



The Scottish Parliament  
Pàrlamaid na h-Alba

## Official Report

# JUSTICE COMMITTEE

Tuesday 2 February 2016

Session 4

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**Tuesday 2 February 2016**

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**JUSTICE COMMITTEE**  
**5<sup>th</sup> Meeting 2016, Session 4**

**CONVENER**

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

**DEPUTY CONVENER**

\*Elaine Murray (Dumfriesshire) (Lab)

**COMMITTEE MEMBERS**

\*Christian Allard (North East Scotland) (SNP)

\*Roderick Campbell (North East Fife) (SNP)

\*John Finnie (Highlands and Islands) (Ind)

\*Margaret McDougall (West Scotland) (Lab)

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

\*Margaret Mitchell (Central Scotland) (Con)

\*Gil Paterson (Clydebank and Milngavie) (SNP)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Catriona Dalrymple (Crown Office and Procurator Fiscal Service)

Lesley Thomson (Solicitor General for Scotland)

**CLERK TO THE COMMITTEE**

Peter McGrath

**LOCATION**

The David Livingstone Room (CR6)



## Scottish Parliament

### Justice Committee

Tuesday 2 February 2016

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

### Decisions on Taking Business in Private

**The Convener (Christine Grahame):** I welcome everyone to the Justice Committee's fifth meeting of 2016. I ask everyone to switch off electronic devices and mobile phones as they interfere with broadcasting, even when they are switched to silent. No apologies have been received.

Under item 1, does the committee agree to consider items 4 and 5 in private? Item 4 is the draft stage 1 report on the Criminal Verdicts (Scotland) Bill, and item 5 is consideration of the committee's work programme. Are members agreed?

**Members** *indicated agreement.*

## Agricultural Crime

**The Convener:** Item 2—the main item of business—is an evidence session on agricultural crime. The committee held a round-table evidence session on the issue in February 2015. Thereafter, the Solicitor General for Scotland announced a review of agricultural crime prosecution policy. That review concluded in December with the development of a new policy. The evidence session will focus on the Solicitor General's review and the new policy.

I welcome Lesley Thomson QC, Solicitor General for Scotland, and Catriona Dalrymple, the head of policy division at the Crown Office and Procurator Fiscal Service. I will go straight to questions. Margaret Mitchell is first.

**Margaret Mitchell (Central Scotland) (Con):** At the outset, I will say that the results that seem to have been achieved are hugely encouraging, and I know that they are welcomed by the farming community.

I want to focus on one aspect to begin with. Rather than opportunist thefts, I want to focus on the thefts that involve serious and organised crime and some of the difficulties around prosecuting in those circumstances. It would be helpful if you could elaborate on the nature of that type of crime, and some of the problems that are associated with it.

**The Solicitor General for Scotland (Lesley Thomson):** At the round-table session and during the review process, a concern came out about serious and organised criminality moving into this area of life. There was particular concern about the high-value equipment and vehicles that members of the farming community use in their business. I am being quite careful to use the word "concern", because that is different from reported cases.

We are aware that serious and organised criminality diverts into all aspects of business life, and it is important to have chains of communication in place to ensure that, if there is an aspect of organised criminality, the farming community will know exactly who to report it to and how it will be treated thereafter. That is why the policy on agricultural criminality includes direct references to the serious organised crime division and proceeds of crime.

The difficulties in relation to prosecuting that sort of criminality are not particular. We are aware that, when we look at organised criminality in Scotland—no matter in which area—we are looking at a business. Therefore, we have to look at it as a group; we need to look not just at the offence, but at clawing back the money trail.

**Margaret Mitchell:** There seems to be a suggestion that farm equipment is stolen to order and ends up in Poland, Africa and Afghanistan. There must be a trail that can be followed.

Another aspect that I wondered about was the issue of sewage sludge, which—

**The Convener:** Before you go on to sewage sludge, can we keep to the money trail and the destination of items stolen to order? Can I get a response on that first? How hard is it to find the destination and work your way back from that?

**The Solicitor General for Scotland:** The police and the Crown Office and Procurator Fiscal Service have plenty experience of criminals stealing to order. It is extremely important to ensure that evidence is gathered about the full business chain—I put “business” in inverted commas—because we want to target not just those who turn up and steal to order but those who are at the top of the chain.

Stealing to order is done for money—if that is what is being done; Margaret Mitchell was right to use the term “suggestion” in that respect. We need to be alert, and it is important that we ensure that the money trail is followed. If the police report any such cases to us, we will deal with them in the same way that we deal with other organised criminality through the SOCD by ensuring that specialist prosecutors on the financial side come in at the very start.

**Margaret Mitchell:** As well as the money trail, is there advertising or online activity that can be monitored? Obviously there is a market for such things.

**The Solicitor General for Scotland:** Do you mean in relation to where the police gather their evidence?

**Margaret Mitchell:** Yes.

**The Solicitor General for Scotland:** Yes, absolutely. There are a number of tools that are well used by the police and prosecutors for investigating organised criminality. It is important to note that, if cases of stealing to order are reported and they are clearly related to organised criminality, the prosecution will cover not only the core offences but the offences under the Criminal Justice and Licensing (Scotland) Act 2010 of directing, being involved in or aggravating organised crime.

**Margaret Mitchell:** There is the intimidation aspect too. By definition, farmers who are targeted by agricultural crime tend to be quite isolated and there is evidence that farmers feel very intimidated. When they have said that they will report incidents, they have been threatened by people saying things such as, “Your barn will be burned down.” Is that aspect being addressed?

**The Solicitor General for Scotland:** That also came out during the review. I agree that people may feel that they live in an isolated area where no one will pay attention if something happens. In bringing everyone together in the review, it has been extremely important to ensure that there is confidence among victims of crime that, if anything like that occurs, law enforcement authorities will take it seriously and treat it appropriately. Building confidence has been very important.

**Margaret Mitchell:** I imagine that the intelligence gathering, which involved getting all the different people together to report on the disparate aspects, will have a huge advantage.

**The Convener:** Margaret, I know that you want to continue, but I have given you some time. I will let you back in later—

**Margaret Mitchell:** I have a question on sewage sludge, if I could just—

**The Convener:** I want to keep you off that just now.

**Margaret Mitchell:** Okay.

**The Convener:** You can book that question for later. Margaret Mitchell is going to ask about sewage sludge, and nobody else should dare touch that. [*Laughter.*]

Does Christian Allard have a supplementary on the destination? If not, I have a whole list of members who want to come in.

**Christian Allard (North East Scotland) (SNP):** My question is on organised crime.

**The Convener:** No—I will move on, and bring in Gil Paterson first. You were next anyway, Gil.

**Gil Paterson (Clydebank and Milngavie) (SNP):** Solicitor General, we heard in evidence about the very high-tech and expensive equipment that is lying around unprotected—I use that word advisedly. Such equipment may not have a disabler fitted and so has no protection. Has any work been done to encourage the owners of the equipment to act on that? The equipment may be lying unprotected in a field or even in the farmyard; that would certainly not happen in an inner-city area.

**The Solicitor General for Scotland:** In addressing all sorts of criminality, it is important to ensure that prevention measures are in place, and the police are leading on that. As a result of the review and joint working in that area, SPARC—the Scottish partnership against rural crime—is now operational. I think that it has provided a separate submission to the committee with a list of all the preventative measures, which that has been drawn up to ensure that those in the farming community are aware of what is out there. They

could have their property marked, or information on their equipment recorded. There is a long list—

**The Convener:** Sorry to interrupt, Solicitor General. I think that you are talking about the construction and agricultural equipment security and registration scheme—CESAR—to which our briefing note refers. Is that what you are describing?

**The Solicitor General for Scotland:** There is forensic marking and there is the CESAR scheme. There has also been general training and awareness training for the police in relation to the farming community. The police chair and lead SPARC but also have clear leads for and direct links in the community. Prevention is very much part of that.

**Gil Paterson:** I was certainly heartened by your briefing. It explains that point, which is good. It seems that things are moving on and preventative action is being taken. Is any work being done on farmyards? I have raised the question before and it was explained to me that it is very expensive to install closed-circuit television. However, nowadays, the costs are quite small because it is possible to get wireless systems. Is there any progress on protecting farmyards themselves?

**The Solicitor General for Scotland:** All methods of prevention were discussed with SPARC during the review process between the police and the farming community. I do not have information on the costs of CCTV. Ms Dalrymple was involved in the various review meetings, so she might know whether anything specific came up. If not, we can take the question away and get back to you.

**Catriona Dalrymple (Crown Office and Procurator Fiscal Service):** I do not think that anything specific was said about the prohibitive cost of CCTV but there was a recognition that introducing the preventative methods that they want to introduce and that their insurers encourage them to introduce would mean additional costs for farmers, which is a key point for their insurance premiums.

The matter was raised but the focus of SPARC has been on what communities can do together to ensure that thieves are prevented from targeting agricultural communities.

**Gil Paterson:** You second-guessed my next question, which was about the insurance benefit that farmers would get from installing CCTV. Thank you very much.

**Christian Allard:** When we took evidence last year, Dr Robert Smith of the University of the West of Scotland suggested that organisations such as the Mafia were involved in agricultural thefts. It seems to me that more and more thefts are

occurring but they are of a different type: it is organised crime like that of the Mafia or its sister organisation, the Camorra in Napoli. Those two organisations are well versed in profiteering from farming communities. To what extent are we in such a situation in Scotland? Is it only a suggestion or is there proof that organised crime organisations such as the Mafia and the Camorra have infiltrated our countryside?

**The Solicitor General for Scotland:** As I indicated earlier, concerns were expressed but concerns being expressed about organised criminality is different from cases being reported and definitive intelligence being gathered. At this stage, I cannot say that there is anything more than the concerns that have been expressed. If there is any suggestion of organised criminals thinking that agricultural crime would be easy money, it is important to ensure that we send the message that Scotland is ready for organised criminality and has asset-recovery rules that are far ahead of those in some other countries. I cannot provide any confirmation on reported cases.

**Christian Allard:** The danger is that such organisations are good at infiltrating a sector and trying to be part of it. It would be a worry for the committee if what we uncovered were to show that. It would be good if you could come back in a year's time—

**The Convener:** That is if we are re-elected, Christian. We must not jump guns.

**Christian Allard:** I mean back to the committee. It would be good if that was followed up and not forgotten about, because organised crime can have a detrimental effect on a sector. We have seen that in Italy with the problems in cheese making, which has been very much affected.

10:15

**The Convener:** We have drifted somewhat into cheese making in Italy. I take your point but I do not want to go too far down that road. The Solicitor General may want to say something about European liaison. It would be interesting to hear what kind of liaison with other parties that are dealing with serious organised crime takes place across Europe—either with the police in other countries or with prosecution authorities. How does that work?

**The Solicitor General for Scotland:** Liaison is done in a variety of different ways in relation to organised criminality.

**The Convener:** Some of which you cannot tell us about or you would be spilling the beans.

**The Solicitor General for Scotland:** Yes. I am happy to write to you and update you on what I

can tell you. However, I have certainly sat at a table with European partners to discuss organised criminality on more than one occasion.

I assure the committee that law enforcement agencies—police and prosecutors—are very much aware that organised criminals seek to diversify and move into new areas of business. If they are thinking of moving into this area of business, the message is, “Don’t, because we’re aware and the tools are ready.”

**Christian Allard:** We also need to make sure that victims are aware that it could be that kind of crime. It is important that you do not respond in the same way to organised crime as you do to common theft. People need a lot more protection.

**The Solicitor General for Scotland:** Absolutely.

**The Convener:** We can always put things in our legacy paper for the next Justice Committee to look at.

**Elaine Murray (Dumfriesshire) (Lab):** We received evidence about the distress caused to farmers by the loss of valuable livestock, whether that is through sheep worrying and so on, which tends to increase at this time of year as we go into the spring, or through theft.

When animals are killed by dogs, for example, what recourse does the farmer have in court? What can be done? Somebody could say that they did not know that their dog was out and worrying sheep. What recourse is available to the farmer with regard to financial compensation and compensation for the distress caused by what happened to their stock?

**The Solicitor General for Scotland:** One of the biggest things that came out of the review was the need to ensure a proper understanding of the impact of agricultural criminality on the farming community. Within the agricultural crime policy, there is a list of the various types of impact, including the possible financial costs and the distress caused. It is important to the farming community that we understand the impact of such criminality. The farming community needs the assurance that when cases of such crime are reported, the whole range of impacts will be taken on board by the police and passed to the prosecutor.

I am getting to the point that you asked me about. We need to ensure that all that information is before the court for it to take into account in deciding what sentence is appropriate, which can include paying compensation.

On lower-level criminality, another point that came out of the review was that, for farmers, sometimes recovering a financial loss is more important than going through a long court process,

which could mean that they would have to be away from their farms. We have to take that on board when we look at cases with a lower financial impact.

**Elaine Murray:** If a farmer loses a substantial number of sheep and lambs because they have been worried by dogs, for example, what types of sentence or compensation are available?

**The Solicitor General for Scotland:** I cannot indicate what types of sentence or compensation are available because that is a matter for the presiding judge on the day. However, I can assure you that all the information will be available in the police report and it will be put before the court so that the judge can decide what is appropriate.

One would expect a person to be compensated for the losses that have occurred, but that will also depend on the finances that are available to the perpetrator to pay back those losses. At the end of the day, it is a sentencing matter for the court.

**Elaine Murray:** But my concern is whether, under the current legislation, the punishment fits these types of crime.

**The Convener:** We are not asking you to intervene in judicial decisions; we are asking about the range of sentences available for the crimes that my colleague described. Should we be doing more? Should we be taking the issue more seriously? If these things are statutory, should we be increasing the sentences and, if so, to what level?

We can go on to something else while you are finding out the information that you need.

**The Solicitor General for Scotland:** It is okay—I just wanted to be absolutely sure that no one reported in the review that the law itself was not fit for purpose. What was reported was a concern that the impact of these crimes was not being fully understood at the initial stage and in court because the right information was not being gathered and put before the court. That is the bit that we have taken care of—there was no issue with the law not providing. Given that a group is now in place, that sort of issue might get fed back in future.

**The Convener:** That is fine.

**Margaret McDougall (West Scotland) (Lab):** Good morning. In response to my colleague’s question, you mentioned compensation. Are farmers able to claim insurance for the loss of livestock?

**The Solicitor General for Scotland:** Yes. Obviously that will depend on an individual’s insurance policy, but I should point out that NFU Mutual is included in the joint working.



**Margaret McDougall:** I was not a member of the committee when it took evidence on this matter last year, but I note that mention was made of the farm watch and rural watch schemes that were set up to alert farmers about criminals operating in their area. How well used are those schemes?

**The Solicitor General for Scotland:** I think—

**The Convener:** That is probably a question for the farmers.

**Margaret McDougall:** But I would have thought that that information would be available in the forum.

**The Solicitor General for Scotland:** There is information about that in the police briefing. The reason why I am hesitating is that we need to ensure that any watch schemes that are in place are fully used; this is all about prevention, and the briefing makes it clear that this is an on-going area of work.

**Margaret McDougall:** Are you saying that the information is not filtering down to all farmers?

**Catriona Dalrymple:** My understanding is that Police Scotland's safer communities division is reviewing the different watch schemes that have been introduced in rural communities and that their impact is being evaluated. It is fair to say that we are not, as yet, sure about the success of such schemes—beyond the anecdotal evidence that we have received. During the review, some farmers reported that the approach in the rural watch scheme of farms phoning other farms about, say, the sighting of a suspicious car worked well in some areas. However, that was very much just anecdotal evidence that came through in the review; my understanding is that the schemes have not, as yet, been fully evaluated.

**Margaret McDougall:** I also note from last year's evidence that some farmers were unsure whether to call 101 or 999 if something was happening in their area. Has that issue been overcome?

**The Solicitor General for Scotland:** I cannot comment specifically on the police operation of the watch schemes beyond highlighting that concerns have been raised by the group and taken forward. As I have indicated, this is an area of on-going work.

**Catriona Dalrymple:** The issue was raised at one of the SPARC meetings that I attended—we heard that Police Scotland had very much taken on the feedback about the number and the location and had put in place measures to address those matters.

**The Convener:** Members are, quite rightly, itching to ask questions, but maybe we should

look at our work programme to see whether we can have the police in for a short question-and-answer session about their role in tackling agricultural crime.

**Margaret McDougall:** How does the information get out to those who live in the countryside such as farmers and others in remote areas? Is there an educational issue?

**The Solicitor General for Scotland:** There is an educational issue in relation to this whole area; you are absolutely right about that. The rural watch programmes are one part of it.

A point that came out of the joint working that is being done this year as a result of the concerns that were raised during the round table at the Justice Committee was that awareness training is needed in the farming community, in Police Scotland and among prosecutors. That is now in place and on-going.

**Catriona Dalrymple:** The update briefing that Police Scotland provided refers to a large number of engagement events that it is undertaking throughout the year with young farmers groups, local schools, rural shows and so on. A lot of information on detection and prevention is available at the royal Highland show, which attracts a huge number of individuals from the agricultural community. It is very much about tapping into every possible area to encourage reporting and confidence.

**The Convener:** Some of us have large rural constituencies where farmers exchange a great deal of information as well as socialising.

**John Finnie (Highlands and Islands) (Ind):** Solicitor General, your excellent document lays out high standards. I am particularly interested in paragraph 24, on the information that is to be provided to you by Police Scotland, which covers things such as distress, costs of replacement equipment, costs of hiring replacement equipment, the immediate impact on a business, business interruption and, in relation to vandalism, photographs.

As I said, the standards are very high. If I was a self-employed painter and decorator in an urban area, could I expect the same level of attention from Police Scotland and the COPFS?

**The Solicitor General for Scotland:** You can certainly expect consistent attention from the COPFS.

The review identified the need for a greater understanding of crime in agricultural areas. I would expect to be told about business loss to a painter and decorator as a result of criminal activity. It became clear in the review that, although many of us are used to crime in the city and business crime, many people in agricultural

areas were concerned that we did not fully understand the impact of crime in their communities. That is why I have had it spelled out.

**John Finnie:** That was happening anyway. What about vandalism affecting a self-employed painter and decorator?

**The Convener:** Come on, John.

**The Solicitor General for Scotland:** Are you asking about the impact of criminality?

**The Convener:** Just a minute, Solicitor General. We are asking about the review on agricultural crime. I hear what you are saying, John, but I would like us to focus on the review.

**John Finnie:** I do not think that you do hear me, convener. Solicitor General, what I was trying to understand—

**The Convener:** We can do something on painters and decorators another day. I will move on if you keep at that line of questioning.

**John Finnie:** Solicitor General, I am trying to understand whether you are rolling out existing practice or whether new practice will be rolled out outwith rural communities.

**The Solicitor General for Scotland:** If a crime has an impact that involves financial loss, prosecutors will know that. The list in the paper contains particular elements that the farming community felt were not being taken into account.

**John Finnie:** That is good. Also on the information that is to be provided by Police Scotland, your document talks about your staff being provided with training to deal with the emotional impact of such crime. We seem to have a crossover here. We started off with a partnership against rural crime and there now seems to be an interchange between the words “rural” and “agricultural”. In the broadest sense, most of what we are dealing with today seems to suggest that rural communities are the victims and there is no reference to occasions when the accused might be from a rural community.

The training will pick up on the issues of the emotional impact on rural communities and individuals. The recent shooting of beavers in Tayside might suggest a crime such as the use of underpowered weapons or overt cruelty. There is also the poisoning of raptors. Should such issues be picked up in the overall policy on rural crime?

10:30

**The Solicitor General for Scotland:** There is a specialist team of prosecutors in relation to wildlife and environmental crime. That is already in place and it has been for some time.

I apologise, but I do not quite understand your question.

**John Finnie:** Okay—I will have another go.

The briefing from Police Scotland says that your staff have been provided with training on the financial impact—which we have covered—and on the

“emotional impact that agricultural offences can have on rural businesses”.

Most of the issues in this regard that are raised with me are about the abuse of wildlife. It is the—

**The Convener:** I am sorry to correct you, but that is a separate issue.

**John Finnie:** If you let me finish the question, I will link it to—

**The Convener:** You are asking about the abuse of wildlife, but we are talking about agricultural crime, such as rustling, theft of vehicles, vandalism on farms and intimidation. That is the remit of the session. Is your question about that?

**John Finnie:** No. I will pass in that case.

**The Convener:** Thank you very much. I will, however, pick up on something you said that was relevant, which was that agricultural crime is not committed only by outsiders. I had a case where a farmer lost 300 sheep, which were rustled over a short period of a couple of years. I was quite shocked by that. He did not bother reporting it, as he did not know that it had happened until he brought the sheep down off the hill. The farmer told me that it was definitely a shepherd who was doing it. The sheep were being taken along the old drovers’ roads.

What is the intelligence system like in the farming community? Is there awareness that the person who is at it might be a shepherd or former shepherd or someone else in the rural community who knows what they are doing and not the big-time Mafia or whatever? I could not drive 300 sheep safely to somewhere. That farmer was clear that a shepherd or former shepherd was doing it. What intelligence is there from within the community? How secure is it to whistleblow?

**The Solicitor General for Scotland:** That goes back to the question that I was asked earlier about the intimidation of farmers, which has been reported. The issue applies equally whether we are talking about organised criminality or people from the local area. Sadly, it is not particular to agricultural communities; it happens in cities as well.

It is necessary to have in place a system in which those who are victims and who have suffered loss feel confident that, if they provide information to the police—who would be the first

point of contact—about persons from within the community rather than outside it, that will be treated appropriately. They need to feel safe and believe that the issue will be dealt with properly by the authorities. The joint working and the awareness training at police level are building that confidence. Through the joint working group, there is now a channel of communication with NFU Scotland, which will provide the sort of information that you are talking about, if that happens. We can then discuss why there is a problem and what else needs to be done to ensure that people are confident about providing that sort of intelligence.

**The Convener:** Was that raised as a significant issue in the review group? Did the group discuss how confident farmers feel about reporting? Although people live far apart in such areas, farming communities are very close. Do farmers feel confident and secure enough to report something? Of course, they may be wrong.

**Catriona Dalrymple:** That was not raised as a big issue, but it was raised through anecdotes. There appears to be a slight reluctance to come forward with information when people believe that the issue is with somebody living in their community. That is about confidence. There are elements of loyalty. For example, it might be someone who had worked for a farmer and who had taken advantage. For us, it was all about making sure that we have a clear policy that we will follow and that people know what we will do and how we will respond, because that will provide them with confidence if they choose to report something.

**The Convener:** We will leave that for now. Roderick Campbell is next.

**Roderick Campbell (North East Fife) (SNP):** Good morning, Solicitor General. I want to develop that theme slightly and focus on the extent to which there is non-reported crime, whether as a result of intimidation or because it involves people in intimate local communities. In the course of prosecutions that have taken place, have you managed to form a view on that? Are we looking at the tip of the iceberg, or are you confident that most significant crime comes to your attention?

**The Solicitor General for Scotland:** It is difficult to talk about a negative. As a result of working together, we have received certain information, as Ms Dalrymple indicated, on anecdotal concerns about people not coming forward. However, the information that we received during the process did not suggest that there is a huge number of cases of criminality in agricultural or rural communities. There was not a concern that huge numbers of cases were not coming to us and not being dealt with properly. There were small numbers, and on occasion information on the same incident has been

repeated. What I take from information on the same case coming from different groups is the impact that even one case can have on a community if it is not dealt with in the correct way. However, from what we have received so far, I do not think that there are large numbers.

**Roderick Campbell:** There is a reference in the update from Police Scotland to some training for Crown Office prosecutors in March 2016. Will you give us a bit more information on how the Crown Office trains prosecutors in this area, what in particular they are trained to look for and what the general approach is?

**The Solicitor General for Scotland:** We have a training and learning division that develops our training, including the training in relation to the particular sort of criminality that we are discussing. The lead prosecutor was appointed during the review, so there is always that single point of contact, and then there is the policy and the internal written guidance on how to deal with individual cases.

The training on agricultural crime and the new policy will be in two parts. First, every prosecutor will have to undergo the e-learning training. The training package is just about complete and it will be rolled out for every prosecutor to undertake from 1 March. Secondly, those who make the decisions when such cases appear will undergo specialist training, which will be the more traditional type of training. I am not sure whether it will take place over one day or more than that.

**Catriona Dalrymple:** I think that it is one day.

**The Solicitor General for Scotland:** That training has been developed along with the NFU and Police Scotland, which are participants and will lead the training along with the COPFS. That will ensure that those who make the decisions fully understand the policy and what I consider to be the most important thing, which is the impact. It is important to have the right information about crimes so that people can determine their seriousness and whether they were opportunistic or there is a more sinister undertone. The prosecutors who are involved in that will do the second, more detailed part of the training, and that, too, will commence in March.

**Roderick Campbell:** Are there any other themes—apart from the distinction between opportunistic and more serious crime, which you mentioned—that you are particularly trying to get the prosecutors to understand? Are you focusing on the general background to agricultural life?

**The Solicitor General for Scotland:** We are trying to get prosecutors to understand the general background to agricultural life, the impact of the criminality, the types of offences that are most likely to be committed, the information that is

received from members of the agricultural community about their expectations of how such crime will be dealt with within the justice system and the absolute necessity for all information to be before the court. Some of the offences, such as livestock worrying, are specialist, but for others, such as theft, the amount of evidence that is sufficient to prove them is the same as it would usually be; it is the situation surrounding the offence and its impact that might be very different.

**Roderick Campbell:** Thank you.

**The Convener:** Margaret, we have kept the issue of sewage sludge for you.

**Margaret Mitchell:** It is an issue that has been brought up in the Parliament since its inception and we have still not got to grips with it. The dumping of sewage sludge, which is sometimes untreated, involves serious and organised crime and there is big money in it. The sludge is imported from other countries and spread on agricultural land. The companies that transport the sludge cease to trade and then start up again as new businesses as soon as they come under the microscope.

In my view, the issue is one that should come under agricultural and rural crime, but the difficulty is that no one body takes the lead and there is uncertainty about which body should do so. Should it be Police Scotland, environmental health, the local authority or the Scottish Environment Protection Agency? I think that we are waiting for a report from the agriculture minister. It is an issue that involves big money, organised crime and intimidation, all of which we have been looking at.

**The Solicitor General for Scotland:** I regard that area as crossing from agricultural into environmental crime. If I were to put it in a box, I would put it in the environmental category. The links between environmental crime and organised criminality across the world are known, and we have specialists who deal with environmental criminality. I do not want you to think that the issues that we are talking about are in individual boxes because, as you describe, there is crossover. What is important is that prosecutors in each of those areas are specially trained.

**Margaret Mitchell:** That is helpful.

**The Convener:** I think that we have strayed a little. However, I am very impressed with Margaret Mitchell's knowledge of sewage sludge—she has not got that on her CV.

**Margaret Mitchell:** The issue has been around since 1999.

**The Convener:** Years ago, there was a very good meeting in Parliament with SEPA and

members of the police who dealt with environmental crime.

I do not see any other members who have questions—I should not have said that. Before I bring in Christian Allard, I have a question of my own about the membership of the agricultural crime group. This might sound frivolous, but I do not mean it to be. Is there a role for rambles or hillwalkers to play? They are out on the hills where farmers cannot patrol and where there is no CCTV. Should they be on the group? That would alert them to the fact that, if they see something odd in an area where they are walking, they should report it. They are out where no one else is out and in weather that no one else is out in.

**The Solicitor General for Scotland:** As far as I am concerned, we would welcome the involvement of anyone who is able to provide information that would assist us in dealing with such criminality. That would be helpful and we will take that forward. We will find the right group to contact and establish whether it is interested in taking part.

**The Convener:** There will be different groups in different geographical areas. That issue was raised with me by a farmer. He took me miles in his four-wheel-drive—I thought that he was trying to create a by-election; he took me to some wild places. He said that, when they go past the farm gate, people sometimes tell him that they have seen something while they were out walking. It might just have been dogs running loose or something more organised than that. I did not see such people on the list of those involved. They are handy.

**Catriona Dalrymple:** They have certainly not been involved in the review to date but, as the Solicitor General said, we will be more than happy to consider that.

**The Convener:** Christian, is your question on sewage sludge or environmental crime?

**Christian Allard:** It is on giving evidence in court. If farmers have to go to court, that can make it very difficult for them to look after their animals. Have you considered the extended use of videolinks to make sure that farmers do not need to leave their animals?

**The Solicitor General for Scotland:** You are straying into a completely different area—ensuring that the justice system is modern and digitised.

**The Convener:** I do not want to go there. I stopped John Finnie. Margaret Mitchell got to ask about sewage sludge, but I do not want to go on to videolinks.

I thank Lesley Thomson and Catriona Dalrymple very much for their evidence. It might be useful for the committee to take evidence from Police

Scotland and perhaps the NFU. That would allow us to have a different focus. I feel that it would have been useful to put some of the questions to Police Scotland.

I suspend the meeting for a couple of minutes to allow the witnesses to leave.

10:45

*Meeting suspended.*

10:49

*On resuming—*

## **European Union Priorities**

**The Convener:** Agenda item 3 is consideration of correspondence with regard to European Union priorities. We have from the Minister for Community Safety and Legal Affairs the latest update on EU issues that we had previously identified as areas of particular interest, and our papers also include an update from the minister on the most recent EU justice and home affairs council meeting, which was held on 3 and 4 December.

Roderick—

**Roderick Campbell:** I—

**The Convener:** I have more to say—I am going to build your part up. As our EU reporter, would you like to highlight any particular issues in paper 3 and suggest a course of action? You may now speak.

**Roderick Campbell:** The paper and the minister's comprehensive letter say it all, but I wish to make a couple of points.

Obviously, work on human rights is going on in the Parliament and the European and External Relations Committee, which, a few weeks ago, had a private visit from the Westminster Parliament's Joint Committee on Human Rights. Without betraying too much in the way of confidences, I detected a little bit of frustration in Westminster at the delay in the progress of the United Kingdom Government's proposals for a British bill of rights. Obviously, in the absence of those proposals and given the timescale before our parliamentary session reaches its conclusion in March, the extent to which the Scottish Parliament can carry out work in relation to human rights through the European and External Relations Committee is fast diminishing. That is certainly an issue.

The minister's letter talks in particular about the EU migration crisis. It is hard to believe that migration issues in the European Union will not come back on to the European agenda in a very big way in the months ahead. Even if we look back at what was agreed in May last year, we can see that things have moved on considerably.

As for more technical issues, we are awaiting a revised version of the Brussels IIa regulation, which deals with court jurisdiction in matrimonial matters and matters of parental responsibility. That is very much work in progress.

The minister has also highlighted directives that relate to the Paris attacks and foiled terrorism. Again, such issues are highly topical, and I think

that issues such as combating terrorism and the control of the acquisition of weapons will remain high on the EU agenda.

The rest of what has been said is really self-explanatory.

**John Finnie:** The paper is excellent, and I am grateful to the minister for all the information that he has provided. What I found particularly helpful and interesting was the detailed information on the progress that has been made on the objectives with regard to the EU agenda on migration and Scotland's role in relation to that, despite the UK's being the nation state.

**The Convener:** The migration issue has been one of the European Union's biggest tests to date, and it has failed it. Migration is not at the top of the media's list of issues, but we should never forget that hundreds of people are still trying to make journeys in flimsy craft and hundreds of people are drowning. Just because the issue is not on the front line of television any more, that does not mean that it is not happening. It is extremely disappointing.

Of course, there is also the referendum to take into account. Whether that happens in June or is deferred to September, it seems that it will happen this year, and the issue will to some extent just be thrown into the air until the result. I wonder whether Roddy Campbell would like to comment on that. There is also the issue of human rights and, without our getting into a yes or no debate, the issue of disentangling EU legislation that forms part of our own legislation.

**Roderick Campbell:** The European and External Relations Committee has done some work on the EU referendum and considered its implications for Scotland. That work is on-going; indeed, I think that there will be another session on the issue on Thursday.

**The Convener:** How do you think that will affect justice issues?

**Roderick Campbell:** Who knows what the result of the referendum will be? If we moved back into fortress Britannia, it could open up a whole debate about the extent of co-operation between the whole of the UK and the European Union and the separate justice systems north and south of the border. If there were a no vote, people would probably look at that relationship and how it would progress in the future.

**The Convener:** Would some of our legislation—our statutes—in which we have imported duties or certain rules have to be amended?

**Roderick Campbell:** Obviously, the extent to which European law forms a direct part of Scots law and the impact on that of a no vote, for

example, is an issue. We would have to consider whether or not that situation would remain.

**The Convener:** Margaret McDougall and then Margaret Mitchell want to ask questions. I am sorry—I got that the wrong way round. You will be all right, Roddy—Margaret Mitchell is not going to talk about sewage.

**Margaret Mitchell:** I have a question about the negotiations over the creation of a European public prosecutor's office and how that did not comply with the principle of subsidiarity. We were monitoring that to make sure that there were no adverse implications for the Scottish prosecutorial system. Is there any update on that?

**Roderick Campbell:** No, but I take your point. We could write to the minister, asking for an update on the current position regarding the EPPO.

**Margaret McDougall:** My question is about videoconferencing. Can you give us an update on that?

**Roderick Campbell:** What page is that on?

**Margaret McDougall:** It is on page 4 of paper 3. In his letter, the Minister for Community Safety and Legal Affairs says:

"Although Scotland cannot access funds from the Justice Programme as the UK has opted out, we are currently laying the ground for potential applications to the Connecting Europe Facility later in 2016 to support a number of EU e-Justice Portal interconnections projects."

Is there any update on that?

**Roderick Campbell:** The letter from the minister is dated 21 January, and he says that he will update us on any developments. Perhaps we could write to him formally, asking him to ensure that if there are any updates, particularly before 23 March, the committee is advised of them.

**Christian Allard:** Thank you for your very informative presentation, and I also thank the European and External Relations Committee for its good work. Perhaps we could have done it, but unfortunately, we do not have the time to do everything.

So many topics are continuing. What is going to happen between 23 March and 6 May? Are any EU directives coming in? Is anything happening? Can we have a reassurance that nothing will be moved forward while there is no Parliament sitting?

**Roderick Campbell:** That takes us into the problems of purdah. We will cease to be MSPs; there will still be a Government, but there are certain constraints on what Governments can and cannot do in the purdah period. I am not sure that I can take it much further than that.

**The Convener:** Broadly speaking, there can be an Administration but no policy announcements or anything of that kind can be made during purdah.

**Christian Allard:** That is a worry.

**The Convener:** Well, that is life. You will stop being an MSP on 23 March—like it or lump it.

**Christian Allard:** A lot of things could happen at any time.

**The Convener:** We should also remember that the UK Government is not in purdah. In fact, we will not be in purdah either; we will simply be dissolved, my dear.

**Margaret McDougall:** I wonder whether Roddy Campbell can answer a question about the directives on the presumption of innocence and on 16 and 17-year-olds, which, again, are addressed on page 4 of the paper. Where are we with those?

**Roderick Campbell:** Generally, the Government is reasonably content that our domestic law complies with the directive on the presumption of innocence. As far as the issue of 16 and 17-year-olds is concerned, we had a reasonable debate on the issue before we passed the Criminal Justice (Scotland) Act 2016, in which we heard views on the review. If there are any specific points that a member wants to address to the minister, we can put them in a letter.

**The Convener:** There is also the general problem that our legislation has such varying ages for different duties, rights and protections. Some such as the age of marriage and so on have been inherited, and we might not have those now. That is perhaps a bigger issue for the Parliament as a whole.

**Roderick Campbell:** I stress the point made at the bottom of that section that

“The UK Government did not opt in to any of the above measures”.

To a degree, it is a matter for the Parliament.

**The Convener:** Thank you very much, Roddy, for the information that you have provided on a huge range of things. As I have said, things are bit up in the air just now.

Can we take a view on what we would like to do? Are there any issues that members want to raise with the minister or any significant urgent issues arising? If not, that concludes our consideration of EU issues for the current parliamentary session. Do we want to invite the minister to give evidence to expand on the issues set out in his written update or to write to the European and External Relations Committee, seeking an update on its work in relation to human rights and EU migration?

It is a good job that I can understand body language. Alison McInnes is shaking her head as if to say, “None of the above.”

**John Finnie:** A lot of issues have been covered, and I am grateful to Roddy Campbell for that, but I recall that we were previously very exercised about the Lisbon opt-out. Can we ask the minister where things sit overall in relation to the previous position?

**The Convener:** Okay. Does anybody else have anything to add?

**Roderick Campbell:** I think that we should specifically raise Margaret Mitchell’s point about the EPPO. Generally, though, I do not think that we should give the minister too hard a time on these issues between now and 23 March.

**The Convener:** Would it be worth writing to the European and External Relations Committee, asking for an update on its work in relation to human rights and EU migration, or should we just read its reports?

**Roderick Campbell:** I suggest that we just read its reports.

**The Convener:** Okay. Thank you very much. That concludes that item, and we now move into private session.

11:00

*Meeting continued in private until 12:20.*





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