



**OFFICIAL REPORT**  
AITHISG OIFIGEIL

# Justice Committee

**Tuesday 16 January 2018**

**Session 5**



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**JUSTICE COMMITTEE**

**2<sup>nd</sup> Meeting 2018, Session 5**

**CONVENER**

\*Margaret Mitchell (Central Scotland) (Con)

**DEPUTY CONVENER**

\*Rona Mackay (Strathkelvin and Bearsden) (SNP)

**COMMITTEE MEMBERS**

\*George Adam (Paisley) (SNP)  
\*Maurice Corry (West Scotland) (Con)  
\*John Finnie (Highlands and Islands) (Green)  
\*Mairi Gougeon (Angus North and Mearns) (SNP)  
\*Daniel Johnson (Edinburgh Southern) (Lab)  
\*Liam Kerr (North East Scotland) (Con)  
\*Fulton MacGregor (Coatbridge and Chryston) (SNP)  
\*Ben Macpherson (Edinburgh Northern and Leith) (SNP)  
Liam McArthur (Orkney Islands) (LD)

\*attended

**THE FOLLOWING ALSO PARTICIPATED:**

Anthony McGeehan (Crown Office and Procurator Fiscal Service)  
Teresa Medhurst (Scottish Prison Service)  
Anne Pinkman (Scottish Working Group on Women's Offending)  
Tavish Scott (Shetland Islands) (LD) (Committee Substitute)  
David Strang (Her Majesty's Chief Inspector of Prisons for Scotland)

**CLERK TO THE COMMITTEE**

Peter McGrath

**LOCATION**

The Mary Fairfax Somerville Room (CR2)



## Scottish Parliament

### Justice Committee

*Tuesday 16 January 2018*

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

#### Interests

**The Convener (Margaret Mitchell):** Welcome to the Justice Committee's second meeting of 2018. There are no apologies but Liam McArthur has indicated that he will be late due to flight disruptions.

Agenda item 1 is a declaration of interests from our new member. It is my pleasure to welcome Daniel Johnson to the Justice Committee. I ask him to declare any interests.

**Daniel Johnson (Edinburgh Southern) (Lab):** Thank you for your welcome, convener. I have no direct interest to declare but I would like to make members aware that my wife is a practising solicitor.

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

#### Decision on Taking Business in Private

10:01

**The Convener:** Agenda item 2 is a decision on taking in private item 6, which is consideration of our forward work programme. Are we all agreed to take that item in private?

**Members** *indicated agreement.*

## Subordinate Legislation

### Notice to Local Authorities (Scotland) Amendment (No 2) Regulations 2017 (SSI 2017/421)

10:01

**The Convener:** Agenda item 3 is consideration of a negative instrument. I refer members to paper 1, which is a note by the clerk. The committee has until 22 January to report to the Parliament. If members have no comments, does the committee agree that it does not wish to make any recommendations in relation to the instrument?

**Members** *indicated agreement.*

**The Convener:** I suspend the meeting briefly to allow the witnesses for the round table on remand to take their seats.

10:01

*Meeting suspended.*

10:02

*On resuming—*

## Remand

**The Convener:** Agenda item 4 is a round-table evidence-taking session on remand. The purpose of the round table is to explore issues around the use of remand in Scotland as well as the experience of prisoners who are held on remand.

I welcome all our witnesses and suggest that we start by going round the table to introduce ourselves.

I am Margaret Mitchell, the convener of the Justice Committee.

**Gael Scott (Clerk):** I am one of the clerks to the committee.

**Diane Barr (Clerk):** I am also one of the clerks to the committee.

**Fulton MacGregor (Coatbridge and Chryston) (SNP):** I am the MSP for Coatbridge and Chryston.

**Anthony McGeehan (Crown Office and Procurator Fiscal Service):** I am the procurator fiscal for policy and engagement at the Crown Office.

**Ben Macpherson (Edinburgh Northern and Leith) (SNP):** I am the MSP for Edinburgh Northern and Leith.

**John Finnie (Highlands and Islands) (Green):** I am an MSP for the Highlands and Islands.

**David Strang (Her Majesty's Chief Inspector of Prisons for Scotland):** I am Her Majesty's chief inspector of prisons for Scotland.

**Liam Kerr (North East Scotland) (Con):** I am an MSP for the North East Scotland region.

**Maurice Corry (West Scotland) (Con):** I am an MSP for the West Scotland region.

**Teresa Medhurst (Scottish Prison Service):** I am the Scottish Prison Service's director of strategy and innovation.

**Mairi Gougeon (Angus North and Mearns) (SNP):** I am the MSP for Angus North and Mearns.

**George Adam (Paisley) (SNP):** I am Paisley's MSP.

**Anne Pinkman (Scottish Working Group on Women's Offending):** I represent the Scottish working group on women's offending and the Prison Reform Trust.

**Daniel Johnson:** I am the member for Edinburgh Southern.

**Rona Mackay (Strathkelvin and Bearsden) (SNP):** I am the MSP for Strathkelvin and Bearsden and the deputy convener of the committee.

**The Convener:** I encourage a free exchange of views in round-table sessions. That includes witnesses addressing one another directly and expressing views rather than simply responding to questions. However, to maintain some discipline, it would be helpful if comments could be directed through the chair. If anyone wishes to speak at any point, they should indicate that to me or the clerks and it will be noted. There is no need to press any buttons—when it is your turn to speak, your microphone will go on as if by magic.

I refer members to paper 2, which is a note by the clerk, and paper 3, which is a private paper.

Police Scotland is not represented at the meeting but, in its written submission, it says that remand

"is a permitted breach of Article 5 of the European Convention on Human Rights (ECHR)—the right to liberty."

However, it adds that

"Such breaches must be proportionate, necessary, legitimate and subject to appropriate scrutiny and ongoing review."

Are those conditions being met at present in Scotland as regards remand?

**David Strang:** The qualification that Police Scotland puts on the right to liberty is a commonsense one. Clearly, if someone breaks the law seriously, the police will detain them, arrest them and keep them in custody for court. The more serious the case, the more likely they are to be detained.

The use of detention, prison and remand is about protecting the public from further harm. I do not think that anyone would quibble that it is perfectly legitimate and proper that someone who poses a risk and a threat to society be detained in custody for however long is needed. If someone is a very serious offender, they might be sentenced to life imprisonment on conviction. That is at the harshest end, but I do not think that anybody says that that detention is a fundamental breach of the offender's human rights.

Police Scotland is saying that the right to liberty that we all enjoy is qualified and, if someone behaves in a way that threatens others in society and causes harm, they have, in a way, forfeited that right. As long as there is due process and the rule of law is followed, the human right is not breached. I am not sure that that is exactly the right terminology. It is a qualified right and, in certain circumstances, its removal is perfectly legitimate and justified.

**The Convener:** Is that just if the person is a threat to the public? Flight risk is another criterion that is often used for remand.

**David Strang:** Yes. My comments were more my personal view that that is what imprisonment should be used for. The legislation says—again, I do not know the exact terminology—that if it is suspected that someone will interfere with witnesses and so corrupt the due process of law, that is a ground for remand. If there is a fear that someone might flee the country, that is another ground for remand. Remand is perfectly legitimate as long as there are good grounds for it and the decision is not arbitrary.

The point that I want to communicate is that those bars are quite high. You will see from my submission that I think that remand in prison before trial is used too frequently when there is, perhaps, a minor fear of someone not turning up at court or of them reoffending. The only option seems to be to remand them in custody until trial and I would encourage society and Parliament to consider other ways of ensuring that people attend court for their trial.

**The Convener:** We have set out what seem to be the criteria for such a breach, so I suppose that the next question is about the extent to which those criteria are followed and whether people are held without them being met.

**Anne Pinkman:** The statistics that have been provided in our submission and in others indicate that the use of remand has increased over recent years. A good example is its use with women. The fact is that more women are remanded in custody than males and that only 30 per cent of women who are remanded go on to get a custodial sentence.

Far more use should be made of alternatives to remand. The Government is currently considering the use of electronic monitoring for individuals who may flee. Its use in such cases seems ideal for consideration.

There is also supervised bail, which has been shown to be extremely effective, much more efficient and far less disruptive than the effects of imprisonment on individuals and their families.

**The Convener:** If that is the case, why do we use remand? Anne Pinkman has covered the necessary bit, but I wonder whether the Procurator Fiscal Service has any views on whether remand is legitimate and proportionate. I note that Mr McGeehan has proffered the view that putting prisoners on remand ensures that they are in place for appearance at court. Is that view recognised by anyone else?

**Anthony McGeehan:** Broadly speaking, the reasons for remanding an accused person can be

categorised under two headings: public protection and administration of justice. With regard to the effective administration of justice, there might be a variety of issues to deal with, one of which might be non-attendance at trial diets or future diets of the court. That is a feature of remand in Scotland. Other mechanisms for mitigating that risk might be available in different locations across the country and, as Anne Pinkman has suggested, mechanisms such as electronic monitoring might be available in future to assist in that respect. However, electronic monitoring is not currently available as a risk-mitigation measure.

**The Convener:** Does Teresa Medhurst have anything to add from her perspective?

**Teresa Medhurst:** Our role is to take those who are remanded or sentenced on conviction by the courts. The remand figures seem to have been fairly stable in recent times. On the impact of a period of remand, taking someone into custody will have significant implications for their family and home life and their stability. We see that that is the experience of those who come into custody, regardless of their sentence.

**Liam Kerr:** A number of witnesses have talked about the ethos with regard to the possibility of using remand, but do we have any data on why it is being used? Has there been any analysis of the reasons that have been given for its use—for example, protecting the public from harm, the risk of the process being corrupted, flight risk and so on?

**Anthony McGeehan:** I am not aware of any data being kept on the reasons for the use of remand. The court makes the decision whether to remand an individual; there might be a headline reason for that decision, or it might result from a combination of different factors.

**Liam Kerr:** Do you know whether that is captured? Does anyone write down, "Here's why I have remanded this person"?

**Anthony McGeehan:** No. The court is obliged by statute to articulate why an individual is being put on remand. I presume that the sheriff or the court will record the reasons for that decision, but I am not aware of any data being captured or any data set that would allow us to understand why individuals had been remanded or, in a systemic way, to understand the profile of reasons for remand among the current prison population.

**Liam Kerr:** That is interesting.

10:15

**Anne Pinkman:** I agree. It is wrong that we do not have that data; indeed, we should have it, given that sentencers are obliged to make such matters known.

Anecdotally, we know that a lot of individuals are remanded in custody for failing to appear for criminal justice social work reports. Sentencers are obliged in many circumstances to have a criminal justice social work report prepared before they can impose a custodial sentence—not in all cases, but certainly for any individual who is to be made subject to a community payback order, for example. Those individuals often have chaotic lives and fail to appear for court, and, nationally, too little is being done to assist them to appear at court on the required date. For example, little use is made of stand-down reports. Rather than continue a case for two or three weeks for a criminal justice social work report, sentencers can ask the court social worker to provide what is known as a stand-down report, which means that the case is continued for two or three hours. Little use is made of that, which is surprising, given that many individuals who appear before the courts are known to both the courts and criminal justice social work services.

The court social worker should be able to access previous court social work reports electronically from the court social work database; they could therefore interview the individual, access that information and present a verbal report to the sentencer. I find it frustrating that the ability to use that function is not used by sentencers, but its use should be encouraged. That also applies to Shine Women's Mentoring Service, which works successfully with women and will accompany them to court, thus reducing the need for remands for failure to appear.

**John Finnie:** To follow up on that, the issue is the timeframes in which we have to operate. The scenario, of course, is that someone must be retained in custody by the police and then put to the court, and the timeframe for that can be very short. Are there no examples of previous experience being drawn on, given that often the same people are involved? Is the Crown Office and Procurator Fiscal Service's decision making not informed in that way?

**Anthony McGeehan:** I will pick up on the issue of the constrained timescale, then that of being aware of a person who repeatedly appears in front of the same court and how that might impact on the decision-making process. Mr Finnie is right that we are dealing with a time-critical process whereby a person who is arrested by the police might be arrested up until midnight on one day and be required to be brought before the court by the next lawful day. That means that in real time the police have only the next working day to report that case to the COPFS and it, in turn, has only the next working day in which to consider the case properly and identify whether there is sufficient evidence, whether proceedings are in the public interest and whether bail should be opposed in the

event of the accused person pleading not guilty when they are brought before the court. Any attempt to ingather evidence is therefore an additional step within an already time-critical process, which is one of the challenges with schemes such as bail supervision.

You asked about parties already being aware of the individual in question. It is true that knowledge of them might accelerate the process, not so much for the police or the COPFS but more for the defence agent who regularly appears on behalf of the accused person and for the criminal justice social worker. In the real world, that social worker would be sitting in court and would be aware of the individual because they would see them regularly in that court; they might already be aware of the issues that the individual has and the support that might be appropriate for them. There is knowledge in the system about individuals, but it would be most relevant in the case of the criminal justice social worker, who is perhaps looking to assist the court in its decision-making process on whether bail supervision or remand is the appropriate decision for the individual.

**John Finnie:** Presumably that information would inform the decision by the fiscal in court on whether to object to the individual being released on bail. Could that information not be collated in a way that would reduce the likelihood of such an objection, as Anne Pinkman suggested? I appreciate that there will be accommodation issues and time constraints. I am also conscious that we have not asked criminal justice social work services to comment on that. I presume that it would all be doable if there were some flexibility.

**Anthony McGeehan:** Criminal justice social work would be best placed to comment on whether it has a bank of information in relation to an individual that it could deploy if someone appeared regularly in front of the courts.

**John Finnie:** I am somewhat surprised. If the fiscal has to make a decision on representations that they are going to make to the sheriff regarding what should happen to the accused and whether they are to be remanded, I would have presumed that the Crown Office and Procurator Fiscal Service has that information, whether it is the only party to hold it or whether the information is shared with criminal justice social work.

**Anthony McGeehan:** The information that the COPFS would have would relate to the accused's criminal offending; it would not relate to the individual's personal circumstances and the support that may be available for them according to their current situation.

**John Finnie:** I would have thought that there would be shared information that would have informed previous decisions about bail. I

understand that you may well know whether someone has offended while they are on bail.

**Anne Pinkman:** It is fair to say that the provision of court social work services varies considerably across Scotland. One court social worker could be covering two or three courts at once. That brings its own challenges.

There are pockets of very good practice. I cited one such example in my advance written evidence, which is the supervised bail project in Glasgow that is run by two voluntary organisations. Each morning, the project receives a copy of the custody lists and the workers are able to go into the court cells and interview the women who are in custody, explain the support that is available to them through the supervised bail service and encourage them to agree to a supervised bail order. They then ask the women to inform their defence agent that they have been interviewed and are willing to comply with a supervised bail order should the sheriff be willing to consider that. That is a proactive project.

However, that is just one example and provision is patchy. It is frustrating that similar time and cost-saving projects are not available nationally. I encourage the Justice Committee to ask why that is the case and why such provision is not available on a national basis.

**David Strang:** The administration of justice is a legitimate aim, certainly from a victim's point of view: for both the victim and the accused, the trial should be as timeous as possible and delays caused by witnesses or the accused not turning up need to be countered.

If someone has already been involved in the system and has already been convicted of offences, it is more likely that they will be remanded in custody on the basis of their criminal history, which might not necessarily justify remand in custody. Anne Pinkman mentioned the statistic from the Angiolini report: when it comes to the disposal of cases, 70 per cent of women remanded in custody do not end up in prison, either because they have already served enough time, their case is dropped or they are not convicted. That is evidence that we are overusing remand as an administrative function to ensure that a trial can go ahead given that there are successful schemes to support people on bail to ensure that they turn up at court. However, the provision of those schemes is very patchy. As Anne Pinkman has just said there are good schemes in some parts of Scotland, but those support services should be available throughout the country.

**The Convener:** Fulton MacGregor has a question.

**Fulton MacGregor:** It picks up on points that have been made, including the point about the national picture. I wonder whether there is a particular point about remand given that a criminal justice social work report is not required for a remand. That is required only for full custody.

I declare an interest. I was previously a criminal justice social worker and I am still registered with the Scottish Social Services Council. A lot of the time, those of us who were based in a social work office were told later on that a remand had been made. If it had been discussed with the local office as well, there could have been another outcome.

I will get to the point of what I am suggesting. It seems that, if there is a bail supervision officer or a court social worker on site, they will be consulted, but there may not be such a person. Anne Pinkman talked about the patchiness of the service due to resources. It is perhaps not the same in every part of the country. However, there is a local social work office that provides a criminal justice service everywhere in the country. Is there any way that the different services could be tied up?

Of course, we need to respect the fact that the sheriff in the court has the right to make decisions. That comes up in the committee quite a lot. However, from my experience, I would like to see a bit more of what I have suggested, which might reduce the need for remands.

**The Convener:** Could the Crown Office and Procurator Fiscal Service intervene and say, "Before we make a decision, will the court allow us a little time to contact the local office"? Do you recognise what Fulton MacGregor says?

**Fulton MacGregor:** May I add something before you bring in Mr McGeehan, convener? I think that it needs to be more fluid than that. Maybe the PF service would have a role in bringing it together, but it needs to be more about local practice and the development of relationships.

**The Convener:** What is your view, Mr McGeehan?

**Anthony McGeehan:** If I may, I will pick up on a couple of points that have been made and maybe return to the point about the availability of social work input.

First, I absolutely agree that bail supervision is an effective support mechanism for accused persons, but we have to be cautious before concluding that there is a direct correlation between the availability of bail supervision and a reduction in remand numbers. The Scottish Government led on a penal improvement project with three pathfinder sites at Hamilton, Dundee and Paisley, and bail supervision was offered as a

support mechanism for persons on remand at those three sites. The committee might be interested in receiving information from the Scottish Government on the available data from those three sites, but there was no direct correlation between the availability of bail supervision and a reduction in remand. There was a reduction in remand at the three sites, but it coincided with a reduction in the number of custody cases being reported to those sites. One might well expect that, if there is a reduction in the number of custody cases, there will de facto be a reduction in the number of persons remanded.

One of the complexities in those three sites was the issue that Mr Kerr identified in relation to the reasons for remand. Was it bail supervision that made the difference in relation to remanding an individual, or was it a support mechanism that was put in place for the individual, who would have been allowed bail in any event? We should remember that bail supervision may not only assist an individual to attend court but offer them support with issues in their life.

I am not challenging the value of bail supervision or concluding that more uniform provision of it would not be good. It is about whether there is a direct correlation between the availability of bail supervision—

**The Convener:** Was analysis done to see whether there is a direct correlation? You said that, at the same time, the number of custodies had gone down, and that may have been the reason. Was the analysis inconclusive?

**Anthony McGeehan:** It was inconclusive in the sense that the data fluctuated significantly on a monthly basis in relation to numbers of remands at the three sites. I am not—

**The Convener:** You are not saying that there is not a correlation, but it was not definitely established because of the circumstances.

10:30

**Anthony McGeehan:** Yes—and because of the complex decision-making process and the availability of bail supervision as an option in relation to all persons who are released on bail by a court.

In relation to access to information or the desirability of information from criminal justice social work, the sheriff is always able to ask any party who appears in front of them—sorry, I said “sheriff”, but it is the court, although the reality of the business in front of our courts is that the majority of remand decisions will be made by a sheriff. He or she, in statute and in practice, has the opportunity to ask any party, whether that be the Crown, the defence or the criminal justice

social worker if he or she is present in court, for additional information to assist with the remand decision. The sheriff can also adjourn the case for 24 hours to allow for receipt of that information. That happens, day in and day out, in our courts. That is reflected in the Law Society of Scotland’s written evidence, which describes sheriffs asking for information and continuing hearings for 24 hours to ensure that the remand decision is as informed as possible.

**The Convener:** Is that balanced? You mention the Law Society submission, but it is not represented here. There was a question over the availability of courts, so there is pressure to move business on and the sheriff might not have that luxury.

**Anthony McGeehan:** In 20-plus years, I have never had experience of a court not continuing a matter to the next day because of the unavailability of a court. A custody court will sit every lawful day in every court in Scotland because, by definition, the next day’s custody business will be there to call, and it is one more case that is simply added to the next day’s business.

**Anne Pinkman:** I have two points, one of which is just for clarification. When I mentioned remand, access to criminal justice social workers and stand-down reports, that was specifically in relation to individuals who are remanded into custody because they have failed to attend an appointment with a criminal justice social worker to prepare the criminal justice social work report. My point was that, very often, that is not absolutely necessary and, as an alternative, the court can request a stand-down report.

We have provided data that shows that 60 per cent of women who are remanded into custody have been on remand before, and there is every likelihood that fairly recent previous criminal justice social work reports will exist. That was my point about the use of criminal justice social work in court for those stand-down reports. That said, criminal justice social workers are well placed to provide information for the court, should it so wish, for bail.

On the use of bail, I again refer members to the statistics. In 2015-16, 7,300 requests were made for bail information and only 360 bail supervision cases were made. The statistics speak for themselves.

**Mairi Gougeon:** I have a follow-up question regarding a point that Mr Strang made. We received evidence from the police—unfortunately, there is no one from the police here to respond to questions—that the provisions of the Criminal Justice (Scotland) Act 2016 will lead to fewer people being held on remand in police custody

because the police will have a new ability to set a bail condition of curfew and because the requirement for those who are arrested on warrant to be remanded in police custody prior to court appearance has shifted considerably under the act. Do the panel members think that the act will or will not lead to fewer people being held on remand in police custody?

**David Strang:** The provision that you are talking about is coming into force next week. It is a fair assessment that it is likely that fewer people will be kept in police custody before appearing in court. However, the issue at the heart of our discussions this morning is the court decision to remand someone in custody—that is, to a prison. I suppose that, if someone has been on police bail and has turned up, it might be less likely that they will then be remanded in custody in prison, so it might well have an effect on that.

However, let me answer your specific question. Yes, I think that the 2016 act will reduce the number of people who appear in court from police custody, because of the provision for bail from the police station.

Part of the issue is that the people who are making the decisions about whether or not someone is remanded in custody are those who are responsible for the administration of justice, so if it is considered that someone is not likely to turn up at court, that person is much more likely to be remanded in custody, because they will be brought to court. That is entirely understandable.

However, from the point of view of balance—Teresa Medhurst talked about this—we must consider the damage that is done when someone is locked up in prison. Being locked up on remand has the same disadvantages as a short prison sentence has, in that there is a break in relationships and there might be employment and housing issues. In the long run, the person might be more likely to reoffend. We know that someone who is sentenced to a short prison sentence is more likely to reoffend than someone on a community sentence.

It is important that we see both sides of the issue. The advantage of having someone in custody is, absolutely, that the court case is more likely to go ahead. The downside is the harm that is done by having the person in prison. Very little happens for someone who is on remand. They do not have to work, so they do not do so. They must be kept separate from convicted prisoners, so in general they will spend a long period of their day locked in their cell. It is a very unproductive time, and it is disruptive and damaging to other aspects of their life.

**Daniel Johnson:** You raised that issue in your 2016-17 annual report, in which you talked about

the lack of access to activities for prisoners on remand. Will you elaborate on the underlying reasons for and impact of that? Perhaps I can then ask the Scottish Prison Service to talk about the issue.

**David Strang:** People on remand are generally there for a short time. It is not necessarily known how long the period will be; the case might be dropped and court dates might change. Because such people are not convicted and are innocent in law, they are not required to work, and because of the shortness of the time when they are in custody and the unpredictability of that, they tend not to get on to courses or programmes. Some medical procedures are not available to them. For instance, in some prisons that I know, dental services are available to people on remand only for emergency treatment and not for routine procedures. In general, the regime for people on remand brings reduced opportunities for activity, education and work. That is just the practical reality of life in prison for someone who is on remand.

**Daniel Johnson:** What is the underlying issue in that regard, in your view? Is it purely practical? Is it policy, or is there an underlying issue to do with the availability of sufficient resource to make things possible, particularly given that prisoners on remand have to be kept separate from convicted prisoners?

**David Strang:** I do not think that it is a resource thing. I am not arguing that more resources should be put into that issue. The fact is that the high turnover of people on remand takes up a lot of prison service energy, effort and time. Everyone who comes in from court has to be processed, have a medical examination, be searched and so on. The fact that so many people are held in custody who ultimately do not get a prison sentence strengthens the argument that we should not remand so many people in custody in prison.

**The Convener:** Does Teresa Medhurst want to comment? If members are wondering why I have not called them, it is because I always bring in the witnesses as much as possible, so that we use most of the time that is available to hear what they have to say.

**Teresa Medhurst:** I echo the evidence that David Strang has just given. We have people on remand in custody for very short periods. Sometimes they do not understand the implications of their being on remand, such as whether they will move on to a custodial sentence if they are convicted. That uncertainty while they are in custody causes them a degree of difficulty in engaging.

Over many years we have made attempts to run activities with which we think that people on

remand might engage, but issues with consistency and the fact that individuals choose whether they wish to engage means that participation is variable. As David Strang said, a lot of the support activities can take several months. The uncertainty means that even if somebody starts something, they are unlikely to finish it. There are limited opportunities for people to engage in anything meaningful. The fact that people do not understand their circumstances at that point in their custodial experience means that they do not necessarily want to engage. Sometimes people fear that if they say that they have an addictions problem, that will impact on them in court. People can be suspicious and wary, partly because they are uncertain as to their future, which very much impairs their willingness to engage consistently.

The most recent statistics that we have from our addictions prevalence testing show that in the region of between 70 and 80 per cent of people coming into custody have addictions issues. Very often, the main focus will be on making sure that individuals are stable, settled and in a better frame of mind to engage with the court process when the time comes for them to attend court.

**The Convener:** The previous Justice Committee looked at studies showing that short-term sentences include little or no rehabilitation. That finding applied to the prison population, but the chances of there being any rehabilitation for people on remand are even further reduced.

**Rona Mackay:** My question is about the level of use of remand. Am I right in thinking that the general opinion around the table is that remand is being used too much? Would a lower level of use be desirable?

**David Strang:** That is certainly my view—I am not sure whether the Crown Office shares it. From what I see in prisons, it is an unproductive time that damages people's prospects of living a successful life outside. It is overused, given that there are alternatives, which we have heard about. Electronic monitoring—tagging—is not an option today, but it could be one in future. Rather than just having two options—unconditional bail or remand in custody—we should have different levels of supervision that are more intrusive. Tagging is very intrusive, because it forces someone to stay at a particular address between certain hours. There are ways of increasing the level of supervision and, therefore, the likelihood of an individual not offending and the likelihood of their turning up at court before we get to the failsafe and expensive option of remanding someone in custody in prison.

**Rona Mackay:** I will address my next question, which is on women offenders, to Anne Pinkman. I think that you said that 30 per cent of women on

remand do not go on to prison. The statistics that the committee received show that it is 70 per cent.

**Anne Pinkman:** It is 70 per cent.

**Rona Mackay:** I find that astonishing and it shows that the balance is not right. Are there any circumstances, other than women being a danger to themselves or others, in which women should be on remand?

10:45

**Anne Pinkman:** With all due respect, I certainly do not think that any woman who is a danger to herself should be remanded in prison.

**Rona Mackay:** But what if she is a danger to others?

**Anne Pinkman:** Too often, prison is used as an alternative to a mental health facility. We know that the majority of women who are received into custody have experienced trauma and that they have extremely high levels of mental health issues. Indeed, we knew way before the establishment of the commission on women offenders that over 80 per cent of women in custody had experienced trauma and abuse, and there is nothing to indicate that that situation has changed.

Going back to the statistics, I refer members to the recently published Prison Reform Trust document entitled "Why focus on reducing women's imprisonment in Scotland?", which shows that 90 per cent of the sentences imposed on women are of less than 12 months and the vast majority of those are of less than six months. As for admissions of women into prison, the most recent full year's statistics that we have are for 2013-14, unfortunately, but they still show that, of the almost 3,000 women who were admitted to prison, two thirds were on remand. As Teresa Medhurst has said, that has a significant impact on the Prison Service.

**Rona Mackay:** What is the average length of time that women and, I suppose, men are kept on remand?

**Anne Pinkman:** I do not have access to that data.

**Rona Mackay:** Does anyone have a view on that?

**Teresa Medhurst:** Last year, we did a snapshot of women on remand over a three-month period and, at that point, the average time spent on remand among the female population was 26 days. I am not sure that I have the same statistics for men.

**Anne Pinkman:** As I have mentioned, remand is as disruptive and as impactful on a woman's life

as a short-term sentence. As for the impact on children, I would note that very little research has been done on the impact of maternal imprisonment, but there is some research on parental imprisonment, and it shows that it is a recognised adverse childhood experience. What is very concerning is that 90 per cent of children with a mother in prison do not go on to live in the family home; the Prison Reform Trust is currently carrying out research on the impact of maternal imprisonment, and we will share the results of that with the committee.

We also need to take into account other caring responsibilities, loss of accommodation, loss of income and so on. Indeed, with regard to loss of income, I point out that, unlike individuals who are liberated from prison after serving a custodial sentence, who receive approximately £75 a week, someone who is released from custody after a period of remand will receive no discharge grant. A woman who might be caring for children will be released from remand with no finance, and it will take her approximately four weeks to receive any benefit. I have heard the most harrowing stories of how women survive until their benefits are reinstated.

**Rona Mackay:** With regard to women who have mental health issues or who have experienced abuse, are those issues never taken into account when they are remanded?

**Anne Pinkman:** It very much depends on what information is made available to the court. As we have heard, sometimes, because of the pressures of time, that information is not available. I would go so far as to say that, in remand cases, it is more likely than not that the information will not be available to the court.

**The Convener:** My understanding is that child impact assessments are available. Are those just for sentencing and not necessarily when consideration is being given to whether to put someone on remand?

**Anne Pinkman:** They are not available at the point of remand, and my understanding is that they are not routinely available at the point of sentencing either.

**The Convener:** Anthony, can you clarify the position? Are you aware whether child impact assessments are available before a decision is taken on whether to place someone on remand? What is the position on sentencing? As I said, I had understood that the assessments were in place.

**Anthony McGeehan:** I am not aware of that information being available for remand decisions. Information may be available at sentencing, but COPFS would not see the social work report that was submitted to the sentencer. The social work

department or sentencers would be better placed to describe that information.

**Anne Pinkman:** I have mentioned the research that is being carried out by the Prison Reform Trust on the effect of maternal imprisonment. We have established that many women are failing to disclose that they care for children for fear that social work will swoop in and remove their children. It is often the case that women will make informal arrangements for the care of their children before they appear in court and, as I say, they are reluctant to disclose that they have children.

**The Convener:** That is interesting.

Fulton MacGregor will finish off this area of questioning. If anyone has a point that they have not been able to make yet, do not worry—we will get to you; we will have a wash-up towards the end of the session.

**Fulton MacGregor:** Over the weekend, I was reading about the death of Emily Hartley in HMP New Hall, West Yorkshire. The inquest opened yesterday. As anyone who is following the case will know, Emily Hartley was 21 years old when she was found dead on 23 April 2016—

**The Convener:** A question, please.

**Fulton MacGregor:** Yes, I am coming to it, but the background is important, convener. She was remanded in custody—it was her first time in custody—after she had set fire to herself, her bed and her curtains. That was the offence that she was charged with. She had a serious history of mental ill health, including self-harm and drug addiction.

Deborah Coles, the director of the charity INQUEST, commenting on the incident, said:

“Emily was the youngest of 12 women to take her own life in prison in 2016. Just like the many women who died before her, she should never have been in prison in the first place. This inquest must scrutinise her death and how such a vulnerable young woman was able to die while in the care of the state.”

That is a powerful quote.

I was keen to ask about that case today. I know that Anne Pinkman has talked about this a little bit but, in a Scottish context, what can we learn from that case about female offending, and how we treat our female prisoners, particularly those on remand, given that many organisations say that remand in custody has the same impact on people as—

**The Convener:** Please be succinct, Fulton.

**Fulton MacGregor:** I particularly want to know about that in connection with the Scottish Government policy on community hubs for female offending.

**The Convener:** Does anyone want to respond to the gist of that?

**Fulton MacGregor:** There was a question there, convener.

**The Convener:** I am not sure what the question is.

**Fulton MacGregor:** What can we do to learn from that case and what further policies can we take in that regard?

**The Convener:** You are asking what can be done to stop such incidents happening.

**Fulton MacGregor:** Yes.

**Teresa Medhurst:** Over a number of years, the Scottish Prison Service has experienced suicide in custody, so we have developed our policy and practice in a multidisciplinary way with experts in their fields to support us, including the Samaritans, national health service colleagues and others.

We review every death in custody. We ensure that any lessons learned are used to inform policy and practice, where applicable.

We ensure that our staff are trained. We have what we call our talk to me policy. Everybody who works in prison, regardless of whether they are a prison officer, receives training and is familiarised with the issues, so that if they come across anyone who is distraught, or who has parasuicidal thoughts or behaviours, they can use our policy to inform how they respond, and we would enact the policy in order to support the individual during that crisis.

The other aspect is that, over a number of years, we have developed our processes on admission and first nights in custody to take account of such issues. Anyone who comes into custody—whether it be for the first time or not—will be treated the same. They will go through an admission process that will look at their immediate needs, and also an immediate nurse assessment that will take account of their presenting behaviours and issues at the time of admission. They will also then go through the first night in custody process. Therefore, during those first 24 hours, information and support are made available to individuals.

Over a number of years, we have tried to learn from our experience in Scotland, set against what we might describe as the increasing complexity of the cases that we receive into custody. I think that we would describe the case of the unfortunate young woman you referred to was complex, but the point applies to both men and women. Those who come into custody are presenting with more complex issues, such as the experience of women and young people who have experienced trauma. Therefore, in relation to women and young people

especially, we are developing an approach that is much more informed about trauma. We are also supporting our staff and others who work with us—but also learning from them—to improve our practice and to ensure that we take account of those very complex factors during individuals' periods in custody. That is so that we can support them as best we can—in relation to not just their criminogenic need but their personal needs as well.

**Anne Pinkman:** Today, we have spoken very much about what we do with women who become involved with the criminal justice system, but it has also been recognised—certainly in the justice strategy for Scotland—that much more needs to be done on prevention.

Two initiatives are very welcome. One is the development of triage services, which are now available—albeit in different formats and styles across the country—in which the police work with the NHS. When the police become aware of individuals whose behaviour indicates that there might be a mental health issue or crisis issue, they are now able to call on colleagues in mental health services and community psychiatric nurses. In the pilot phase, it was found that almost every case was diverted successfully. For example, rather than two police officers taking an individual to hospital and waiting several hours for them to be seen, that individual could be diverted to community psychiatric services and be dealt with accordingly there; more importantly, the individual could avoid any involvement in the criminal justice system. Such services have now been rolled out across the country, are beginning to show very positive results and should continue to be invested in.

Secondly, the local NHS has responsibility for the provision of health services in police custody suites. Again, we are seeing improving use of triage services in police custody, in that individuals who have mental health problems are now more readily identified and diverted from the criminal justice system at that stage. That is extremely welcome and is an area that we should continue to develop.

**The Convener:** Before I bring in David Strang, I point out that a lot of comments that have related to women will also relate to men. Do we have the average time on remand for men? Teresa Medhurst was looking at that.

**Teresa Medhurst:** Unfortunately, some of the figures that we have are for 2013-14. However, over a period of years, the median was 23 days.

**The Convener:** So, at 26 days, the figure for women is actually higher.

**Teresa Medhurst:** Slightly. However, the figures for women are very recent. The figures that I am quoting for men were not as recent.

**The Convener:** So the caveat is that those need updating.

11:00

**David Strang:** As far as the short average time is concerned, I point out that, if you are using this as a crime prevention method, you are stopping them committing crimes in the community for only 23 days.

With regard to the issue of self-harm, the prison service clearly does not decide who comes into prison, so what Teresa Medhurst has described is what the prison service is doing in relation to vulnerable people who come into custody. As we know, people who go through the courts and are convicted have high levels of addictions and mental health problems, and on top of that the experience of being imprisoned for the first time can make people particularly vulnerable. As Mr MacGregor has said, the worst thing that can happen to someone who is detained is that they lose their life. The particularly vulnerable time is the first 24 hours or the first two or three days. That is when people are coming to terms with what has happened and when all the medical support and care needs to be there for them. Sadly, there are people in Scottish prisons who take their own lives, and each case is an absolute tragedy.

**Liam Kerr:** I want to go back to my initial question about data. We have talked quite a lot about remand being overused; I do not necessarily disagree, but what I have heard is that there is a lack of analysis on why that decision is being made in preference to alternatives. In your submission, Mr Strang, you say:

"In some cases it appears that remand is used as a heavy-handed way to ensure that the accused attends court for their trial."

I do not necessarily disagree with that, either, but what is your authority for that statement? Do you have any idea what proportion of people are being remanded as "a heavy-handed way" of ensuring their attendance, and do the courts accept that analysis?

**David Strang:** That is a great question, because you are asking about what I am tasked to do. I inspect and monitor conditions in prisons and the treatment of prisoners, so I am looking at this from the perspective of what someone experiences and what happens to them in custody. I am interested not only in what caused them to be in there in the first place but in what happens when they leave—and in that respect, I should say that the liberation grant that Anne

Pinkman talked about is £75 in the individual's pocket, I think, not £75 a week, which was a slip of the tongue. I qualified my statement slightly by using the phrase "it appears", because it is not my business to analyse the court's decision making; the Scottish Courts and Tribunals Service or the Crown Office might be able to provide that data.

Your question is legitimate, and it might be something that the committee will want to pursue. However, I have not analysed the decision making of sheriffs; instead, I have spoken to people and heard their life stories, one after another after another, and I know that the time that they spend in custody is neither doing them good nor doing good from a societal point of view. My background in the criminal justice system suggests to me that a short period in custody is likely to lead to more rather than less offending; it does not provide a moment of inspiration in which people suddenly realise that their lives have been on the wrong track and that they now have to change. Instead, it is disorientating, unsettling and stressful. Whether or not they are guilty, people can be traumatised and feel a sense of shame and guilt. It is not a constructive time during which they learn some new skill. Once people get into the criminal justice system and go through the process, they leave prison, reoffend and go back in. It is partly also why I have argued in favour of a presumption against short sentences; in the long run, a short prison sentence does more harm than good.

**Liam Kerr:** I entirely accept the position on the effects of remand, but this is a decision that people are making, and we need some analysis to establish why that decision is being preferred over the alternatives. Mr McGeehan, do you have any comment on that?

**Anthony McGeehan:** The reasons for remand in the prison population as currently described are unknown. That data is not available at present, although it would be useful in understanding whether the particular considerations that were prominent in the minds of decision makers were, for example, the protection of the public, the administration of justice or a combination of factors and whether those factors could be appropriately addressed through measures such as bail supervision, electronic monitoring, mentoring or other alternatives to remand.

**The Convener:** I will bring in Maurice Corry, as he is interested in this line of questioning.

**Maurice Corry:** My question is for David Strang. The 2008 report of the Scottish Prisons Commission states:

"often remands are the result of lack of information or lack of services in the community to support people on bail."

Mr Strang, you talked about looking inwards at the prisoner on remand and so on. Since taking over

as inspector, have you seen an improvement in the courts' assessment of people going on to remand? Are the right things being applied in the SPS to achieve the end result? You have indicated some concerns about that.

**David Strang:** Ten years ago, I was a member of the Scottish Prisons Commission; those were my views then and, sadly, they are my views still. People are being remanded partly because alternative supports are not available; indeed, I made the same comment back in 2008 when we published "Scotland's Choice". As we have heard, there is currently no provision of electronic monitoring as an alternative to remand in custody, and the provision of bail supervision is inconsistent across the country. I am sure that, if the judiciary had confidence that effective bail supervision was in place in every local authority area, it would use it more often.

There is a lack of services. As one of the written submissions says, the funding for the service in south-west Scotland has been withdrawn. Instead of having greater confidence that such alternatives are being spread out, I fear that they are being restricted and that some of the services are not being delivered.

Although my remit relates to the experience of people in prison, it is, in a sense, too late by then. However, I want to contribute to the public debate on the use of imprisonment and how we support the judiciary to make better informed decisions through the provision of good alternatives to custody, both in terms of sentencing—with, say, community sentences—and remand.

**Maurice Corry:** You said that local authorities are not able to deliver the necessary services. Why is that the case?

**David Strang:** It might be a lack of political will, or it is just not a priority. Often when I argue for services for people in prison and in the criminal justice system, I find that people have a very judgmental attitude. Their view is, "It's their fault they're in prison. They committed a crime. Why should we provide them with services?" Local authority councillors have limited budgets and someone coming out of prison is unlikely to be their top priority. The political reality is that this particular group of marginalised people in Scotland do not have many people championing their case and they are likely to be a low priority for the local authority.

However, such a view is mistaken, because crime has a much wider impact than on just one individual. If we support people who are vulnerable to offending right from school and as they grow up, it will benefit the whole community, which will, in turn, feel safer and more confident.

**The Convener:** Perhaps Mr McGeehan can comment on what is available locally. When the Crown Agent appeared before us, the committee was heartened to hear him say that, on the back of our inquiry into the Crown Office and Procurator Fiscal Service, he intended to look at geographical differences with a view to establishing the availability of resources, good practice and so on that had not been properly identified hitherto. In other words, he was talking about local solutions.

**Anthony McGeehan:** Such mapping is being carried out, but that is being done in relation to diversion rather than bail supervision.

**The Convener:** Would a similar exercise be helpful for bail supervision?

**Anthony McGeehan:** It might be. I simply do not know what central organisation holds data in relation to the provision of bail supervision across Scotland.

**The Convener:** Do you, as a fiscal, feel that you have that information when you look at the whole case?

**Anthony McGeehan:** Where bail supervision is available, there is a link between the local criminal justice social work department and COPFS, but information on the national picture is not held by COPFS.

**Anne Pinkman:** A picture of bail supervision services could be built up by asking the local authority criminal justice social work services in each area what they provide.

As for the cost of bail supervision, the most recent figures that are available are for 2014-15, when just over £1 million was invested in bail supervision across Scotland. To be precise, that paid for 402 bail supervision cases, at a unit cost of £2,636. When we compare the cost of bail supervision with the cost of imprisonment, which is currently more than £36,000 per prisoner per annum, the figures speak for themselves.

**The Convener:** Absolutely.

**David Strang:** I refer the committee to a piece of research from 2012 entitled "Supervised Bail in Scotland: Research on Use and Impact", which is available on the Scottish Government's website.

**The Convener:** Before we move on to Ben Macpherson's line of questioning, Daniel Johnson wants to clarify something.

**Daniel Johnson:** I have a brief follow-up to Liam Kerr's line of questioning. Is there data on the proportion of people on remand who go on to receive non-custodial sentences or who are found not guilty? That would provide an insight into the point that has been made about people being put in prison when they do not need to be there. I do not know whether any of the witnesses have that

information or whether they can supply it after the meeting.

**David Strang:** I do not have that information. The figure of 70 per cent that has been cited was mentioned in the report of the Angiolini commission on women offenders, but that was published five years ago. I do not know who has that data, but it must be available.

**Anne Pinkman:** I think that the SPS has some data on the number of people who are received into custody and liberated each month, but I understand that there is a disconnect between the statistics that the SPS collects and the data of the Scottish Courts and Tribunals Service. Individuals who are remanded in custody will be captured in the SPS data, but a disconnect arises if they are liberated from court. That needs to be addressed.

**Ben Macpherson:** Do you have a sense of what impact the time that is spent on remand has on those individuals who do not receive a prison sentence because they are acquitted? I am thinking in particular of the effect on family relationships, housing and employment. What is done to assist people who are released after a period of remand? What more could and should be done? Anne Pinkman mentioned social security. Could you expand on that?

11:15

**Anne Pinkman:** There is no statutory obligation on any service that I am aware of to provide services to individuals who are liberated from remand. There are services that will support individuals, but it is a question of those individuals being identified and accepting the support or being aware of it.

However, you are right that, when an individual is liberated from remand or is freed and walks from the court, they have to resolve their issues in relation to benefits and accommodation. If they were in receipt of housing benefit, for example, they need to make a new claim for housing benefit if they did not do so when they were in custody. They might also have an issue in relation to health. For example, if they are on prescribed methadone, they will have to make their own arrangements to get an appointment with their general practitioner.

The individual is therefore very much left to their own devices unless they are willing to accept support from a service that is already aware of them. That is the situation. There is no statutory obligation on any agency to provide a service proactively to somebody who is liberated from remand.

**David Strang:** I agree with that in relation to those who are acquitted. Where someone

receives a supervised community sentence, a community payback order could have a condition whereby they have to tackle their addiction issues. They will have some form of supervision in the community by criminal justice social work, which might lead to support with regard to some issues. However, there will certainly be no support for someone who just walks from the court unconvicted.

**Teresa Medhurst:** Anne Pinkman is right—there is no statutory obligation with regard to services for those who come into remand. We should bear in mind what has been said about the variable length of time that people spend on remand, because that makes it difficult for them and others to plan any support, given that they could attend court at any time and then be released. I think that that applies to about 50 per cent of remanded men, but we do not know how many of them will be found not guilty or have a non-custodial disposal, to which David Strang alluded. There might be other mechanisms that make support available to individuals who are not returned to custody, but we do not know.

The SPS undertakes a survey every two years, and our 2017 survey is almost ready for publication. This time, it includes a separate section on remand, which will give us a lot more data on the impact of remand. However, we have statistics from previous surveys about the impact of imprisonment on individuals' homelessness and the number of people who leave prison and do not know or understand what their accommodation arrangements are going to be.

We are working with a number of partner agencies and, just before Christmas, in partnership with the Convention of Scottish Local Authorities and the Association of Local Authority Chief Housing Officers—I will have forgotten an agency and will get into trouble for that—we developed a set of housing standards that apply to everybody in custody. That was signed up to by a number of organisations and bodies in order to provide support for individuals leaving custody.

We are, therefore, working towards addressing some of the issues that we know have an impact on individuals leaving custody, whether they were on remand or convicted. We are learning more from our throughcare support officers, who are prison officers who work with short-term prisoners moving into the community. We are learning about and understanding the impact of imprisonment and the requirement to link with other services in areas such as health, benefits and housing. We are trying to improve that experience for individuals through individual support from our staff and to create arrangements with other national organisations to try to improve the

standard arrangements around support for individuals leaving custody.

**Ben Macpherson:** I certainly welcome that work, and I would like to receive more information on it in writing, following the meeting, if that is available.

I will move on to another point. We have talked about the individuals involved but, from working with Circle Scotland, which is headquartered in my constituency, I know that there is also an impact on the family, which we have not touched on yet. Again starting with Anne Pinkman, I ask the panel to talk about the impact that remand has on the families of those who are held in custody and what is being done to help such families. Could more be done?

**Anne Pinkman:** I refer members to the written submission from Families Outside. One of the key issues that is raised in that submission is that the impact that remand has on families is the same as the impact of a custodial sentence. It is difficult to get children to understand the difference between someone being in prison for remand and someone being in prison for a sentence. There are particular challenges for families who are supporting individuals on remand, not least of which is the uncertainty.

David Strang mentioned the ability of remand prisoners to receive regular visits, which is absolutely right. My understanding is that individuals on remand can receive daily visits, which is perfectly correct because they are still innocent. However, that brings with it huge pressures on families to visit. There are pressures of cost, time and travel. The assisted prison visits unit will provide payments to people who are on benefits to cover the cost of visiting twice a month, but we know that many families feel pressure to visit daily, or certainly more than once or twice per week. As I said, that puts huge pressure on families. There is a similar impact on benefits. If one of the adults in a family is imprisoned, it can take some time for payments to be adjusted, and there is considerable uncertainty.

I am repeating myself, but we know that the impact on families is the same as the impact of imprisonment. It is no less and in some respects it is greater.

**Ben Macpherson:** Finally, to move back almost to where the conversation started, which was the need for public protection, I ask Anthony McGeehan or David Strang to touch on what can be done to ensure that the interests of victims and their families are not adversely affected by measures to reduce the use of remand.

**David Strang:** My starting point was that remand is absolutely necessary for public protection. If someone is awaiting trial for a

serious offence, it is absolutely proper that they are remanded in custody, if there is a risk of their reoffending and causing more harm. I therefore think that that is in the interest of any potential future victims. For the victim who has already been victimised, the event has happened, and clearly justice requires the perpetrator to be dealt with through due process of law. However, as far as prevention is concerned, we want to ensure that there are no more victims, so I think it appropriate for people to be remanded for serious offences where there is a risk of serious harm.

When we talk about people being remanded for an average of 26 days, we are talking about the lower end of offences. I think that, if a short period in prison is likely to lead to more victims, we are not serving future victims by remanding people in custody for short periods. My argument, therefore, is that in the long run we are more likely to reduce victims and look after their interests if people who have been charged and have to appear before the court are supported through the period up to their trial instead of being remanded in custody.

**The Convener:** We have perhaps concentrated on the average time spent on remand. I note that, although the Law Society of Scotland's submission refers to the time limits and wanting the period of remand to be as short as possible, it also points out that extensions are often asked for in complex cases such as those involving serious organised crime, murder, sexual offences and terrorism. Moreover—and I suppose that this is a point for Mr McGeehan—it says very clearly:

“What is clear is that extension will not be granted where the Crown is responsible for repeated, inexcusable and wholly unexplained major errors resulting in the inability to bring the accused to trial within”

the “prescribed” timeframe, though it then refers to “fault on part of the Crown”

and seems to say that an application to extend the time bar might be a resource issue.

**Anthony McGeehan:** My reading of that evidence is that an extension would not be granted in such circumstances and, indeed, would be granted only where those factors were not present.

**The Convener:** The Law Society has said that even

“repeated, inexcusable and wholly unexplained major errors”

might

“not be fatal to an ... extension of the time bar”.

We know what pressure is on the Crown Office and Procurator Fiscal Service, and I suppose that it was an comment on that situation.

**Anthony McGeehan:** The comment that I would make is that any application to extend the time bar would be considered by the court and the factors identified by the Law Society would not justify such an extension. To be fair, I read that evidence in a different way, in the sense that the presence of those factors would not justify an extension. If the court grants an extension, one can assume that there is a good reason for its doing so separate from any of the factors that the Law Society has identified as negative.

**The Convener:** Does anyone else want to pick up on that?

**David Strang:** I simply make the general comment that time limits contribute to a more efficient criminal justice system and administration of justice and that it is in the interests of the accused, the victims and society in general for a case to proceed to trial as soon as possible. You have mentioned terrorist cases, and technical cases such as cybercrime can be very complicated to investigate and prepare a case for. Perhaps I can make an international comparison and point out that there are countries where people can be imprisoned for three or four years before getting to trial. A very positive aspect of Scotland's criminal justice trial is the presence of time limits and the fact that people are not in custody indefinitely, awaiting trial.

**The Convener:** As there are no other comments, I conclude this round-table discussion. There is no doubt that the committee will want to follow up on the information that has been supplied and the issues that have been raised, and I thank everyone very much for braving the elements to spend time with us this morning. It has been a very worthwhile session.

Our next meeting will be on Tuesday 23 January, when we will have a briefing from the Scottish Law Commission on its defamation report and an evidence-taking session on policing in Scotland. As we are now moving into private session, I ask the witnesses to leave and for the public gallery to be cleared.

11:29

*Meeting continued in private until 12:54.*



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