, until they are found not guilty by a court, pay a fine or complete a sentence. All decisions about prosecutions and sentencing are, of course, independent of Government, and the report does not consider any elements of that part of the system.

Scotland’s criminal justice system consists of a complex set of legal processes. Many bodies are involved in it, and each has different roles and accountabilities. The team worked hard to try to capture that, and I think that they succeeded in exhibit 1 of the “Key messages” summary report. The complexity is important because it helps to ensure that the judicial processes are separate from the powers of the state. I fully recognise that that makes it difficult to manage criminal justice processes as a whole system. I acknowledge that the criminal justice bodies have been working together to improve processes in recent years, but more remains to be done. We highlight some of the features in the report.

As members will be well aware, since devolution there have been significant changes to the criminal justice system. We have captured those in exhibit 3 on pages 11 and 12 of the main report. There have been 16 acts of primary legislation that directly relate to the criminal justice system since devolution. Those changes have introduced important reforms, but they have also added to the complexity of the system.

Another factor that can affect cost and complexity is the need for the Scottish courts to respond to case law as it emerges. On page 18 of the main report, we use what is often called the Cadder ruling as an example of that.

To indicate the scale of activity, the report records that, in 2009-10, 276,000 prosecution reports went to the Crown Office and Procurator Fiscal Service, 137,000 people were processed through the courts and 121,000 of those were sentenced. Our first estimate of the cost of the criminal justice system in Scotland in 2009-10 is about £857 million. That excludes most of the money spent on the police service.

Budgets have reduced in 2011-12—some of them significantly—and we give details of that in the report. However, the criminal justice system is what is sometimes called a demand-led system. In other words, there is limited scope to manage the volume of activity in key parts of the system. We have tried to capture that in exhibit 6 on page 20 of the main report. Given those factors and the increased pressures on budgets, there is a risk, in the longer term, that criminal justice bodies will find it difficult to maintain the quality and level of services that they currently provide.

Given those challenges, it is all the more important to improve the efficiency of the criminal justice system. We think that it could be improved. Incompatible information technology systems and limited sharing of information lead to inefficiencies. We have given some examples of that in the report. Different types of performance information collected by various agencies make it difficult to plan improvements across the whole system.

In exhibit 5 on page 17, we have indicated the typical cost of processing summary cases. The cost increases as each stage in the process is passed and the total, in a typical case, is around £2,100. I emphasise that that is no more than indicative and is based on certain assumptions that the team worked on and got agreement to from the interested parties. However, it gives the committee an indication of what a case costs.

Although the length of time that is taken to process summary cases through the courts has improved, it is still all too common for cases to repeat stages at court several times. We have attempted to estimate the cost of that. We think

that repeating the stages cost about £10 million in 2009-10. There are also cases in which a decision not to proceed is taken late in the process. We estimate that those cases cost around £30 million in 2009-10.

Exhibit 9 on page 28 sets out what happened to cases at court in 2009-10 and the estimated costs involved at each stage. On the opposite page, we have another case study, which outlines the estimate given to us by the Association of Chief Police Officers in Scotland that police waiting time at court cost almost £16 in that year. We have audited that figure from ACPOS and think that it is a useful number to put into the report.

The Scottish Government and criminal justice bodies are working to address many of those issues. It is possible to improve how the system operates. Case study 3 on page 30 outlines examples of local initiatives that have improved performance in processing cases through the courts.

We found that reoffending is a continuing problem in Scotland, although I will not say much on that now. The final part of the report, which starts on page 33, examines effectiveness in reducing offending. It is a sad statistic that more than two thirds of those sent to prison in 2009-10 had five or more previous convictions. We estimate that, in 2009-10, around £81 million was spent by criminal justice bodies, excluding the police, directly on services to reduce reoffending. That is less than 10 per cent of the total spent in the criminal justice system.

Services to reduce reoffending vary markedly across the country, and the lack of consistent performance information makes it difficult to compare the effectiveness of different services. However, it is important to recognise that there have been developments that could offer the prospect of reducing reoffending. We include two case studies towards the end of the report.

The report contains a lot of information about the system, which is complex, but I emphasise that it is a high-level overview. The team did not undertake a detailed examination of any part of the system.

The team will do their best to answer any questions that the committee may have. Unfortunately, I have to leave soon to be present at the Finance Committee. However, the team are expert on these matters.

The report is a high-level overview and we plan to investigate some of the issues in more detail in our forward rolling programme of work in the years to come.

The Convener: Thank you, Mr Black. Will you clarify whether the £857 million spent on the

criminal justice system excludes the cost of police?

Mr Black: It excludes most of the cost of the police service, not all of it. It includes elements of the police interacting with the court system, for example.

The Convener: It is a staggering amount of money to keep our communities safe. Part of the problem that you identify is that, despite the large sums of money and although there are some examples of good practice, we are still making little progress in some areas.

You clearly highlight not only the cost of reoffending but the ineffectiveness of the measures that are taken to reduce it. That worried me. It is not a criticism of the present Administration alone, because the problem goes back to previous Administrations. Notwithstanding the fact that you plan to investigate in further detail, do you have any sense of the key issues in the failure to reduce reoffending or what could be done to start making some progress?

Mr Black: It is difficult for me and my colleagues to give you any precise information on that because we are limited to what is in the audit report. However, we all know that repeat offenders have a range of needs, which we tried to capture in exhibit 10 on page 35. There are behavioural issues to do with attitudes to offending and lifestyle. There are emotional and mental health problems. There is serious abuse of dangerous substances. Those factors can all lead to problems with physical health. There can be difficult family circumstances, and housing and living arrangements might be difficult. Some neighbourhoods are more challenging than others and behavioural patterns among young people might be difficult to cope with. There are also issues to do with education, employment and training. In that exhibit, we try to capture all those factors, but we have not analysed them in detail. It is possible that, before long, Audit Scotland will examine repeat offending, given its importance to the system in Scotland.

Colin Beattie (Midlothian North and Musselburgh) (SNP): A couple of points jump out from the report, such as the emphasis on inefficiencies in the system. For example, paragraph 30 on page 6 of the key messages summary report says that the IT systems that were developed for the individual criminal justice bodies are incompatible and there is poor sharing of information. There is obviously a cost to all that inefficiency, which is a theme that runs through the report. Page 7 of the key messages document highlights some of the costs of inefficiencies. There is a clear opportunity to create efficiencies in the system and save money that might be better invested in, for example, dealing with the

unsatisfactory reoffending situation. Audit Scotland could look at certain aspects of this issue in a bit more depth and come up with some recommendations on how we might progress.

10:45

Tavish Scott (Shetland Islands) (LD): Returning to your comments about reoffending, convener, and the Auditor General's observation that Audit Scotland could take another look at the issue, I note that paragraph 98 says that reoffending on release costs "£80,000 at today's prices" and that, in an average year, 4,000—give or take—reoffend on release. Based on my rough mathematics, that comes to more than £300 million in a year or getting on for more than £1 billion over a parliamentary session. You make very good points about preventative spend, which we will no doubt hear more about in this afternoon's statement on the spending review—and so we should, given that it is the right thing to do. Nevertheless, if my maths are even roughly right, does that not make paragraph 98 a damning indictment of what is going wrong at the moment?

Angela Cullen (Audit Scotland): That paragraph refers to a piece of work that was done for the United Kingdom in 2002, which makes it almost a decade old. We also make it clear in the report that neither the Scottish Government nor we have attempted to calculate the costs of reoffending to Scotland. These figures are simply an illustration of the amount of money that is involved, but I would say that your rough calculations are probably right.

Tavish Scott: Does that not make the case for the Government and Audit Scotland to take a pretty serious look at this issue? After all, if it is costing more than £1 billion over a parliamentary session, we must, as Mr Beattie rightly observed, be getting something pretty wrong. We are spending a lot of money on this that could be spent on many other things.

Angela Cullen: As the Auditor General mentioned earlier and as we say in the report, one of the purposes of overview reports is to allow us to identify other areas where we could carry out really good value-for-money audits. Reoffending and the inefficiencies that Mr Beattie mentioned are certainly two areas where we are considering carrying out further work. At this stage, we think that we can carry out both audits—although the first one will probably be on reducing reoffending as it raises a number of issues that we think we can examine.

Tavish Scott: In paragraph 101, you say that the

"target of reducing the overall reconviction rate by two per cent to 42 per cent by 2011 ... has not been achieved".

Is it clear to you why that is the case?

Mr Black: The team will provide more detail on that, but the short answer is that, for many years now—indeed, since the 1990s—that particular statistic has hovered around or gone slightly above 42 per cent. It is a persistent problem. The data in the report are about a year old, but I note that, a few weeks ago, the Scottish Government reported that the level has come down slightly, although the reduction is only very marginal against what has been a persistent trend around the 42 per cent mark.

Tavish Scott: It has been a trend that many Governments going back to pre-devolution have been dealing with for many years.

Mr Black: Yes.

Tavish Scott: Is it fair to say, then, that we simply have not grasped this problem?

Mr Black: The agencies are definitely trying to tackle it but, for the reasons that we discussed earlier and which we attempt to capture in exhibit 10, it is deep-seated and pervasive. I believe that Miranda Alcock has figures going back to 1999 and ask her to indicate just how persistent the problem has been.

Miranda Alcock (Audit Scotland): For the two-yearly conviction rates, we take a cohort and check whether those in it have reoffended within two years. As the Auditor General pointed out, the levels have hovered between 42 and 45 per cent. Although they are therefore now at the lower end, in all the time the data have been collected the figures have never dipped below 40 per cent. Clearly, given the attempts over a number of years now to reduce reoffending, the problem is intractable. That is one of the reasons why we would be interested in looking in more detail at causes and the cost effectiveness of different interventions, to try to pull out where the money that is currently spent would be most effectively spent. We found that such information is lacking. A range of services across the country that are delivered by councils are purchased by community justice authorities. We need to look a bit further into how that money is spent.

Case study 5 on page 37 indicates that a more holistic, person-centred approach that looks at all the problems for not only the offender but their family can be effective. However, such an approach is also expensive. We could therefore look at the different funding mechanisms that could be used and ascertain whether there are additional ways of levering in funding from other sources. If we did a more detailed performance audit, we would examine such aspects.

Tavish Scott: That would be very welcome. I take Mr Black's earlier observation that probably

the last thing that we need is more legislation. However, the report makes a significant point in paragraph 107 about a legal requirement. You may not have considered this, but would the legal requirement to which you referred make any difference in this area at all?

Miranda Alcock: Until we have done the study, we would not be able to comment on that.

The Convener: When you looked at what you described as the intractable problem of reoffending, did you look for examples anywhere in Europe of success in reducing reoffending?

Mr Black: I will pass that question to the team who researched the issue.

Miranda Alcock: For the report, we did not look in depth at any international comparisons. However, I think that we would try to do that if we did the more detailed performance audit.

Murdo Fraser (Mid Scotland and Fife) (Con): The issue of reoffending rates is crucial. I note that case study 6 on page 38 discusses the Peterborough prison experiment in which a voluntary sector group is funded via social impact bonds to work with reoffenders. That is potentially a very interesting development, although it is at too early a stage for us to get results from it. However, if we are to tackle reoffending rates, we need much more innovative approaches than we have had up to now.

It is pretty clear from the report that everything that we have tried up to now has not worked. As we know, there are huge pressures on local government budgets, which means that many currently funded interventions might receive cuts that could make the situation even worse. If you consider the issue in greater detail, will you look further into the Peterborough prison example?

Miranda Alcock: We still have to scope that. We referred to the Peterborough example in the report, so I think that we would pick up on alternative funding models. There may be others that we could investigate as well.

Murdo Fraser: Unless anyone else wants to come in on reoffending, can I broaden this out, convener?

The Convener: Does anyone want to comment on reoffending?

Colin Beattie: I realise that the overall figure for reoffending is about 44 per cent, but case study 5 on page 37 refers to the national statistics indicating that 47 per cent of women offenders return to prison. How significant is that? It means that the percentage of men who reoffend is lower than the percentage of women who do so. I realise that the audit may not have gone into that, but why do you think that is?

Miranda Alcock: The average is 42 to 44 per cent, but the figure varies for younger people, for women and for older men released from prison, who are much less likely to reoffend. The statistics cover all that but, because the report is an overview, we did not go into that level of detail. However, the reoffending rates certainly vary according to someone's age and gender, the number of years that they have spent in prison and the kind of sentence that they get. There is a range of variables. We would look at that in more detail if we did a detailed performance audit.

Colin Beattie: The differential between men and women seems quite significant. I would think that there is a explanation for that, although maybe not an easy one.

Miranda Alcock: We have not undertaken any investigation into that. The Government has just established a commission on dealing with women offenders, which may do some further detailed work on that.

Murdo Fraser: Let us return to the broader issue of the overall cost of the criminal justice system, which Mr Black touched on earlier. Page 19 of the report and the following pages detail the overall costs. You highlight the difficulties of the system being demand led and trying to manage demand. We are continually told that we have a 30-year record low crime rate, which I am sure is the case. Indeed, the statistics that you quote in paragraph 49 confirm that the number of cases being reported to the Crown Office and Procurator Fiscal Service has fallen substantially. One would logically assume that the cost of criminal justice would be reduced if the number of offences were reduced, but that does not appear to be the case. Can you provide some background to that?

Mr Black: I will begin to answer that question and the team will help you more fully. It is a classic example of the numbers on the page asking more questions than they answer. In paragraph 49, we note that the number of recorded crimes and offences, the number of crimes and offences cleared up, the number of cases reported to the Crown Office and Procurator Fiscal Service and the number of cases registered for court fell, but the number of community sentences and the number of prison sentences increased. You stand back, as a citizen in Scotland, and wonder what is happening in the system. It is difficult to tell because it is complex and so many agencies are involved. There are issues to be addressed.

I leave the question hanging and apologise to you, convener, for having to leave you now to go to the Finance Committee.

Sally Thompson (Audit Scotland): As the Auditor General said, some indicators of demand seem to be going down while some seem to be

going up and we do not know why. There is evidence that the increasing complexity of some cases may have cost implications. For example, although the number of cases registered at courts has fallen, the number of sitting days has increased, and the Scottish Court Service says that that is because of the increasing complexity of cases. There are possible reasons for the rising costs, but we have not gone into them in huge detail.

Murdo Fraser: That is an interesting answer. We all understand that there is increasing complexity because of scientific evidence such as DNA evidence, which requires much more money to be spent on the investigation of crime. Also, the complexity of crimes such as financial fraud means that trials can last a lot longer. It would be interesting if we could understand those issues better, as the contrast between a falling crime rate and rising costs requires further explanation.

In exhibit 9, on page 28, you refer to some of the delays in the processing of court cases. It is many years since I used to do a bit of work in the criminal courts—on a professional basis, I should say—but I remember the immense frustration that everybody used to feel about the continual delays caused by cases being cancelled at the last minute because a witness did not appear, a member of the jury was ill or a police officer could not attend. A huge amount of time was spent just waiting around for something to happen in a case that could then be settled at the last minute with—we are not allowed to call it a plea bargain, but that is essentially what it was—an arrangement whereby the accused would plead guilty to a reduced charge. All the people who had attended at court would have had their time wasted, although they could legitimately claim for loss of income and travelling expenses.

I am aware of a range of initiatives that have been brought in over the past 20 years to reduce that, including the introduction of intermediate diets. Nevertheless, we still have a huge problem with cases continuing to the last stage before resolution is reached, with people pleading guilty on the very last day despite having been through various intermediate stages. Does the Crown Office and Procurator Fiscal Service focus on that enough? How much more could it push to reduce the administrative burden and costs that are associated with all the delays?

11:00

Sally Thompson: The Scottish Government and criminal justice partners have a programme of work called making justice work that has various elements and strands, one of which focuses on improving how cases progress through the courts. That involves multi-agency meetings—all the

bodies are getting together and are trying to understand the problems. They have identified a range of pieces of work on which they are starting, such as improving witness attendance at court and improving the use of IT, so that people do not necessarily have to move around. That work is at quite an early stage, but the issue seems to be the focus of the Scottish Government and criminal justice bodies.

Murdo Fraser: On what timescale is that work operating?

Sally Thompson: The different strands have different timescales, but the hope is to achieve improvements by about 2013 or 2014.

Murdo Fraser: Convener, we might want to follow up that work. The issue is huge and progress is years down the road.

Humza Yousaf (Glasgow) (SNP): I have a serious bout of man flu, so I ask people to bear with me as I croak out my questions, which relate somewhat to Mr Fraser's point.

It seems to be possible to make efficiencies through the Scottish Legal Aid Board—although continued dragging out of pleas by some solicitors has been a problem—through the presumption against short sentences and in favour of community payback orders, and through the making justice work programme, which you mentioned. You have semi-answered this question: do we know how much those efficiencies might save?

I will ask my second question before I forget it. It is entirely appropriate and correct to examine efficiencies—that is Audit Scotland's job—but how much focus is placed on outcomes? You mentioned reoffending, and Mr Fraser mentioned that the crime rate is at a 32-year low. Is any mechanism available to show how future efficiency savings might have an impact on keeping our communities safer?

Sally Thompson: I will answer the first question. When we did the audit, the savings that the Government and criminal justice bodies hope to make from the making justice work programme had not been decided—the work was at too early a stage—but the bodies involved were looking to quantify how much they would save.

Will you repeat your second question?

Humza Yousaf: Do you guys have a mechanism for measuring what the impact of future efficiencies might be on community safety?

Angela Cullen: We do performance audit work and value-for-money studies. I will turn into an audit geek and say that the definition of a value-for-money study concerns examining the inputs, the process, the outputs and the outcomes. In a

value-for-money audit, we would intend to consider all those issues. We would consider how much money it cost to achieve the outputs, the activity levels and the outcomes that a service delivered. In the current economic climate, we would also look at efficiency savings wherever we could. We would consider how much initiatives cost, how much they might save and the opportunity cost—whether the money could be spent on something else.

The general answer is that we try to consider those issues in all our work. The report is a high-level overview, so we did not specifically consider the question, although we examined performance against the national indicators. We would pull together any more detailed work that we did on reducing reoffending or court inefficiencies for a really good report.

Humza Yousaf: How do you weigh up the input and outcomes? If a report identified that £X million of savings could be made, but they might not reduce reoffending or might not have an impact on that, how would you weigh that up? Is your job simply to present the case?

Angela Cullen: Our job is to present the facts about the available options, on which decisions must be made. We would certainly try to highlight how much something had cost to deliver, whether savings could be made and whether a process had inefficiencies or productivity issues.

Sometimes—although not necessarily in the report that we are discussing, because it is an overview—when we look at how much money is being spent and at the outputs as an activity, it looks like there is a dip in productivity over time. We would try to pull those figures out, present them to the committee and ask others why that might have happened and whether it has also affected the outcome. We raise the questions but we do not necessarily have the answers. We do not manage the system.

Humza Yousaf: I suppose that that is what we are here for.

George Adam (Paisley) (SNP): Page 24 of the main report refers to improving how cases go through the court system. I will follow on from what Murdo Fraser said. He is perhaps a classic example of how the legal profession takes so long to go through things—I thought that he would never get to the end of his question.

Murdo Fraser: It is just as well that I am not charging by the hour.

George Adam: Perhaps that is part of the reason why we are here.

With regard to some of the items in your excellent exhibit 9 on page 28, which shows the amount of money that is churned, is there a need

for the legal profession to act with a wee bit more maturity or, perhaps, to have a long hard look at itself? I believe 100 per cent in total representation, should someone end up in a legal case, but a solicitor will use the whole system, including cancelling court times, to ensure that a case goes through the whole process.

How can we change the culture in the legal profession to make savings? You suggest that such inefficiencies cost £10 million in 2009-10 and that late pleadings cost £30 million. I assume that the cost of police time was £16 million rather than £16, as Mr Black suggested. If the cost was £16, we are not paying the police enough. How do we create a culture change?

Angela Cullen: Part and parcel of the making justice work programme, which the Scottish Government is doing with the criminal justice bodies, is about them trying to work together. Although they must have their different accountabilities and they must be independent in their decision making, they are interdependent in terms of process. Part of the making justice work programme is about trying to establish that ethos and to build a mutual understanding that if you do one thing, it means that I cannot do another thing, which impacts on the case. On page 27 of the report, there is a quote from a speech by the Lord President. He is Scotland's most senior judge and he was very strong in saying that everybody in the system has a role to play to try to reduce the churn and the delays in the system, so that is also the Lord President's take on the situation.

George Adam: So, we are on a wing and a prayer at the moment. We hope that the legal profession wakes up and helps us out. You cannot answer that.

Willie Coffey (Kilmarnock and Irvine Valley) (SNP): I will return to a point that Murdo Fraser made about inherent delays in the system, which my colleague George Adam also mentioned.

I do not want to stray into territory that is covered by other committees, such as the Justice Committee, but it seems that there are opportunities in the system to reduce delays even further. For example, on many occasions the Crown and the defence do not agree minutes of admissions and evidence in writing in advance. My understanding of the system is that that often means that police officers attend and, during court proceedings, are often asked to speak on issues that are perhaps not even contested at that point or subsequently become uncontested. I understand that if such issues are dealt with earlier, that can be ironed out of the system, which would probably yield some of the savings that Murdo Fraser and my colleague George Adam are looking for. It is perhaps unfair to ask the Audit Scotland team to comment on that, because the

report is a generic overview, but do you have any understanding of that issue and whether it might be a relevant matter for us to examine in the future?

Sally Thompson: In the report, we have used some research that was done by the Scottish Government. People sat in court taking note of why a case was delayed and why churn happened. The most common reasons were that witnesses did not attend, the accused did not turn up or the procurator fiscal or the defence were not fully prepared. Some lack of full preparation could be because they have not met in advance. The system is complex, with so many things that can go wrong and so many ducks that must be in a row before a case progresses. There are many potential reasons for delays and, because this is an overview, we did not go beyond the top level.

Willie Coffey: I fully understand that and the point is worth making.

Colin Beattie mentioned reoffending. We set up the community justice authorities in 2005 and we currently spend £100 million a year on them. I have the highest regard for CJAs, particularly the one in south-west Scotland with which I am most familiar. One of the principal aims is to tackle reoffending. I note from the chart in the main report, on page 9, that there does not seem to be an inspection activity for the CJAs in order to assess and evaluate their performance. We can argue that these are early days for the justice system, and sometimes we expect miracles overnight. We might be looking for something like that in the future so that the CJAs become more accountable in the work that they do for us. They can, and will, play a key role in reducing reoffending.

Miranda Alcock: When we do the more detailed performance audit on reducing reoffending, a key part will be looking at what the CJAs have achieved since they were set up. Although there is not a separate body inspecting them, we will cover what they have been doing in the performance audit. We will look at it in a lot of detail.

Angela Cullen: Although there is no separate inspection body, we audit the CJAs and their final accounts and we could do value-for-money audits of them. As Miranda Alcock said, we intend to encompass inspection in a wider review of reducing reoffending and looking at performance, as well as at how much money the CJA is spending. We audit the CJAs and the Auditor General appoints the auditors.

Willie Coffey: One of the principal aims—which Tavish Scott introduced to the discussion—is to reduce and tackle reoffending. We must see some results over the next few years.

Mark McDonald (North East Scotland) (SNP):

I was interested in case study 2 on police waiting time. Murdo Fraser touched on the time that is spent in a court setting before finding out that the case will not go anywhere because a plea has been accepted. I have experience of that: when I was 16, I attended court as a witness in an assault case. I sat around for almost half a day, waiting for the case to be heard, before being told that the guy had changed his plea. I was not complaining because I got a half day off school, but it struck me that there was a cost to the police and to the wider economy. People take time off work to appear as witnesses or to serve on juries. There will be a cumulative impact beyond the justice system.

The parameters of the audit involved the cost to the justice system but there must be an impact on the wider economy. If we can improve the efficiency of the process, there will be a benefit beyond the justice system. With that in mind, the conundrum that we face is about how to improve the system for police attending court when they are not called to give evidence, while retaining the flexibility that is required in the justice system to ensure that people have good access to justice without restricting them in that regard. There is a balancing act. My question is on the wider economic cost.

Also, although the report is welcome, much reform is taking place in terms of community sentences and their impact on reducing low-level reoffending. In a couple of years, will we see a change in the trend in reoffending and in some of the inefficiencies?

11:15

Sally Thompson: On the first point, we acknowledge in paragraph 86 of the main report that there are wider costs, but we have not looked into them. It is not just about the cost to the economy, but about the inconvenience and stress that is caused to victims and witnesses when they turn up and do not know what is happening.

Angela Cullen: With regard to the current reforms, you are right to say that there is a lot going on, and—as we have highlighted—a lot has gone on over the past decade. We say in the report that it is too early to examine the switch to community payback orders. We would not have considered that issue in an overview anyway, but it is too early to tell whether the orders are making a difference or producing a different outcome to the sentences that they replaced. They may make a difference, but we do not know yet.

Mark McDonald: When we look at offending and reoffending, we focus on the justice input, but many other areas of public life and society have

input, too. We need to keep an eye on things such as the education sector and the anti-poverty agenda, because those areas obviously have an impact.

Angela Cullen: Absolutely they do, and we acknowledge in the report that there are wider public sector costs, and there are contributions that certain areas make to reducing reoffending. We have not attempted to cost those, but you are right to mention the education sector. The health service also delivers many drug and alcohol treatment services that may contribute to preventing reoffending. However, our report is just a review of the criminal justice sector; it cannot affect the wider public sector.

Drew Smith (Glasgow) (Lab): I am interested in understanding where victims fit into the system. Paragraphs 22 to 26 discuss some of the issues relating to victims, but there is not an awful lot in the report. Is that because there is not an awful lot out there to measure?

Sally Thompson: You will get bored of hearing this, but because it is an overview report, we have just looked across the system. Our way in was to follow the public pound, and to identify the big areas of spend and what they are delivering.

Spend on support to victims does not amount to that much money in the grand scheme of things; Victim Support Scotland gets around £4 million. As part of our audit, we met Victim Support Scotland and Scottish Women's Aid to hear their views, and we drew largely on—and highlighted—published reports. The Scottish Government seems keen to progress that area of work, and to introduce legislation in the form of a victims' rights bill during the current session of Parliament.

Drew Smith: I will come back to the victims issue, but on a related point, did you get any sense that the various agencies that are involved take seriously the economic impact that occurs outwith the justice system? The huge inefficiencies in how they operate affect other people, for example people who are not at work because they are sitting in court waiting rooms.

Sally Thompson: The agencies acknowledge that there is an impact when proceedings are delayed and there are long waiting times at court. They will seek to address that issue through the making justice work programme, from which they would expect to gain benefits such as less inconvenience and fewer lost working days for victims and witnesses.

Drew Smith: There has not, however, necessarily been a great deal of work to measure that specifically. To return to victims, are there ways to involve them more in the process that would help us to address some of the inefficiencies? In other public services, we would

regard such public interaction as a force for making the system more efficient—if people had to report on why the cases were dragging on for so long and why there were such long delays, there might be an incentive for those things not to exist.

Sally Thompson: The report makes the point that, although partnership working has improved, there is not much evidence of agencies getting user views which, as you say, would happen in other service areas.

Colin Beattie: We have expressed concerns about inefficiencies in the system and the financial impact of that. Paragraph 88 highlights the important point that, in a survey, only 38 per cent of adults were confident that the criminal justice system dealt with cases promptly and efficiently. Clearly, that is not a judgment on the outcomes, but it means that only a small minority had confidence in the way in which the system works. That is a concern, because we need people to have confidence in the court system. To me, regaining that confidence is another imperative that we should note in trying to improve efficiency.

The Convener: That is more a statement than a question.

Humza Yousaf: Although we have control over our justice system in Scotland, has any examination been done of efficiencies or inefficiencies in cross-border working? I am thinking of the UK Border Agency and anti-terrorism measures. To give an example from my experience, in travelling to Scotland's airports, I have been stopped four or five times under schedule 7 to the Terrorism Act 2000. I have been through Home Office security and I regularly meet counterterrorism officials—as Mr Fraser did, I should say that I do so on a professional level. I have told them that it would save their time to have a simple note on their system saying that I am not a threat. I know of other people who have been stopped up to 20 times, so the savings would soon add up. However, the police say that they simply cannot do that, because their IT systems are not joined up to those south of the border, where the anti-terrorism unit is. Have such issues been considered?

Miranda Alcock: Under our remit, we can look only at things that happen in Scotland and services that are devolved to the Scottish Parliament. We did not look at cross-border issues or any of the UK agencies.

Humza Yousaf: The issue is under Scottish control; there is a counterterrorism strategy. Although the UKBA is a UK body, some of its working is devolved to forces up here. There could be perceived inefficiencies in cross-border working.

The Convener: Given that we are discussing an overview report, it would be unfair to ask Audit Scotland to comment specifically on such detailed issues. No doubt, if there is a further inquiry, that issue could be considered by the committee, but Audit Scotland cannot answer the question now.

Willie Coffey: I want to return to IT, which was mentioned earlier. I suspect that the problems will not be resolved by establishing compatible IT systems. Paragraph 31 in the summary report states that a third of prisoners who are called to court are already in prison, but the Procurator Fiscal Service does not know that, and the Scottish Prison Service does not know that they have been called. I suspect that, even if those bodies had compatible IT systems, they still would not know.

There is a bigger message that, alongside the offender journey, we need an information journey from start to finish, so that the different parts of the justice system talk to one another, whether or not that involves using computer systems. Is it part of your recommendations that we should go beyond simply making IT systems compatible and ask the various organisations to share information with one another?

Angela Cullen: Yes—absolutely. The report picks up on the fact that there is an issue with incompatible IT systems, but also that sharing information is not as routine as it should be. The very busy exhibit 8 on page 25 of the main report tries to illustrate the complexities of sharing information. There are real gains to be had by moving to electronic exchange of information. We flag up the fact that only about 25 per cent of information is exchanged electronically, which means that a lot of paper-based transactions still take place. That has obvious inefficiencies and there are risks to do with loss of information. We need shared information and IT systems.

Willie Coffey: As Drew Smith mentioned, victims have to be given information from the beginning of the process to the end. I often find that victims are excluded from the process when they should be at the heart of it, in terms of information sharing. I hope that that is very much a part of the reforms that Sally Thompson mentioned.

Angela Cullen: As we have said numerous times, the report is an overview report. We have not made detailed recommendations because we did not have a strong enough evidence base. However, one of our recommendations is that there needs to be a significant improvement in how well victims and witnesses are supported and kept informed; we felt that we had enough evidence to at least say that, so we would expect some improvements to be made in that area.

Tavish Scott: I have a question that I forgot to ask earlier, when I was asking about interventions around reoffending. Paragraph 125 says that unsuccessful interventions in dealing with reoffending

“may result in additional funding”.

That is a reference to the funding mechanism that is highlighted in that part of the report, which goes on to say that

“the Scottish Government is planning to revise the funding formula”,

which is, almost by definition, the sensible and right thing to do. That is a striking example of a situation in which the funding formula encourages activity that does not help, as opposed to a change that is clearly needed. Did you find any others?

Sally Thompson: I do not think so.

Miranda Alcock: We found none that was as stark as that.

Tavish Scott: In the context of the £800 million or so that is being spent every year, and all the rest of it, something must be going wrong.

Miranda Alcock: Yes. The funding goes to the individual bodies. Earlier in the report, we say that there is little information about unit cost. That is why we try to make the estimates.

There are various separate bodies—which is quite right, if we want to have a fair and effective justice system—and they all run their own financial systems. Pulling out information about the costs of things that run across those bodies is difficult. It took us quite a long time to find out even the costs of the churn. We would have to dig down a great deal into each of the individual bits of the various organisations for information about how the funding works. We did not do that to any great depth, because the many individual organisations have different funding and financial arrangements. Although we audit those organisations, we did not consider the performance audit aspects within each organisation.

Tavish Scott: That is why you made your earlier point about the need to consider the issue in more detail.

The Convener: I am sure that we will return to this issue as a result of either this report or future reports. It is clear that, although huge amounts of money are spent on the criminal justice system—nearly £1 billion a year—the outcomes and successes are questionable and there is obvious scope for some improvements.

I thank our witnesses for their contribution this morning.

Public Audit Committee Report

“Major Capital Projects”

11:28

The Convener: The next item concerns the “Major Capital Projects” report. Committee members have before them the latest update report from Sir Peter Housden, the permanent secretary.

One aspect of this worries me a wee bit, and I suspect that we will have to come back to it at some point. We wait to hear what the Cabinet Secretary for Finance, Employment and Sustainable Growth says this afternoon, but everyone expects the picture in terms of revenue and capital to be pretty gloomy. Clearly, there are major projects in the pipeline that will consume huge amounts of money and, if they are not managed properly, there will be horrendous implications for the rest of the public sector in Scotland. The newer members of the committee will not recall this, but others will recall that, when we previously questioned the then permanent secretary about some of these projects, he indicated that he was not routinely informed of items of overexpenditure; he did not necessarily know about them and he left that to his departmental directors. If the head of the civil service does not know when expenditure on major projects is starting to overrun, how can we expect the overall budget to be managed and controlled?

11:30

I would hope that there have been improvements since then, but we do not know. The committee might want to find out what exactly has been done to improve lines of accountability. Although it is not necessarily relevant to this report, this week at a UK level we have seen reports of a project going badly wrong, with ministers alleging that they were not informed of the overexpenditure. I do not know whether that is true, but I would hope that that is not an example of how civil servants routinely work. If the ministers do not know, how can we hold them to account? Worse, if the head of the civil service does not know, how can he control the budget?

There are some pretty fundamental questions that need to be asked so that we can be assured that the budget is being well managed and is under control, not least because the cabinet secretaries responsible deserve to know that that information is available.

Does anyone have any comments or questions about what we have before us?

Murdo Fraser: I endorse the comment that you made about information being made available to senior civil servants and to ministers. Another thought, which kind of follows on from that, is that, if you look at the list of capital projects in the annex, what is striking is the range of costs that are quoted for the schemes. We are talking about hundreds of millions of pounds in variations. For example, the Aberdeen western peripheral route could come in at anywhere between £295 million and £395 million, which means that there is a potential 25 per cent variation in the cost. There are other examples on a similar scale. I understand that, at a planning stage, it can be difficult to be precise about exactly how much a project is going to come in at, because there will be a number of variables, but if we aggregate the potential variations, we are talking about vast sums of money that could make a huge difference to whether and to what timescale all the projects can be completed.

There is some probing to be done into cost estimation. We could ask for greater precision about where the figures are likely to land. This afternoon, we will be discussing a budget statement in which announcements will be made about future capital spend. The variation in the figures that we have before us is so substantial that it could completely throw out what the cabinet secretary says about the projects that he expects to be able to deliver.

Willie Coffey: We have made quite a journey in the committee in looking at major capital projects. Way back in 2008, we heard recurring comments along the lines that there did not appear to be sufficient effort in the planning stages of major projects to get cost estimates correct and that, at the completion of projects, there did not appear to be any post-project evaluation to look at performance and feed that back into the planning process.

I see the paper from the permanent secretary as very positive. It is a reflection of the committee's contribution over the past few years in encouraging the public sector to embrace and engage with these issues much more formally. We know that there are excellent management systems in place to enable the public sector and other organisations to get things right and I think that there is evidence that that is happening. The permanent secretary's comments are a credit to our work in the past few years and bode well for the future. Nevertheless, as ever, our committee has to be vigilant and members are quite right to ask for further details and scrutiny of these projects as they proceed.

Tavish Scott: Convener, I support your line of thought on the role that the committee should play in teasing the issue out, not least because of

Murdo Fraser's good point about support for cabinet secretaries, whoever they may be and whichever Government they may work for. As someone who had ministerial responsibility for bigger capital projects in the past, I find astonishing the revelation that, at that time, Sir John Elvidge did not know what his budget was for overspends or for other variances for particular capital projects. When I was responsible for transport in the Government, we had a weekly meeting on such issues. If that approach was not supported by the civil service, I most certainly hope that my successors have had more civil service support. The point that you and Willie Coffey have made about scrutinising this to the nth degree is strong.

There are two other areas that need to be looked at. First, the permanent secretary's letter does not particularly pick up the role of Transport Scotland, which is always worthy of proper and full examination. Secondly, although I acknowledge all the differences that are involved in project procurement in the private sector, project managers are paid hideous amounts of money to get the job done—this is a point about governance and not about politics—and I think that we could get lessons from senior people in oil and gas, for example, about how their project procurement drives efficiencies and delivers projects on time and on budget. Some of those lessons would be applicable, although some would most certainly not be, to the way in which local government and national Government consider capital projects.

The Convener: On Murdo Fraser's point about variations, some projects have specific costs associated with them, but others, including those funded through the non-profit distributing model, have ranges of costs. Given that the Auditor General has said that the NPD model is in effect public-private partnership with a slight change at the end of the process, I would have thought that the cost of any NPD project would have been tendered for and it would be known how much it would cost over the life of the project. It might be worth asking why there are still cost variations for NPD contracts. Other than that, we should perhaps ask for an assurance that the permanent secretary is being kept fully informed of any cost overruns anywhere where projects are starting to go wrong and that he or an appropriate official is urgently briefing the relevant minister so that ministers are fully apprised of where problems are.

Mark McDonald: Having dealt with capital projects at local authority level but not at national level, I think that the key thing in any capital project is to ensure that the tendering and contract process is robust and gives the required protections. Some of the variances referred to will be to do with contracts or tenders allowing for

inflationary protections within the budget. That will not be the case for all of them, because some of them are not yet at the tendering stage. For example, the AWPR is being held up in the courts and has not yet reached the tendering stage, which means that it would be difficult to get the kind of cost refinements that Murdo Fraser is looking for. Generally, the key is to ensure that the tenders and contracts are drawn up in a way that avoids the potential for the massive cost overruns that we have seen in capital projects in the past, not least the one for the building in which we sit.

The Convener: Okay. Should we seek further clarification from the permanent secretary and report back to the committee on that?

Members *indicated agreement.*

The Convener: Thank you. We now move into private session.

11:39

Meeting continued in private until 11:46.

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