



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

### JUSTICE COMMITTEE

Tuesday 4 December 2012



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**JUSTICE COMMITTEE**  
**35<sup>th</sup> Meeting 2012, Session 4**

**CONVENER**

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

**DEPUTY CONVENER**

\*Jenny Marra (North East Scotland) (Lab)

**COMMITTEE MEMBERS**

Roderick Campbell (North East Fife) (SNP)

John Finnie (Highlands and Islands) (Ind)

\*Colin Keir (Edinburgh Western) (SNP)

\*Alison McInnes (North East Scotland) (LD)

\*David McLetchie (Lothian) (Con)

\*Graeme Pearson (South Scotland) (Lab)

\*Sandra White (Glasgow Kelvin) (SNP)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Miranda Alcock (Audit Scotland)

Caroline Gardner (Auditor General for Scotland)

Kirsty Whyte (Audit Scotland)

**CLERK TO THE COMMITTEE**

Irene Fleming

**LOCATION**

Committee Room 2



## Scottish Parliament

### Justice Committee

*Tuesday 4 December 2012*

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

### Decision on Taking Business in Private

**The Convener (Christine Grahame):** I welcome everyone to the 35th meeting in 2012 of the Justice Committee and ask all present to completely switch off mobile phones and other electronic devices as they interfere with the broadcasting system, even when they are switched to silent.

The committee looks somewhat depleted this morning. We have received apologies from John Finnie and Rod Campbell, and Jenny Marra is running late. The witnesses should not take it personally—it is not because members heard that you were coming.

**Graeme Pearson (South Scotland) (Lab):** We are going for quality.

**The Convener:** Well, I will move out of my chair, Graeme, and let you in.

Item 1 is a decision whether to take in private item 4, which is consideration of our work programme. Are members agreed?

**Members** *indicated agreement.*

## “Reducing reoffending in Scotland”

10:01

**The Convener:** Item 2 is an evidence-taking session with Audit Scotland on its recent report, “Reducing reoffending in Scotland”. As members will note from the clerk’s paper, the Public Audit Committee took evidence on and considered the report at its meeting on 21 November; indeed, members of that committee—Sandra White and Colin Keir—are at the table, which is very helpful. I expect them to sparkle and shine. Finally, I point out that a copy of a letter from the convener of the Public Audit Committee is annexed to the paper.

I welcome to the meeting Caroline Gardner, the Auditor General for Scotland. As you have never been before this committee, Ms Gardner, I congratulate you on your appointment. You are accompanied by Audit Scotland staff: Miranda Alcock, justice portfolio manager, performance audit group, and Kirsty Whyte, senior performance auditor.

Do you wish to make an opening statement, Auditor General?

**Caroline Gardner (Auditor General for Scotland):** I will keep it short, convener.

We are grateful for the opportunity to brief the committee on this report, which, as you know, looks at the efficiency and effectiveness of approaches to reducing reoffending in Scotland and follows on from the publication of “An overview of Scotland’s criminal justice system” in September 2011. On 21 November, we presented the report to the Public Audit Committee, which, at the same meeting, took evidence from the Scottish Government and community justice authority representatives. I know that the convener of the Public Audit Committee has written to you following that meeting to refer the report to you and to highlight that committee’s concerns about the governance and accountability arrangements for the CJAs in particular.

I will focus briefly on three issues: the extent of the problem that we have identified; how much is spent on reducing reoffending; and the effectiveness of current arrangements. In Scotland, reoffending is a continuing problem that has serious effects on communities, the economy and reoffenders themselves. In recent years, reconviction rates have remained relatively static; 30 per cent of people convicted in 2009-10 were reconvicted within a year, compared with 32 per cent of those convicted in 1997-98. Equally significant, in 2010-11, more than one in five people convicted—or 9,500 people—had 10 or

more previous convictions. The Scottish Government estimates that the social and economic costs of reoffending are about £3 billion a year, which means that the issue is very significant for all of us.

In 2010-11, the Scottish Prison Service, the CJAs and the Scottish Government spent an estimated £128 million on services designed specifically to reduce reoffending—or less than a third of the total £419 million that they spent on dealing with people convicted in court. There is now a strong body of evidence about what works in reducing reoffending—for example, helping offenders to find jobs, to improve relationships with their families and communities and to manage their lives better—and it is important to design services around individual offenders' needs.

Although the Scottish Government has made good progress by publishing a directory that pulls together information about all the services that are available for offenders, both in prisons and in the community, we found a mismatch between the services provided and the evidence of what works in tackling reoffending. For example, only seven of the 1,300 services that are listed in the directory cover money and debt management, even though offenders identify help with those issues as critical to their rehabilitation. We also found that access to services varies across Scotland and that, in particular, services for those who are serving short sentences need to improve.

On the effectiveness of current arrangements, one of the challenges is that many different bodies are involved in working with offenders, including the Scottish Prison Service, community justice authorities, the police, the Crown Office, the Scottish Court Service, the national health service and more than 100 voluntary and community organisations, together with sheriffs and procurators fiscal. That makes for a very complex system to manage.

The eight CJAs were set up in 2007 to improve joint working and reduce reoffending. Although they have been successful in bringing people together, the way in which they were set up and the inflexible funding arrangements that they have to work with have limited their effectiveness. The funding for community justice services is particularly inflexible and makes it hard to really tackle reoffending. Only a small amount is available for local discretion and the funding formula is based largely on historical activity.

More generally, the criminal justice system is demand led and, with more people in prison and more community sentences being imposed, demand for services to reduce reoffending is increasing. It is therefore critical to ensure that whatever we spend is spent as effectively as possible.

Finally, the report makes a number of recommendations for the Scottish Government and other criminal justice bodies. In particular, we recommend that there be a fundamental review of how offenders are managed in the community. In its evidence two weeks ago to the Public Audit Committee, the Government confirmed that it will be seeking views on the redesign of community services in the near future.

We also recommend improvements in the funding of community justice services, the measurement of their performance and the way in which services for offenders are planned, designed, managed and delivered. Again, in evidence to the Public Audit Committee, the Scottish Government referred to developments in all those areas; in particular, it announced that the CJAs will enjoy more financial flexibility from next April.

I hope that that introduction to our evidence session has been helpful, convener. My colleagues and I will do our best to answer the committee's questions.

**The Convener:** I must have prompted Colin Keir by referring to his membership of the Public Audit Committee, because he is in right away with his justice hat on. We are expecting great questions from you, Colin.

**Colin Keir (Edinburgh Western) (SNP):** I just want to get in before I fall asleep, convener.

**The Convener:** Auditor General, you will notice that we have left a big space around Mr Keir. That is not because we do not like him, but because he has a virus that none of us wants.

**Colin Keir:** Well, there might be an element of both.

Good morning, Auditor General. Coming back to the evidence that others, particularly the CJAs, gave to the Public Audit Committee, I remember the witnesses' ability to use certain buzz words. For example, they did not like being in silos, but they liked being spokes. However, once we got past that, I felt that they had a rather disjointed method of reporting back to some authority or other; they all seemed to report to different people. Can you elaborate on what you think a future method of reporting should look like? Who should the CJAs report to?

**Caroline Gardner:** There are a number of challenges to the CJAs' effectiveness, one of which, as I suggested in my opening statement, is the availability of their funding. Because of the constraint that core funding must be used for particular services and because the funding formula is based on historical activity, the CJAs have faced significant restrictions on their ability to move money to meet needs in constituent local

authorities, and dealing with that issue will help to increase their effectiveness.

At the same time, however, I should make it clear that the CJAs do not direct any of the bodies that make them up. They can engage in discussion and seek to influence the workings of constituent councils, but they can neither direct those bodies nor control the specific services that are used in councils to tackle reoffending. We think that that can make it harder to ensure that the right services are provided at the local level as well as at the regional and national level, where there is also a need for clear leadership.

**Colin Keir:** Following on from that is the interaction between various agencies and in particular how the health service within prisons interacts with the national health service outwith them and the information that passes in whatever direction between the two. Are there any glaring or obvious issues that we have to examine in that relationship?

**Caroline Gardner:** One of the things that can make it harder is the restrictions, whether real or perceived, on sharing information about offenders across all the partners involved. Miranda Alcock can give you a bit more information about what we saw in that regard and how it might be improved.

**Miranda Alcock (Audit Scotland):** I know that the committee heard evidence on the transfer of prisoner healthcare to the NHS. We found that the transfer has been an impetus and a way in for the CJAs to improve their engagement with the NHS; it has helped them to engage with the NHS much more effectively. Before the transfer, the CJAs had found it quite difficult to find the right people with whom to engage within the NHS. At CJA board meetings, which NHS representatives attend, different people from different NHS boards attended. The transfer of prisoner healthcare has supported the CJAs' engagement with the NHS and given them a route into other NHS services.

**The Convener:** I will bring in Sandra White, who is another member of the Public Audit Committee. That was a good start.

**Sandra White (Glasgow Kelvin) (SNP):** I presume that I should declare an interest, in that I am also a member of the Public Audit Committee, which heard evidence from Caroline Gardner at its previous meeting.

I have to clarify that the Management of Offenders etc (Scotland) Act 2005 was passed in 2005, not 2007. If members look at the *Official Report* of the Public Audit Committee meeting of 21 November, they will see that Iain Gray, the committee's convener, mentioned that the act was introduced by his party's Government in 2005. I seem to recollect that Cathy Jamieson was

Minister for Justice when the 2005 act was passed.

The Public Audit Committee had concerns about the CJAs being inflexible because of the 2005 act. We asked the Government witnesses whether there should perhaps be some legislation, for example a statutory instrument, to change the set-up of the CJAs. Is that the only way forward, or can the CJAs be improved through guidance, as has just been talked about?

**Caroline Gardner:** I am happy to clarify the dates that are involved. As you said, the act was passed in 2005. The CJAs started work on 1 April 2007 and the funding formula dates back to 1999, so we are not making any particular point about the 2007 date.

As a first step, it is worth thinking about what the best arrangements for managing offenders in the community would be, rather than what legislative change is needed. It seems that some things can be done to improve the way in which the existing arrangements work, such as getting greater flexibility into the funding. The Government has announced that it will do that from next April.

Equally, we think that there is a need for stronger leadership at all three levels: from the national level, for services that need to be provided to a relatively small number of offenders across Scotland, such as serious sexual offenders; to the regional level, where it would make sense to have specialist provision in a smaller number of places; through to things that need to be community based, such as access to housing and relationship support, which should be at the local authority level. The review that the Government has announced, which will look at how best to get that leadership in place and get the flexibility to meet local needs, is the right place to start. The appropriate response, in terms of legislative change, should become apparent from that review.

**Sandra White:** Reoffending rates have reduced from 32 to 30 per cent and the money has increased from £90.3 million to £99 million, although we are looking at the benefits, not so much the monetary expense. Bearing that in mind—and following on from Colin Keir's question—would you say that it is imperative that the CJAs be more flexible in their work with not just the NHS but police boards and councils?

The Public Audit Committee heard evidence from a councillor who said that things were very difficult because of the political goings-on among various councils. Without looking at the wider picture, how difficult would it be to get the various councils working together?

**Caroline Gardner:** In a number of Audit Scotland reports over the years, we have reported

how difficult it can be for councillors who are appointed as members of other boards to balance their responsibilities in both places. They clearly have a responsibility to their council and, in this case, a responsibility to the community justice authority, and there is no question but that those can be difficult to balance. In this case, we think that those difficulties are compounded by the fact that the CJAs do not have operational control over the criminal justice social work services that they fund and it is difficult for them to move money between functions within a council and, even more so, across councils.

10:15

A couple of weeks ago, the Public Audit Committee heard in evidence from the convener of the community justice authority conveners group that, for example, if there was evidence that drug offences were a particular problem in South Ayrshire, it would be very difficult to get people to agree to move the specialist staff out of North Ayrshire and East Ayrshire into South Ayrshire to tackle the problem. There is no doubt that that is true. We can see it on the ground.

Miranda Alcock might want to say a bit more about what we found in talking to the CJAs and looking at the particular case studies in which things are working well.

**Miranda Alcock:** Managing the peaks and troughs across the CJA areas, given the boards that the CJAs have, is a particular challenge. That is why we say that the way in which the CJAs were set up has limited their effectiveness. That is not to say that there are not some very good examples of initiatives that have worked well; we quote a couple of those examples in the report. However, taking good practice examples that are paid for and funded in one council—the moving on Renfrewshire project is one example—and rolling those out to other authorities, or even enabling offenders in neighbouring authorities to access services that are provided and funded by one council, is difficult. That is perhaps the crux of the problem.

**Sandra White:** I will leave it there, convener.

**The Convener:** No one has asked about the structure, although we have commented on bits of it. From paragraph 114 of the report and exhibit 13 on page 33, it just looks like there are lots of cooks sitting round the table. How the CJAs ever come to specific conclusions, with direction and punch, surprises me. Paragraph 114 states:

“The number of people around the table and the different accountabilities mean that meetings are often not an efficient or effective use of time. We found that councillors did not feel empowered to scrutinise performance or ask challenging questions. None of the statutory partners is accountable to the CJA, so the board cannot hold them to

account if they do not deliver against agreed CJA priorities.”

It seems to me that some of those meetings must be a waste of time.

If the Government is looking at structural change, what elements of a replacement system would be required? If we were to prune it down, who would be there and what would their roles be? At the end of the day, who would be in charge? I was thinking of “Star Trek”, where the captain says, “Make it so.” Who would say “Make it so” to ensure that something actually happened as a result of those meetings?

**Caroline Gardner:** You are absolutely right to say that the structures are complicated. As Miranda Alcock said, the fact that the CJAs have done some really good pieces of work is probably more in spite of the structures than because of them. That is compounded by the fact that the CJAs have only a small number of staff—typically, three or four members of staff—who need to bring together all the different interests, think about the local needs and then do what they can to influence people to shift services when the CJAs cannot fund services directly and cannot hold people to account for them.

Having said all that, I think that the criminal justice system will continue to be complicated. Local authorities, the Prison Service, a number of voluntary organisations, sheriffs and procurators fiscal will all play critical roles, so we need to find a way of bringing that together. We think that the two starting points are probably about, first, getting the funding arrangements right so that funding can move more readily between areas of need in response to particular peaks and troughs or challenges that are being tackled and, secondly, a genuine accountability for what is changing on the ground as that money is being spent. Those are two things that the CJAs cannot currently do.

There is almost certainly room for streamlining the local arrangements, although there would still need to be a local element to ensure that there is an understanding of what is happening in particular communities and in the services that are delivered. We think that there may also need to be a regional and national dimension to plan across the piece which services are needed and how they should change over time. There is room to improve the effectiveness of the current arrangements through getting the funding and accountability right.

**The Convener:** I accept those points about funding and accountability. Given that you have done a lot of work on this—as has the Public Audit Committee—if you had a blank piece of paper, how would you set up a CJA? Who would have to be there at the board meeting? What definitive



roles would people have, so that at the end of the day the councillors could say, "Yes, that will be how the thing is done"? How would you do that? It seems to me that good people are currently wasting their time.

**Caroline Gardner:** It is not our job to direct policy in that way, and I am prohibited from doing so. At the end of the report, we have tried to set out the principles that we think should apply: clear objectives for reducing reoffending; the appropriate powers for those involved; clearer accountability and a mechanism to promote the change that is required; the flexibility to move towards things that work; and clear performance management to demonstrate how we are doing. That could be delivered in a range of ways, all the way from locally up to nationally. One of the interesting questions is how that links to community planning partnerships, which are the other big thrust in Government policy. I think that there is room for streamlining what happens and getting those arrangements sharper on the ground.

**The Convener:** Subject to the committee's agreement, we can ask the cabinet secretary—I appreciate that you cannot respond—how he would change things if he had a blank piece of paper. It just seems to me that there are too many cooks. I certainly could not hold a meeting like that—this is big enough.

**Graeme Pearson:** I have another question on the same issue. As you have indicated, the CJAs have been in existence for some time but have never been formally assessed as a structure or outcome. Would it be worth while at this stage to assess the good, the bad and the ugly in the CJAs as a help to indicating a way forward for the Government in the short term?

**Caroline Gardner:** In general, I think that every new policy should have clear plans for evaluation at its starting point, but that has not happened with the CJAs so far. Rather than starting an evaluation now, it probably makes sense to look at what is working and what is getting in the way as part of a consultation process on the development of options for the future. We hope that our report will be a useful contribution towards that.

**Graeme Pearson:** Before I ask my substantial question, perhaps I could just ask for a comment. With regard to prison services aimed at reducing offending, you indicated that

"attempts to achieve consistency had been under discussion for ten years."

Do you discern that those reviews that have been on-going for 10 years have been effective?

**Caroline Gardner:** At the Public Audit Committee a couple of weeks ago, we heard very

clearly from the chief executive of the Prison Service a recognition that much of the work that the service has been doing has been about restricting offenders and keeping them safe in prison rather than thinking about, beyond the prison walls, how to help people become safely resettled once they leave the prison estate. Miranda Alcock will pick up on the detail of that.

**Miranda Alcock:** The particular point to which Graeme Pearson refers is the agreement between the Scottish Prison Service, which is a national organisation, and the 32 criminal justice social work departments that provide social work services for prisoners in prisons. Negotiations have certainly been going on for that length of time to try to get a national agreement about what will be provided, by whom and at what cost. It is perhaps indicative of the variation in services that we pick up across the country and across different prisons—variation in delivery between different council criminal justice social work services—that it has never been possible to get a national service level agreement covering all the prisons and criminal justice social work services.

**Graeme Pearson:** Is it a reasonable outcome that there should be such variation? It almost seems like obfuscation rather than variation.

**Miranda Alcock:** We make the point that the access and availability vary across the country.

**Caroline Gardner:** Going a bit further, we think that that happens not in a planned way. We think that the variability reflects not differing needs but the fact that there are big differences between the bodies involved and there is no way of doing that planning nationally, regionally and locally that works at the moment.

**Graeme Pearson:** You touched on the point that the Prison Service has a new chief executive. As you know, he has made a number of pronouncements about changing the way forward. Is it within his gift to make those changes, given the challenge of having so many different actors in this environment? Is he up against it?

**Caroline Gardner:** Clearly, that is not solely within his gift. As I said in my opening statement, the system is very complex and will remain so, whatever the results of the review that the Government has announced. It will be helpful to have that national review of the way in which offenders are managed in the community, because that interface is the hard bit to get right. The statements of intent from the new chief executive are a very good starting point for taking forward that discussion.

**Graeme Pearson:** Presumably, from your point of view, support from committees such as ours would be helpful in focusing on trying to free up finance, which is critical.

**Caroline Gardner:** I think so. My sense is that, in total, £400 million-plus is spent on managing offenders. Within that, about £128 million is spent on tackling reoffending. Ensuring that the money is spent as well as possible right across the system, rather than in a series of isolated pockets, seems to us a key way of getting more value from it so that we can do more of the right things. Obviously, there is also the wider question of prevention that was highlighted in the Christie commission report, which the Government has accepted. We need to start at that end of the pipeline as well. I think that those are the two ways in which the committee and the Parliament can have the most impact on tackling the issue in future.

**David McLetchie (Lothian) (Con):** Good morning. I want to follow on from the points that were raised by the convener. From reading your report and the summary of it, I suggest that we are not doing very well—that is the bottom line—as far as reducing reoffending is concerned. I have listened to you say that more money will be available from April, but no number has been put on that and there is no indication that it will be of a scale that will make a significant difference to what we have at present. Can you tell me what the number is likely to be and how it is likely to be applied?

**Caroline Gardner:** The Government has announced more flexibility in the existing funding. The funding that is involved is about £99 million at the moment.

There is no doubt that the picture is complicated. Performance over the past 15 years or so shows that the reconviction rate has dropped by about two percentage points, from 32 to 30 per cent. That is not where we need to be, given the level of demand in the criminal justice system and the impact on communities and the economy, and on Scotland's wellbeing generally. It needs to improve. However, Scotland is not alone on that. If you look at the international evidence, you can see that this is a difficult thing to get right.

If we get the national picture right regarding the way in which offenders are managed in the community, there is a chance that better use could be made of the money that is spent at the moment. There is certainly room for improvement, and part of that has to come from joining up the various levels—from the Prison Service through the criminal justice social work services to the others who play a part, including the courts, the sheriffs, the procurators fiscal and so on.

**David McLetchie:** We have a dysfunctional system, albeit with a few bright spots, that has been running for five and a bit years, and we have no new money. That is where we sit, and that is where we will still be sitting in April of next year.

**Caroline Gardner:** I think that your question would be better directed at the Government. There is definitely a huge challenge. We think that there is scope to make better use of the money. It is probably worth putting on record that the amount of money going into the CJAs has been increasing slightly in real terms, against a trend of real-terms decline for many other services. For us, the issue is very much about ensuring that the £130 million that is spent each year is spent on more of the right things and fewer of the things that are perhaps not adding much value.

**Alison McInnes (North East Scotland) (LD):** I agree with earlier speakers that the system is not working at all well and is not functioning properly. Surely the ability to spend the existing money in a more flexible way as from April will not of itself be sufficient to tackle some of the insufficiencies in the system if we do not change the lines of accountability. Is that a correct assessment?

10:30

**Caroline Gardner:** It is. We think that the flexibility will help, but we think that the lines of accountability of the community justice authorities also matter. We think that there is also a need for a national review of how offenders are managed in the community, which the Government has accepted.

**Alison McInnes:** Did you have an opportunity to discover how the individual councils that are constituent parts of the CJAs responded to the work within their own councils? A particular concern for the committee is that we know the importance of locally delivered throughcare and of dealing with housing issues, yet there does not seem to be any dynamism within the CJAs that encourages people to say, "We are all constituent parts of the system and we can make it work better." Is there a disconnect between what is planned at the CJA level and how that is implemented in individual councils?

**Caroline Gardner:** I think that the short answer is that it varies, but I will ask Miranda Alcock to talk you through what she saw when the team was doing the field work.

**Miranda Alcock:** I think that the lack of operational control has really hampered what CJAs can decide to do. When we observed different CJA meetings, we found very different practices and patterns across the CJAs. There were different ways and levels of engagement and commitment to the CJA area, if you like. However, the situation is very difficult for those CJAs that have lots of councils, such as the northern CJA, which has seven councils. The Lanarkshire CJA has only two councils, and it is much easier to plan across an area that involves only two councils that

already work fairly closely together. The situation varies across the eight CJAs. In Glasgow, there is only the one council, so it is much easier for that CJA to work effectively in planning services to be delivered within the Glasgow city area. The situation varies across the CJAs, but one aspect is the different numbers of constituent councils within the CJA area.

**Alison McInnes:** Did you identify board members who acted as champions, or were most of the links at officer level?

**Miranda Alcock:** I would say that the majority of the links were at officer level, but that is not to say that there were not some very good elected members in the CJAs. In the main, the work was taken forward—rather as the CPPs tend to operate—through implementation groups or executive groups. Perhaps Kirsty Whyte has something to add from her observations.

**Kirsty Whyte (Audit Scotland):** Miranda Alcock is right that there is close working at officer level within the CJAs. Sometimes that is for historical reasons, such as in the Tayside area where the councils have a history of working together. Quite a lot of the work goes on at strategic officer level. At board member level, as Miranda Alcock said, among the board members whom we interviewed and in the board meetings that we observed, there was some variability in people's levels of understanding of their role and of what the CJA should be doing and in their levels of commitment to it.

**Alison McInnes:** Let me pursue that just a little bit further. Those comments echo things that I have heard about regional transport partnerships, community health and care partnerships and community planning partnerships. Are we just repeating the same mistakes? Is it time to take stock of all these ways of working?

**Caroline Gardner:** I think that there are inherent tensions when you put together a body that involves councillors from one local authority and ask them to work across the boundaries of their authority without having the levers to make that work. At the Public Audit Committee meeting a couple of weeks ago, we heard some compelling evidence from Councillor McNamara, who now chairs the CJA conveners group, about the work that he has done locally to try to build a shared understanding, to produce relationships that are built on trust and to give people more ability to work together as a group. However, it is a lot to ask—there is no question about that—and we have reported on that previously.

An interesting point is the way in which all those partnerships—we have reported on several of them in the past—come together under something like the community planning partnership umbrella

to give an overarching framework for the priorities that people are working on. That gives a mandate to the various groups that look at issues in more detail to make commitments for resources and for the priorities that they want to take forward.

What we are seeing at the moment is groups that are organised at different levels and focusing on different issues in isolation, without the ability to pull work together and get shared sign-up on what matters in the area and how resources will be moved to get better results in future.

**Alison McInnes:** Does there need to be a strengthening of the umbrella organisation, the community planning partnership? Should there be stronger accountability and a greater capacity to monitor what groups are doing?

**Caroline Gardner:** There perhaps needs to be greater clarity about how the various partnerships fit together in the existing architecture. There are a range of partnerships, such as alcohol and drug partnerships. The community planning partnerships are being given a big role in improving circumstances for communities across the 32 local authority areas, and it is not clear how some of the other partnerships fit with that. Which partnership takes the lead when there are competing priorities? There needs to be clarity about that, and there absolutely needs to be clarity about funding, accountability arrangements and monitoring and reporting on progress.

**Graeme Pearson:** You were positive about the experience of partnership working in Tayside and in Lanarkshire, where two councils regularly work together. The Glasgow CJA covers a single council area, compared with the northern CJA, which covers seven council areas. Is there evidence that the background in that regard has an impact on reoffending? After all, we are talking about reoffending and we all bemoan the 30 per cent reconviction rate. Do the councils in which you found more productive partnership working achieve better outcomes? Have you measured that?

**Caroline Gardner:** I do not think that it is possible to demonstrate better outcomes, probably because the two things that get in the way, however well people are working together, are the funding arrangements and the inability to direct what people do. Miranda Alcock will flesh that out a wee bit.

**Miranda Alcock:** I will pass that on to Kirsty Whyte. The reconviction data have been analysed and go down to CJA level, but I think that the statistics show no significant difference.

**Kirsty Whyte:** There are differences in reconviction rates across CJAs; some CJA areas have a lower rate than others do. However, the Scottish Government examined the data and

found that there is not much difference when we take account of characteristics of offenders and different types of sentence.

On how we ascertain the impact of CJAs' work on reducing reoffending, we made the point in our report that performance measurement has not been done well in the past. There has been no national assessment of CJAs' performance. CJAs have action plans and area plans and they assess themselves, but that is an approach that they have developed themselves rather than one that is taken across the piece. It is therefore difficult to ascertain the impact of CJAs' activity on reducing reoffending. We need to be able to do that, because it is important.

**Graeme Pearson:** That is a big miss, is it not?

**The Convener:** In fairness to all Governments that have preceded the current one, I will say that it is a very difficult nut to crack. I see that there are issues to do with the structure, but the problem is endemic—I think that the witnesses said that it remains endemic internationally. I hope that we can at least make dents in the problem, if not crack it.

**Colin Keir:** We talked about communication between agencies. When short-term prisoners, in particular, are due for release, there is—or at least, there should be—a plan of action for what will happen to them, where they are likely to go and what problems might arise. Of course, then they step out the gate and are immediately rearrested because there is another warrant out for their arrest. Did that show up in any of the audit? Is there anything that we can do at a practical level to ensure that if a person is to be rearrested and put back inside, we do not spend an inordinate amount of funding getting plans in place for something that is never going to happen?

**Miranda Alcock:** There are two aspects to that, one of which is better communication between the police and the CJA or the criminal justice social work services that support people who enter the system. I found staggering the prolific offending of some people, who just go round and round in the system. We illustrate through the example of the person we named "Scott", in case study 1 on page 44 of the report, the kind of lives that a lot of people lead. However, it does not specifically pick up Mr Keir's point about someone being rearrested immediately they leave prison.

**The Convener:** The case study is not on page 44.

**Miranda Alcock:** It is page 44.

**The Convener:** It is page 26.

**Miranda Alcock:** No, it is page 44.

**The Convener:** It is on page 26. I have found the reference to "Scott", who was not lurking on blank page 44. We have got him.

**Miranda Alcock:** My apologies, convener.

**The Convener:** It is not a problem. You were testing our observation, but we are all awake. We are with your case study on page 26.

**Miranda Alcock:** That case study illustrates strongly for me the personal lives of some of the people who are going round and round the system. Scott may well have been rearrested as soon as he left prison. We commissioned focus group work with prisoners, and we found that a key issue is the lack of support that they felt they got when they left prison. I am sure that the committee has heard about that. However, we did not look specifically at the issue of people being rearrested almost immediately they leave prison.

**Colin Keir:** That is the crux of the issue. I have seen a study that highlighted it, but I wondered whether it had been noted in an audit. Obviously, a large number of resources are required to have a prisoner ready for movement out of prison. I do not know who has access to what information, but it seems to me rather a large waste of resources to put everything in place for someone leaving prison, only to see them put back into handcuffs and taken straight back inside. It comes down to communication and who is communicating with whom.

**Caroline Gardner:** Kirsty Whyte might be able to add a little bit to that.

**Kirsty Whyte:** We did not look specifically at that issue, but Colin Keir has raised an important point about the wider sharing of information and throughcare, which Alison McInnes mentioned earlier. The committee heard evidence a couple of weeks ago about the transfer of prisoner healthcare and the importance of throughcare, for which the sharing of information is key. Agencies must talk to each other and be involved in delivering the services.

We commissioned focus groups with offenders currently serving prison sentences and offenders carrying out community payback orders and drug treatment and testing orders. One finding from that was that a prisoner could leave the prison on Friday at teatime with a list of referrals and phone numbers, but none of the offices are open until Monday and the prisoner perhaps does not have a mobile phone or any money. That raises the issue of agencies speaking to each other and of care being joined up.

**Jenny Marra (North East Scotland) (Lab):** Is it the responsibility of the CJA to step in and ask why a prisoner is being released on a Friday afternoon and not a Monday morning and how

they get in touch with the agencies? Who takes leadership on that?

**Kirsty Whyte:** You have raised the key point, which is that it is everybody's responsibility but that nobody has responsibility. CJAs in some areas have pushed that agenda and developed housing protocols, which means that housing officers from specific councils will go in and speak to all the prisoners in a prison and that arrangements will be in place for when the prisoners leave prison. However, criminal justice social work has the operational responsibility at the end of the day, and the SPS is also responsible, so it is about people coming together.

North Strathclyde CJA has done a piece of work branded under public social partnership to bring the third sector, criminal justice social work, the SPS and the CJA together to deliver a new throughcare model at the new HMP Low Moss, to make sure that there is accountability and that all the roles and what should happen are clearly defined.

10:45

**The Convener:** One would have to say that it is about time. I hate to use the expression, but it is hardly rocket science. If somebody coming out of prison has nowhere to live and nobody to contact about it, they are on a slippery slope immediately—we have heard that so often.

On communication, you say in paragraph 109:

"We found limited engagement between CJAs and local sheriffs."

That is a delicate area to get into. You also state:

"While it is important to retain judicial independence, engagement with the CJA could help improve sheriffs' awareness and understanding of offender needs and the options available locally to address them."

Can you develop that? I thought that that might be extending the remit of the CJA a bit too far, touching on judicial discretion.

**Caroline Gardner:** It is both sensitive and difficult in policy terms. We are comparing it with some of the things that we have seen around drugs courts and drug treatment and testing orders, where there tends to be much closer engagement between the sheriff and the offender. Anecdotally, we have heard that the sheriffs feel that that makes it more likely that the order will be complied with and that they understand the offender's circumstances better so can tailor the requirements to the individual's needs instead of keeping them general. We think that that principle is worth exploring more widely in relation to community payback orders, but there are questions about independence that would need to be handled carefully, and there are questions

about the trade-off between benefits and costs. I ask Miranda Alcock to talk a bit more about the genesis of that comment.

**Miranda Alcock:** We interviewed quite a few sheriffs as part of this work. We also spoke to the Sheriffs Association and observed a couple of drugs courts. It was interesting to see how drugs courts operate compared with how a normal sheriff court operates and the engagement that there is between the offender on the drug treatment and testing order and the sheriff. There is no question of judicial independence being in any way compromised; it is just a different way of exercising that independence. The evidence is that people on DTTOs who go through a drugs court complete their sentence more successfully than people on DTTOs who do not. There is something about the sheriff being the person who says to the offender, "This is what you have to do. I am going to see you again in a month and this is what I want to see." That authority seems to have a positive effect.

**The Convener:** I understand that, as I have been to the drugs courts. The process is very labour intensive for the sheriff and it must be the same sheriff every time. There is—I hesitate to use the word "personal"—an individual involvement of the sheriff and the process is more interactive. I appreciate that. I am trying to get at the role of the CJA in the process—what does it bring to the shrieval table? What is missing that you think would assist a sheriff? What facts—what material—can the CJA bring to the sheriff when he or she is deciding what to do with the offender?

**Caroline Gardner:** We think that the engagement is about the sheriff understanding better both what the criminal justice social work services can deliver locally and what the constraints are and about the people on the CJA understanding the constraints that the sheriffs feel that they are working under. As we state in the report, most sheriffs recognise that short prison sentences are one of the least effective disposals that they can make but they often feel that they have no alternative when somebody has been through a series of community orders over a period of time and they have not had any impact. We think that a more general engagement can help both sides to understand the challenges of the other, and we hope that it will help to design better ways of dealing with individual offenders and ensuring that the services that they need are there.

**The Convener:** I am thinking ahead to, for instance, the situation of a person coming out of prison who has no housing and receives no benefits, and so reoffends and gets sent back to prison. Are you suggesting having a report to the sheriff about why the person came back into the

system? Such a report could state, for example, what practicalities, such as housing and benefits, were missing once the person was discharged from prison, which would perhaps ensure that those were in place the next time that the person was released or was subject to a community payback order. Are you thinking about that kind of practical stuff?

**Caroline Gardner:** That is actually not what we are suggesting.

**The Convener:** No?

**Caroline Gardner:** But it is well worth exploring.

**The Convener:** Okay.

**Caroline Gardner:** We are suggesting that examples that already work well should be applied much more widely; they are not at the moment. In Aberdeen, for example, there is a community integration unit where women offenders who are close to the end of their sentence move from Cornton Vale and have time out of prison when they can go to the housing office or to a citizens advice bureau to get advice on somewhere to live, money management and so on. That sort of planned discharge seems to make a big difference, but provision is patchy.

**The Convener:** But I go back to the situation of the sheriff on the bench who has somebody in front of them, which is different from the planned discharge situation. I am trying to get at what you are saying would assist in preventing reoffending at the moment when the sheriff is looking at somebody and deciding on the appropriate disposal for them.

**Miranda Alcock:** Community payback orders came out only in February 2011, so it was difficult for us to consider their impact. However, early analysis by the Scottish Government shows that few of them are being imposed with conditions for alcohol treatment, drug treatment or mental health. For example, the CJA could inform the sheriff that as well as CPOs and unpaid work, there are conditions that can be imposed and available services. The sheriff could be shown what a CPO with mental health conditions or drug conditions would involve for the person. It is about informing the sheriff of the wider availability of conditions for CPOs and how effectively individual conditions could be implemented in the area. So, we had in mind that kind of information exchange.

**The Convener:** That is helpful. Thank you. Does anybody else want to comment on that issue of the sheriff?

**Sandra White:** No, not on the sheriff.

**The Convener:** You do not want to talk about the sheriff.

**Alison McInnes:** Just to clarify, is the point that if sheriffs are to use more community disposals, they need to be more confident that the alternative disposals that are available are effective and have been evaluated?

**Caroline Gardner:** Yes, that is exactly right.

**Alison McInnes:** Okay.

**The Convener:** And the disposals should have conditions attached, which I think is interesting.

**Alison McInnes:** I have a separate question.

**The Convener:** Sandra White is next, then Jenny Marra, then you will be back in, Alison.

**Sandra White:** I want to pick up on what was said about reducing reoffending. You referred to community payback orders beginning in 2011, but there was also the implementation in 2011 of the whole-system approach to young people. I read—not in your report, but somewhere else—that only 10 local authorities have implemented the whole-system approach. Has an audit been done of the 10 local authorities that have implemented the approach? Is it too soon to audit that?

I think that your report is terrific. You have done a grand job and raised a number of issues. I call the 2011 work by the 10 local authorities the first phase of addressing reoffending, and we now have the second phase—I believe that it began in April this year—which is implementation of your recommendations on bringing more groups together. Is it too soon to get feedback on that? Do we have an audit of that approach to young people?

**Caroline Gardner:** It is too soon to evaluate effectiveness. However, as with the information that Miranda Alcock touched on around the use of community payback orders, there is probably some interesting information about variations, which would be worth playing into the next stage, as it is rolled out.

**Miranda Alcock:** I agree. That approach is interesting, and it has been rolled out more. Audit Scotland has, in the past, done work on youth justice. I was interested to hear that the Scottish Prison Service's chief executive Colin McConnell had given evidence to the PAC on the reduction in the number of people who are going into Polmont. The numbers are lower than they have been for some time, and he mentioned that he has been able to make space in Polmont for some young women offenders. Irrespective of whether that is directly linked to the approach, it is an encouraging outcome. We need to give the approach time to bed down, but we can certainly consider it as part of our performance audit.

**Sandra White:** I have a small comment, rather than another question. It would be wonderful, if

you have any information on outcomes, for the committee to see that.

**The Convener:** That is it? That was a question. Jenny Marra will go next, followed by Alison McInnes.

**Jenny Marra:** Miranda Alcock said that you sat round the table—as is shown in exhibit 13—with every community justice authority.

**Miranda Alcock:** Between us, we attended a meeting of every CJA board.

**Jenny Marra:** Were the meetings varied or were they quite similar?

**Miranda Alcock:** The meetings were fairly similar.

**Kirsty Whyte:** They were similar in terms of the sheer numbers of people who were sitting round the table. Exhibit 13 is not untypical of the CJAs, but they differ—as we have said—in how they are run and in the interaction among members. Some CJAs tend to be run like council meetings, whereas others are slightly more informal. The picture really does vary.

**Miranda Alcock:** The meetings were very useful. At a couple that I attended, there were presentations on programmes that were being delivered in the area and on developments such as the new HMP Grampian. The meeting was a forum for sharing that information, which was useful for people who might not normally have heard about it.

There were voluntary sector organisations that might not have attended any discussions on policy or on what was available in their area until the CJAs were formed. It is important to recognise that they have built up a shared understanding of what is available in their areas that is much greater than existed previously.

**Jenny Marra:** From the meetings that you attended, does it seem that the CJAs are an information-sharing forum?

**Miranda Alcock:** Yes—the CJAs are primarily information-sharing forums.

**Jenny Marra:** That is interesting, because it appears from evidence that we have heard this morning that the crunch point comes when information is not shared. For example, the convener made a point about the sheriff not being aware of alternative disposals that might be useful in reducing reoffending.

I was struck by case study 1, which describes Scott's experience, because it reminds me of some work that I did in Dundee recently. I met people from one of the third sector partners that support people who are coming out of prison—mainly from Perth prison—who told me that they

have dealt with people coming out of prison and going back to their flats in Dundee to find that they have been repossessed by the council. The council did not have a list of people who had been taken into custody, and so the abandonment procedure started. It seems to me that there is a solution, which is that the council—which sends people to prison—could make a list of those who are going into custody and stop the abandonment procedure, so that when those people come out of their remand period, their accommodation is still available. Does that all sound familiar?

**Miranda Alcock:** Yes.

**Jenny Marra:** It seems that the path to reoffending in Scott's case or in similar cases could perhaps have been prevented by a simple sharing of information. Who is responsible? The partners involved in that were a third sector organisation, Dundee City Council—I have written to it and think that we have found a solution—and the Prison Service. Those are all agencies that currently sit round the table, but it was still a problem. Who is responsible for that problem? Is it the CJA?

11:00

**Miranda Alcock:** The CJA has a responsibility to sort the problem out, but it has no control over the people who do the work to sort it out. Do you see what I mean?

**Jenny Marra:** Yes.

**Miranda Alcock:** It seems to be a straightforward solution, but the CJA cannot tell the council, the police, the Scottish Court Service and the Prison Service to get together. It can facilitate and encourage, but it cannot give a direction that something fairly straightforward should happen.

**Jenny Marra:** Do you mean action such as I described?

**Miranda Alcock:** Yes. The CJA can only say that the problem exists and encourage the various people who have roles to get together. That is why the bridging and mentoring services are effective. They go round all the different agencies with the offender, who may not have the skills to do that, and who may not have a mobile phone or the knowledge about to whom they should go and when. Somebody who understands how the public sector works is a helpful bridge between the offender and the services. That is why they are effective.

To answer your question about who is responsible, I think that the CJA would say that it is, but it does not have the levers of power to fulfil that responsibility. That is why we say that, however we manage offenders in the

community—or wherever they are managed in the future—clear accountability needs to be linked to levers that allow those who are accountable to do the work.

**Jenny Marra:** So, we are dependent on subsequent actions of the people round the table.

Did the CJA meetings that you attended end with a series of action points? Were they concluded with people saying that they would do X, Y or Z?

**Miranda Alcock:** It varied. Sometimes, there were action points. Often, they were for the CJA chief officer.

As well as observing the meetings, we reviewed many of the minutes; I am trying to recall the minutes that we reviewed. Many of the papers that were presented were for noting but, normally, there would be some areas for action. Often, it was for the implementation group of officers to do further work on particular areas. I think that there were action points.

**The Convener:** The point that the deputy convener raised is interesting. The 218 centre project in Glasgow intervened with Glasgow City Council to ensure that women who were in Cornton Vale did not lose their tenancies. Again, that was left to the voluntary sector.

You say in the report that the CJAs have a small staff to support them. Is that part of the problem? Apart from the cumbersome attendance, do the CJAs need more staff simply to assist in delivering whatever they intend eventually to deliver?

**Caroline Gardner:** Yes—sort of.

**The Convener:** Oh. “Sort of.” Good.

**Caroline Gardner:** They typically have three or four officers. The Public Audit Committee heard from the chief officer of the Tayside CJA a couple of weeks ago. There are things that those people can do, but as long as the CJAs do not control the money or the services, more people are not the answer. The question is about where the levers sit and how they are managed.

**The Convener:** I appreciate the huge significance to everything in life of who holds the financial levers, but are you suggesting that CJAs require, if they are to be effective, and as well as all the other things, more support staff in order for them to deliver the interventions that you want them to make?

**Caroline Gardner:** I am not sure that we think that, because the interventions are delivered by criminal justice social work services.

**The Convener:** I understand that. I am talking about the interventions that you recommend and what happens when CJAs are coming to a view at

the end of their meetings. We have staff who assist us to put together our ramblings—if I may be unkind to us—into something coherent and action points. Do some CJAs require, in part, decent support staff?

**Caroline Gardner:** That is happening, although I will defer to Kirsty Whyte and Miranda Alcock. The challenge is to then turn that into action with the various partners.

**Kirsty Whyte:** Caroline Gardner is right; the CJAs and their staff work very hard. They develop their area plans and action plans, which they work through, and they look at what is happening in their areas.

There are practical issues around staffing—for example, just in terms of physical bodies being able to attend meetings. Each CJA has a chief officer, a planning officer, a part-time admin person and sometimes a training officer, so there are practical issues about attending alcohol and drugs partnership meetings, CPP meetings, their own meetings and various other meetings.

**The Convener:** I think that I am hearing that those issues are not hugely significant. It will not come over on the recording, but I think that Kirsty Whyte gave an “Aye, maybe” look.

**Miranda Alcock:** The CJAs need access to different skills—for example in order to analyse and understand performance information from constituent councils. CJAs have to gather information from constituent councils on performance times for CPOs and outcomes from different programmes that the councils may be working on. Gathering that information and analysing it in a way that is helpful to them is time consuming, on top of their other work. CJAs may not necessarily need to directly employ more people, but they need access to additional skills that could be provided in other ways.

**The Convener:** I understand. Thank you very much.

**Alison McInnes:** The Prison Reform Trust recently produced a report—I think it was called “Out for Good”—that concluded that it is important to have offenders take responsibility for their own resettlement. When you were doing your analysis, was there any dialogue with, or involvement of, offenders or ex-offenders in the evaluation and redesign of services?

**Miranda Alcock:** We were struck by the lack of ex-offenders or people with lived experience at many of the planning meetings and officer-level discussions that we went to, but that situation is changing. Exhibit 13 shows that south-west Scotland CJA has at the table an ex-offender and it has found that involvement to be very useful. Additionally, the Government has funded Positive



Prison? Positive Futures, which is an ex-offender organisation, to feed in to the Government's reducing reoffending programme.

Change is coming, but when we compared CJAs with some other service areas—those that provide services to people with disabilities, for example—we were struck that there needs to be more involvement from offenders. None of the offenders that took part in our focus group work had been involved in any discussions about the design or evaluation of the services that they received. We think that that situation needs to improve, as we mention in the report.

**The Convener:** The witnesses have nothing to add, so I thank them for their attendance. I suspend the meeting to allow them to leave, but members may not leave their seats.

11:09

*Meeting suspended.*

11:09

*On resuming—*

## **Subordinate Legislation**

**Adults with Incapacity (Public Guardian's Fees) (Scotland) Amendment Regulations 2012 (SSI 2012/289)**

**Court of Session etc Fees Amendment Order 2012 (SSI 2012/290)**

**High Court of Justiciary Fees Amendment Order 2012 (SSI 2012/291)**

**Justice of the Peace Court Fees (Scotland) Order 2012 (SSI 2012/292)**

**Sheriff Court Fees Amendment Order 2012 (SSI 2012/293)**

**The Convener:** The next agenda item is subordinate legislation. We continue our consideration of five negative instruments: the Adults with Incapacity (Public Guardian's Fees) (Scotland) Amendment Regulations 2012 (SSI 2012/289); the Court of Session etc Fees Amendment Order 2012 (SSI 2012/290); the High Court of Justiciary Fees Amendment Order 2012 (SSI 2012/291); the Justice of the Peace Court Fees (Scotland) Order 2012 (SSI 2012/292); and the Sheriff Court Fees Amendment Order 2012 (SSI 2012/293). Roderick Campbell is not here, so I do not need to speak slowly.

Three of the instruments were drawn to our attention by the Subordinate Legislation Committee because of drafting defects. An amending order has been laid by the Government that will correct the errors and it will be considered by the committee next week. Some minor errors were raised by the SLC on SSI 2012/289, but they were less significant, so no further action has been taken.

Members expressed concerns in relation to the instruments at last week's meeting and we agreed to write to the Scottish Government to seek clarification on a number of points in order that we could consider the instruments again at this meeting. Paper 7 is the response from the Cabinet Secretary for Justice to the points that were made by members.

Do members have any further comments on any of the instruments?

**Jenny Marra:** I thank the cabinet secretary for his reply, but I still have the concerns that I raised last week. They are on the record, and they stand.

**The Convener:** Right.

Is the committee content to make no recommendations in relation to the instruments?

**Members** *indicated agreement.*

**The Convener:** I think that I heard a little “Yes” there. Thank you very much.

I thank pupils from Mackie academy, who have been sitting in the public gallery, for attending. You will return at the end of the meeting to speak to committee members—I know that you cannot wait.

We now go into private session, but we will see you shortly.

11:11

*Meeting continued in private until 11:48.*

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

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