

JUSTICE 1 COMMITTEE AND JUSTICE 2 COMMITTEE (JOINT MEETING)

Tuesday 4 November 2003
(Afternoon)

Session 2

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COMMITTEE MEMBERS

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*Marlyn Glen (North East Scotland) (Lab)
Michael Matheson (Central Scotland) (SNP)
*Margaret Mitchell (Central Scotland) (Con)
*Margaret Smith (Edinburgh West) (LD)

COMMITTEE SUBSTITUTES

Roseanna Cunningham (Perth) (SNP)
Helen Eadie (Dunfermline East) (Lab)
Miss Annabel Goldie (West of Scotland) (Con)
Mike Pringle (Edinburgh South) (LD)

*attended

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*Miss Annabel Goldie (West of Scotland) (Con)

DEPUTY CONVENER

*Karen Whitefield (Airdrie and Shotts) (Lab)

COMMITTEE MEMBERS

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*Colin Fox (Lothians) (SSP)
*Maureen Macmillan (Highlands and Islands) (Lab)
*Mike Pringle (Edinburgh South) (LD)
Nicola Sturgeon (Glasgow) (SNP)

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Cathie Craigie (Cumbernauld and Kilsyth) (Lab)
Michael Matheson (Central Scotland) (SNP)
Margaret Mitchell (Central Scotland) (Con)
Margaret Smith (Edinburgh West) (LD)

*attended

THE FOLLOWING GAVE EVIDENCE:

Dr David McAllister (Her Majesty's Inspectorate of Prisons for Scotland)
Rod MacCowan (Her Majesty's Inspectorate of Prisons for Scotland)
Dr Andrew McLellan (Her Majesty's Chief Inspector of Prisons for Scotland)

CLERK TO THE COMMITTEE

Alison Walker

SENIOR ASSISTANT CLERK

Claire Menzies Smith

ASSISTANT CLERK

Douglas Thornton

LOCATION

The Chamber

CLERK TO THE COMMITTEE

Gillian Baxendine

Lynn Tullis

SENIOR ASSISTANT CLERK

Irene Fleming

ASSISTANT CLERK

Richard Hough

Scottish Parliament

Justice 1 Committee and Justice 2 Committee (Joint Meeting)

Tuesday 4 November 2003

(Afternoon)

[THE CONVENER opened the meeting at 14:05]

Prisons

The Convener (Miss Annabel Goldie): I open the 13th meeting of the Justice 2 Committee in 2003, which is a joint meeting with the Justice 1 Committee. On behalf of committee members, I welcome the witnesses who are attending this afternoon. We are very pleased to have Dr Andrew McLellan, Her Majesty's chief inspector of prisons for Scotland, Mr Rod MacCowan, HM deputy chief inspector, and Dr David McAllister, HM assistant chief inspector. I thank you for coming. Members have received a copy of "HM Chief Inspector of Prisons for Scotland Report for 2002-2003" and are keen to take advantage of the opportunity to ask questions on its contents.

I should mention that we have received apologies from Nicola Sturgeon and Michael Matheson. I have asked Dr McLellan to kick off proceedings by making a brief introductory statement. As a minister of the kirk, he knows all about brevity in sermons.

Dr Andrew McLellan (Her Majesty's Chief Inspector of Prisons for Scotland): I hear what you are saying; I am used to being brief here in the assembly hall.

I very much appreciate the invitation to attend the committees' meeting and the opportunity to say a bit about my report and respond to questions. The report is in three parts: the first is my reflections on what I have seen in Scotland's prisons in the first months of my appointment; the second is a summary of 10 inspections that were carried out in the calendar year to which the report refers, five of which were carried out by Mr Fairweather; and the third deals with inspectorate business.

I will speak about the first part of the report, in which I think that I say four things. To the Scottish Executive, I am saying, "Stop overcrowding." I know that report after report—annual reports and individual prisons' reports—draws attention to the damage that overcrowding does. The net result of all those reports is that overcrowding is worse—it is at an all-time high this year. The figures for May

and September this year are the highest numbers ever recorded in Scotland's prisons. In Aberdeen prison, for example, the overcrowding rate is 38 per cent.

I try to carry round with me the idea that every new prisoner who is added to an already overcrowded prison makes things worse for prison management and prison staff, but what is most important to me is that each new addition makes things conspicuously worse for prisoners. The illustration that I use in the report of the damage that overcrowding does to prisoners concerns the safety of prisoners who might be at risk of self-harm or suicide. During the vulnerable period when people first come into prison, the pressures that result from overcrowding make the situation exceptionally difficult. At Barlinnie prison, where 2,200 new people come in every month, it is extremely difficult to provide any kind of reasonable and safe assessment of the vulnerability and fragility of people who are at risk.

Of the statistics that lie behind overcrowding, the report draws particular attention to the rapid rise in the number of people who are on remand, which has been quite startling over the past two years and has made a considerable contribution to the rise in overcrowding.

The second message that the report sends to the Scottish Prison Service is that it must stop slopping out. Prison report after prison report and annual report after annual report has said that same thing, but slopping out continues. I acknowledge that slopping out does not happen on the scale that it did even three years ago, but about one prisoner in five in Scotland is suffering the dehumanising effects of slopping out. Slopping out—living, sleeping and eating in the presence of body waste, with no opportunity to wash one's hands—is appalling. What is even worse is that most people who have to slop out also have to share a cell and have to go through the unspeakably demeaning process in front of a perfect stranger whom they have not chosen to have in the cell with them. Scotland is one of the few countries in the developed world in which this practice continues. You know that, but I am here to tell you again.

We expect prison staff to oversee that practice and to work in such an environment. That brings me to the third message in the report, which is, "Well done, prison staff." When I took this post, I thought that my job would be to alert the consciences of prison staff to the needs and welfare of prisoners. I quickly realised how wide of the mark that assumption was. Numberless members of the SPS have a great deal to teach me about the needs and welfare of prisoners and I do not understand why prison staff have such a low public image. In report after report that we

have written, we have said that, in difficult circumstances, the staff struggle hard to maintain decent and human relationships with prisoners. I believe that to be the absolute core of a decent prison service.

The fourth message in the report is to the Scottish public and it is: "Stop blaming prisons." Prisons are scapegoats for things that they cannot change and for the weaknesses of a society that we all share. An obvious example of such a weakness is addiction. It is quite unreasonable to expect that incarceration in the unnatural and controlled environment of a prison will help to overcome cravings and addictions that have been built up in some cases over many years, or that it will have a significant impact when the craving prisoner is eventually released. Another example is mental health. The only statistic that I will give you—apart from the one about Aberdeen—is that prisoners are, compared with the community as a whole, 50 times more likely to suffer from three or more mental disorders. It is just silly to think that prisons will cure that.

The best way to stop overcrowding is to stop people committing crimes in the first place. We cannot expect overcrowded prisons to transform the values of prisoners.

Half of the prison inspections in the second part of our report were conducted by Mr Fairweather. That allows me to pay tribute today to his reputation and to thank him on the record for his helpfulness.

On domestic inspectorate business, we have worked hard this year on a variety of reorganising projects, two of which I hope might interest the committee. One project seeks to produce written standards by which it will be clear that prisons are being inspected. The other project has involved fruitful conversations with other inspectorates in Scotland so that Her Majesty's Inspectorate of Education now inspects education facilities for me and the social work services inspectorate now inspects social work and addiction services for me. I am still in conversation with the chief medical officer's department to discover the best way in which to inspect health care.

That is the end of my statement; I am happy to respond to questions.

14:15

The Convener: I am sure that I speak for us all when I say that that statement was a model of brevity, for which I thank you.

I ask Mr MacCowan to pull his microphone a little closer to him, which will make it easier for us to hear him and, equally important, will let us see Dr McAllister without a microphone in the middle of his face.

Dr McLellan: What a treat.

The Convener: We will proceed to general questions.

Colin Fox (Lothians) (SSP): Good afternoon, Dr McLellan. It is nice to have you here.

Dr McLellan: Thank you.

Colin Fox: I found your report to be interesting and informative. As luck would have it, in the past couple of weeks I have just finished reading David Ramsbotham's book "Prisongate: The Shocking State of Britain's Prisons and the Need for Visionary Change", which covers much of the same territory for England and Wales.

I will touch on two general issues that your report raises. I am a new MSP and you are a new inspector. I confess that I was shocked by your report. I hope that when I read future reports I am capable of being as shocked as I was by this report and that I do not become inured to such reports. I was struck by the relationships between the inspectorate and the Justice Department, of which it is part, and between the inspectorate and the Scottish Prison Service. How independent is the inspectorate from those bodies? A truly independent inspectorate needs to be able to say what it likes and to make criticisms.

Dr McLellan: I am glad that you were shocked and I hope that I will always maintain the ability to be shocked by what I see in prisons. That is an important reason for making a non-prison person the inspector of prisons.

Independence is never absolute—for example, my budget comes from the Justice Department's budget. However, if we take independence as a relative term, I have felt no pressure from either Minister for Justice with whom I have had contact or from the Justice Department.

As for the Scottish Prison Service, it is fair to say that at no time has my independence been infringed formally but, from time to time, on individual prisons, it has—appropriately—engaged in vigorous conversation with me on individual judgments about those prisons. At no time have I felt such conversation to be intimidating.

Colin Fox: You mentioned the resources that are available, which relate to my second general line of inquiry. The end of your report, which was interesting and worth while, says that the budget that is available to you is £315,000 and that you have four full-time staff. The report says that there are 6,500 prisoners, 19,000 remand prisoners and 16 prisons. Are your resources adequate for the job that is expected of you? To what extent have the criticisms and points that were made by your predecessor, Mr Fairweather, been dealt with and to what extent do you expect your reports to be implemented in future improvements?

Dr McLellan: We actually have five full-time

staff from that tiny budget, so the Scottish Executive obtains good value for money from our department. I am the first full-time chief inspector of prisons for Scotland—I cannot conceive how Mr Fairweather did the job without being full time. That is one of many reasons why I want to pay tribute to him.

We have chosen to set a programme of inspection by which prisons receive a full inspection once every three years and a follow-up inspection once a year. As someone who has been in the job for a year, my feeling is that that is as stretched as we can be. Although our resources just about allow us to meet that timetable, if there were any additional requirements—for example, should the Minister for Justice seek from us a thematic review of some aspect of prison life, or should it turn out that the contracting out of escort arrangements puts major new responsibilities on us—I am not sure that we would have sufficient resources to deal with new work under those terms.

If I am absolutely honest, we are running all the time, but that might tell you as much about my feeble administrative processes as it does about the size of our work load. Dr McAllister, who deals more specifically with budget and staffing issues, might have another comment to make.

Dr David McAllister (Her Majesty's Inspectorate of Prisons for Scotland): As with all departments, we have to work within a budget and to ensure that, as a team, we are structured to deal with the business that comes our way. As Andrew McLellan has said, we are adequately funded to deal with the number of inspections that we are able to plan. However, if other work came along, we might need to rethink how we structure the work and allocate different tasks.

Colin Fox: A few of us visited Shotts prison, so I was looking forward to reading about Shotts; however, I am struck by the fact that the annual report does not contain a report on Shotts prison. I wonder why we cannot have an inspection of every prison every year. It is clear that we cannot do so on resources of £315,000 but, if extra resources were provided, why could not every prison be the subject of a report by Her Majesty's inspectorate of prisons every year?

Dr McLellan: In a moment, I will invite Mr MacCowan to comment on a specific aspect of resources. My hope is that, from now on, there will be a full inspection report or a follow-up inspection report on every prison every year. That is the timetable that we have set. I hope that you will appreciate that there was a little bit of a gap between Mr Fairweather's leaving the office and my taking it up. There was a month in which I did no inspections, because I did not want to spend my second week in office inspecting a prison. The

fact that there was a bit of a lull explains why there were only 10 reports this year. I am confident that there will be 15 reports a year from now on.

Colin Fox: Your expectation is that there will be a full report on every prison from next year onwards.

Dr McLellan: My expectation is that, in the annual report and on our website, there will be a report on a full inspection, which takes about a week or 10 days, of which we plan to do five each year, or a report on a follow-up inspection, which takes two or three days. Some of the reports in this year's annual report are of full inspections and some are of follow-up inspections. With the convener's permission, I was hoping that Mr MacCowan could say one more sentence.

Rod MacCowan (Her Majesty's Inspectorate of Prisons for Scotland): We have established a number of associate inspectors, both from within and outwith the Scottish Prison Service, who can assist us with individual inspections if we feel that additional resources are required. While they are deployed to us, they work on behalf of the chief inspector, not on behalf of the Prison Service.

Colin Fox: Would you like to see a full inspection of every prison every year? I take Dr McLellan's point—he said that he would expect there to be full reports on five prisons next year—but there are 16 prisons. That means that there will be five full reports and 11 follow-up reports. Is it possible to have a full annual report on 16 prisons every year?

Dr McLellan: That is not possible with the resources that are available to us, although I am not sure that what you suggest would be valuable. A follow-up report on a prison finds out what has happened with matters that were raised in the previous report, pursues new developments in the prison and picks up matters that have been raised in self-assessments. Such a report involves only a three-day inspection, but it would clearly detect any major change in a prison. It is fair to point out that Her Majesty's chief inspector of prisons for England and Wales expects to report on every prison only once every five years.

Colin Fox: How many prisons are there in England?

Dr McLellan: There are 170.

The Convener: Thank you. That has been a helpful outline of the general background.

Pauline McNeill (Glasgow Kelvin) (Lab): Good afternoon, Dr McLellan. First, thank you for the clarity of your opening statement and your message about what has to be done. You will know that members here have in the past voiced their concerns about overcrowding and slopping out. I want to ask specifically about overcrowding.

Page 5 of your report states:

“addressing offending behaviour, is perhaps the greatest casualty of prison overcrowding.”

There is great concern that, because of overcrowding, the work that we expect to see in our Scottish prisons on rehabilitation and addressing offending is not being done. What evidence have you seen of work in the Scottish Prison Service to address offending behaviour?

Dr McLellan: The Scottish Prison Service uses four strategies: addiction management; programmes to address reoffending behaviour, such as anger management; education; and provision of a work habit and work that might lead to employment on release. Every single one of those strategies suffers because of overcrowding. In my view, the Scottish Prison Service ought to implement—it is trying to do so—individual management of prisoners by individual prison officers. There is a programme called the personal officer scheme, in which a prison officer has responsibility for the management and development of prisoners. That ought to be an essential part of preparing prisoners for release, but it is damaged by overcrowding, too.

Overcrowding is not the only issue; there is also the unpredictable nature of escort arrangements. At any given moment, not only are there far too many prisoners for the number of staff—so prisoners' work is not supervised as it might be—but many prisoners cannot actually get to work because getting them through the prison is impossible. In addition, staff are taken away from duties in relation to programmes to address offending behaviour or in relation to prisoners' work because they have to fulfil escort arrangements. The combination of overcrowding and escort arrangements makes work to rehabilitate prisoners so difficult.

Pauline McNeill: It is helpful to know the strategies that are used. Could you give us more detail on the extent of the damage that is being done? Have you witnessed it? I note what you say about half-day timetables, but I presume that the work that is available to prisoners is only part of the addressing reoffending programme. Can you give more detail on what you have seen? How much time either is not being spent or should be spent on rehabilitation programmes?

Dr McLellan: Perhaps Mr MacCowan could answer that, and Dr McAllister and I will reflect.

Rod MacCowan: Mr MacCowan is finding it difficult to formulate an answer. Can I ask for clarification? Do you mean do we have specific instances of time's being lost on programmes?

Pauline McNeill: In your report you make it quite clear that the prison service is unable to address offending behaviour and that such

programmes are casualties of overcrowding. You also talked about the programmes that should be on-going. If we take any prison, for example Barlinnie, can you tell me which programmes are being conducted and how much time is being spent on them? Can you give us any information that will allow us to see the extent of the damage that is being done? I ask because we have heard how community sentences are much more effective than prison. If prison is not providing the programmes that it should, we cannot compare the two. It is an important issue. Anything that you can give me would be useful.

Rod MacCowan: Thank you for the clarification. You will be aware that each prison has key performance indicators by which its performance is measured. Among those will be an indicator for the numbers of programmes that have been delivered. In most cases, prisons achieve fairly high compliance with the indicators, therefore programmes are being delivered. We find that individual programmes are affected by staff shortages, so a planned programme might not run or there might be difficulties in running programmes on a structured basis, which might mean that programmes have to be run at the end of the year.

14:30

The programmes cover cognitive skills, thinking processes, problem solving and more practical issues such as drug relapse, drug abuse prevention and education, alcohol use and parenting. A wide range of programmes are in place. It is encouraging that a range of external agencies are engaging with prisoners; they are often the agencies with which prisoners deal on their return to the community. That is generally managed through the prisons' throughcare systems. Most prisons have developed a link centre in the prison where staff and external agencies work with individuals and allow them to access the programmes and services that they need.

Pauline McNeill: Are you saying in the report that you are concerned about access to work and personal development programmes?

Dr McLellan: The most significant impacts of overcrowding are on access to work and programmes and on personal management. I will give one or two illustrations of what we had in mind. In Her Majesty's Young Offenders Institution Polmont, where one would think that it is very important that young offenders develop work habits, it is possible for work to be provided regularly only on a timetabled basis; people attend work for only part of the day.

In several prisons long-term and short-term prisoners are held together. Almost invariably, short-term prisoners do not get access to work because, for understandable reasons, long-term prisoners are given that access first. The situation is different in a prison that is not overcrowded. In Glenochil and Shotts, everybody gets to work. From time to time we have come across examples, which are referred to in the report, of prisoners who are locked in their cells for 23 hours a day, which is very destructive to the work of rehabilitation. I hope that those examples illustrate the point.

The Convener: There has been a genuine attempt to detail what was found in the prisons that were visited, which is what we would expect the report to disclose.

I return to Pauline McNeill's question. There does not seem to be consistency within the account of the prison visits in detailing what programmes are in place. I visited HMP Greenock recently and saw its quite incredible facility for information technology and art work, which is remarkable and is apparently proving successful with some of the inmates in terms of their rehabilitation and discovering talent that they did not know about. Is it possible within the report to say a little more to illuminate what Pauline McNeill was getting at? I mean, for example, the kind of facilities that are available, variations from prison to prison and what programmes each prison is offering. If so, it would be possible to judge how far short we are falling because of the overcrowding that impedes pursuit of all the other work that we want to happen.

Dr McLellan: My answer is in two parts. HMP Greenock is a good example of the difference that overcrowding makes. My report quotes the governor of Greenock prison, who says that Greenock has the facilities if it is not overcrowded. If the prison is overcrowded by 25 per cent, that means that 25 per cent of prisoners are not accessing the excellent educational facility that you described.

The annual report is only a summary and this is the first time that I have produced it, but I thought that it was most useful to reflect the range of what a prison can be like. All our reports are available in toto on our website, because the reports contain public information that should be available.

I have no intention of concealing particular issues that relate to educational or work access or programmes—why should I do so? I would be happy to respond in writing about such matters. Mr MacCowan is shoving at me what appear to be extremely well-written reports. Each full prison report lists in some detail the programmes, work and educational courses that are available. However, if the committee is telling me that having

a brief summary of such items in the annual report would be helpful, I will of course think about that.

The Convener: Interest is felt in having that coloured out a bit, in so far as it is practical for you and your department to do that within your budget.

Dr McLellan: People do not often ask me to write or say more.

Mr Stewart Maxwell (West of Scotland) (SNP): The best way to solve the overcrowding problem would be to prevent crimes in the first place, but that is a distant possibility. New house blocks are being built at Polmont and Edinburgh and we are aware of the Executive's capital programme to build new prisons in the near future. Will those additional blocks and new prisons solve the overcrowding problem? If not, what would be required to solve it? Have you any idea how much that would cost?

Dr McLellan: A little modesty is called for on my part, as I have to say, first, that I do not know the answer to that question because I do not know what the position will be two or three years from now. I promise that I will deal with your question, but it is important for me to keep saying that what matters most at the moment is the bad conditions in which prisoners are living and in which prison staff are working.

Having said that, I think that there are issues for members of the Scottish Parliament rather than the chief inspector of prisons in relation to Scotland's imprisoning tendencies. Members will know that Scotland is the third or fourth—the figure depends on which table is read—most imprisoning nation in western Europe. If the phrase “depriving people of their liberty” is substituted for the term “imprisoning”, that is at least an issue about which the justice committees are concerned.

If we leave aside the principles, and the oft-quoted dictum of the most distinguished of prison inspectors, Alexander Paterson, who said that wherever prisons are built, the courts will fill them, I think that two new prisons will do two good things given the present numbers. I hope that they will provide decent facilities for all remand prisoners. One of the tragedies of overcrowding is that the good conditions that the Scottish Prison Service tried hard to provide for unconvicted people have been overtaken by huge increases in numbers. As a result, once again, remand prisoners are living in poor conditions in many prisons. Two new prisons might also allow Low Moss prison to be closed at some time in the not too distant future. However, meeting just those two needs will by no means drastically affect overcrowding in many of Scotland's prisons.

Mr Maxwell: So even with the programmes that are planned, in your estimation we will be in the

same position that we are in today in several years' time. There is no silver lining.

Dr McLellan: It is possible for a nation—for the Scottish Parliament—not to believe that prison numbers will just keep growing indefinitely. There are countries in other parts of the world—the United States and Finland, for example—where prison numbers have clearly reflected political will. That is a matter for the Parliament. What is a matter for me is the fact that increasing prison numbers, and every new prisoner, make things worse for the prisoners who are already there.

The Convener: I draw members' attention to the time. Without wishing to cramp their style, I ask members to keep their questions as focused as possible. I am sure that Dr McLellan and his colleagues will co-operate in keeping their answers as brief as possible.

Dr McLellan: I hear what you are saying, convener. I shall not mention Finland again.

The Convener: We are anxious to cover as much ground as we can. If we keep our questions fairly punchy, that will help.

Colin Fox: The next area for inquiry is remand prisoners. You write in your report that that was the area that you found to be most shocking, with 19,000 prisoners being held on remand. You make the valid point that those people have not yet been convicted of any crime. Given what you just said to Stewart Maxwell about Low Moss and Addiewell—or wherever the new prisons are going to be—not being the solution, how would you address that issue? What is the strategy for reducing the overall number of remand prisoners? I do not know what percentage of remand prisoners receive non-custodial sentences.

Dr McLellan: About half of prisoners who are on remand do not receive a custodial sentence. There are not 19,000 prisoners in Scotland who are on remand; there are only 6,700 in all. I referred to 19,000 receptions—people coming into prison—in the course of a year.

It is clear, for reasons that you will know better than I do, that different attitudes are now developing towards remand. The remand figures are not just high; they have grown very steeply in the course of the past two years. I am persuaded that that is to do with one or two different perceptions, but nearly all the perceptions are something to do with addiction. One perception is that, if a person is not remanded in a criminal case concerning drugs, witnesses are very likely to be intimidated. Another perception is that, if the person who is addicted is not remanded, the driving force within them will make them commit more crimes. A third perception—this is anecdotal, but I have heard it repeated over and over again—is that people are remanded because if they are

not sent to prison the chances are that they will die, as their lives are so chaotic and fragile. At least they will be looked after, to some extent, if they are remanded in prison. I say in my report that I find that immensely sad. Nevertheless, it is one of the reasons why people are remanded.

Colin Fox: I would like to follow up two separate lines of inquiry.

The Convener: Can you keep it brief, please? Other members are waiting to speak.

Colin Fox: You make the point that remand prisoners find themselves, unfortunately, at the bottom of the heap and in some of the most squalid conditions. People are put on remand for X number of months, they are brought to court and they are found not guilty. What access do they have to compensation for the loss of their liberty?

The Convener: I do not know whether that is a question for Dr McLellan. That is an issue for the wider governance of the Scottish Executive.

Colin Fox: Does Dr McLellan have a view?

Dr McLellan: The answer to your question is that I do not know. However, I do not want to be on the record as having said that all remand prisoners live in the most squalid conditions. In fact, I said the opposite; I paid tribute to the efforts that have been made in the past four or five years to provide decent conditions for remand prisoners—Cornton Vale and Edinburgh prisons are two good examples of that. The wretched thing is that, because more and more prisoners are on remand, some of them spill over into the worst places.

14:45

The Convener: Your report indicates that drug addiction dominates much of prison life. Is there concern about the current levels of transportation of drugs into prisons? How might that situation be addressed? Are harm-reduction, or methadone, programmes administered in the best way? Do you have any proposals for how to deal with the issues in an alternative fashion?

Dr McLellan: An immense amount of time, energy and intelligence is spent on the issue of drugs coming into prisons. I am glad about that because it is clear that the more drugs are kept out of prison, the safer prisons, prisoners and prison staff are. Where the issue is difficult—which is where I seek to take a not altogether popular line—is on the matter of visits. While I recognise the importance of security in prisons, I also recognise the importance of visits. The more that visits become the subject of excessive supervision, the harder it is for prisoners to maintain human relationships with people outside prison whom they love and who care for them, such as their family.

The issue takes us back to rehabilitation, which Pauline McNeill spoke about. Visits are a key part of rehabilitation because they keep prisoners' personal relationships alive for when they come out of prison. I welcome the processes that the Scottish Prison Service undertakes to keep drugs out of prison, which are entirely appropriate, but I do not want visiting arrangements to be driven entirely by a wish to ensure that no prisoner ever gets near illegal substances.

On the matter of methadone, I must take the advice of those who inspect medical issues for me. I am told constantly that the way in which methadone is prescribed and dealt with in prisons is at least on the level of the best practice in the community as a whole. Perhaps Mr MacCowan can say more.

Rod MacCowan: I can say something about the interdiction of drugs as we have observed it in prisons. The Prison Service uses closed-circuit television, particularly in visits areas, and passive and active drug dogs. The service also makes extensive use of intelligence in prisons to try to identify and target those who are most likely to bring drugs into a prison. On the other hand, a number of prisons have drug-free areas. Part of the regime for individuals in those areas often involves access to improved family visits, during which the level of supervision might be slightly more relaxed.

Maureen Macmillan (Highlands and Islands) (Lab): I want to question your use of mandatory drug testing figures as an indication of a prison's ethos. The report on Inverness prison states that, on the day on which the snapshot was taken, 20 per cent of prisoners tested positive for drugs. The resulting headlines were that that is worse than the figure for Barlinnie prison, but it is patently obvious to me that Inverness prison is not riddled with drugs. I am aware that a new report on Inverness prison will be produced shortly, and I hope that it will contain a different figure. I question your use of such statistics and the way in which you have used a snapshot to represent the ethos of a prison.

On page 8 of the report, you question whether the resources that go into drug testing—mandatory or voluntary—are the most useful way of dealing with drug problems and say that if they are not, those resources should perhaps be used differently. If that is what you think, in what different way would you use the resources?

Dr McLellan: Mr MacCowan will respond to the specific matter of the Inverness report. The report that is quoted is one in which I did not participate.

Maureen Macmillan: I realise that.

Dr McLellan: If Mr MacCowan comments on that point, I will respond to the question on

mandatory drug tests and the ways of responding to drug addiction in prison.

Rod MacCowan: The figure that we quoted is not a snapshot of the day or days on which we were at the prison. HMP Inverness's positive random MDT sample figure of 20 per cent was for a reporting year and it was supplied to us by the Scottish Prison Service.

Maureen Macmillan: The prison governor called the figure a snapshot when I spoke to him about it. I think he felt that Inverness prison had been unfairly represented by the figure. However, as Dr McLellan said, that report is from a previous year.

The Convener: Let us keep our questions on this year's report.

Maureen Macmillan: Perhaps Dr McLellan could tell us what measures should be used to tackle drug problems using the resources that are currently being used for mandatory drug tests.

Dr McLellan: On Thursday, I will publish a report on a recent inspection that I have done of Inverness prison. It might well be that there will be further things to talk about after that.

In Scotland's prisons, an immense amount of time is spent on testing people for drug addiction. The results of that testing show that people have drug addictions. However, given that between 80 and 90 per cent of people who come into prison have some kind of drug addiction, the testing seems to me to be demonstrating something that we already know. Although I acknowledge that testing serves some useful purpose in helping prisoners to move into a progression system, I am also aware that prisoners spend an immense amount of time seeking to circumvent the system in different ways.

The issue is not so much about finding out who in prison has a problem with addiction; it is about finding ways of responding to that addiction. When prisons have employed more addiction workers or nurses with a background in treating addiction, or when there has been investment in drug addiction programmes, or when the prison's management has adopted drug strategy programmes, in every case we have found that prison staff and prisoners alike say that those methods are what is needed rather than testing over and over again. The report shows that 40 prison officers are engaged full time in the process of deciding which people in prison are struggling with addiction issues.

Maureen Macmillan: Thank you. That is helpful.

Karen Whitefield (Airdrie and Shotts) (Lab): I want to follow up Maureen Macmillan's point about drug testing and the difficulties that it causes in prisons. It strikes me that there will always be a conflict in prisons. The reality is that many of those

who are serving sentences are drug addicts and, while they are in prison, many of them manage to address their addiction problems.

Prisons need to be able to identify not whether a person is a drug user or has a problem, but whether a prisoner who has addressed their addiction is sustaining their drug-free existence as they progress through the prison system. There has to be some form of mandatory testing if prisons are to be able to do that, and that has resource implications for the Scottish Prison Service.

In Shotts prison, A hall had a particularly violent history and a history of serious drug misuse problems. However, the prison has managed to establish a regime that is drug free and it has incentivised the inmates' being drug free. They know that they will be tested, but there are benefits in that they can have much freer visits from their families and they do not feel intimidated by other prisoners, because they live in a much more secure environment. If we want to do that in prisons, we need to know whether the regime is working. If drug testing is removed, we will not be able to assess whether we are managing to help people with their drug problems while they are in prison.

Dr McLellan: May I respond, convener?

The Convener: As briefly as you can.

Dr McLellan: That is a powerful argument for MDTs. I do not think that I ever said that MDTs are useless; I think that I questioned the amount of investment that is made in them.

I have two wee thoughts on that. First, the kind of facilities that are available for drug-free prisoners in the prison that you know best are not universally available to prisoners in all prisons in Scotland. There are not always the same advantages for prisoners in being drug free. Secondly, while it is true that being in prison dramatically reduces people's involvement with drugs—around 85 per cent are involved with drugs when they come into prison—it does not dramatically reduce their addictions when they are released. We ought to work on building up to prisoners' release and on the contacts and support that exist for them in the community when they are released, instead of simply trying to ensure that they are not taking drugs when they are in prison.

Karen Whitefield: I agree with you on—

The Convener: Please make your question short. I am worried about members not being called to speak.

Karen Whitefield: What could the Executive do on the issue of throughcare to ensure that inmates who leave prison are able to maintain their drug-free existence?

Dr McLellan: I am no more of an expert on society's problems than the next person. However, two things that throughcare must provide are somewhere to live and a job. Those are central to throughcare in dealing with addiction issues. I say that not just as a human being, but because prisoners always mention those two things.

Pauline McNeill: I have two brief questions, one of which is on the same theme as Karen Whitefield's questions on drug testing and the availability of drugs. On my last visit to Barlinnie, I asked to see the solitary confinement unit. I spoke to the chap who was there and asked him what he thought about being there. He told me that he preferred to be in solitary confinement because it meant that he was not in the main prison and he could keep drug free. That surprised me. Have you had similar experiences of prisoners being able to keep drug free once they have been on the programmes?

Dr McLellan: It is true that prisoners sometimes struggle heroically—I do not use that word lightly—to remain drug free in difficult circumstances. The experience that you describe, of someone choosing to be in solitary confinement, does not surprise me. Mr MacCowan will have much more experience of such situations than I do. Prisoners can seek to manipulate the prison rules in order to feel safer, which is a terrific indictment of how they feel elsewhere. Nevertheless, that is something that the prison is right to resist.

Pauline McNeill: In response to Karen Whitefield's question on throughcare, you said that you were no expert. However, you will be aware of the Executive's post-release policy whereby a prisoner has the right to 12 weeks' rehabilitation on release from prison. Have you seen any signs of that programme and how it is working?

Dr McLellan: Can you explain to me again what the policy involves?

Pauline McNeill: When we spoke to the Minister for Justice about post-release programmes for prisoners, we were told that funding was being made available for a 12-week programme for people who had managed to get drug free while they were in prison. That is the key issue that you addressed in reply to Karen Whitefield's question. When people come out of prison, they go back to the same community and are faced with the same temptation; however, the Executive plans to get prisoners on to a programme for about 12 weeks following their release. I understood that funding was available for that, but you seem not to be aware of it.

Dr McLellan: Am I looking vague? I have no evidence of that programme; I am sorry.

The Convener: Pauline McNeill raises an interesting point. You might wish to consider that issue with the Executive.

Dr McLellan: It is an absolutely central point. I shall be glad to consider it with the Executive.

Jackie Baillie (Dumbarton) (Lab): I will attempt to roll three questions into one, because the convener will not let me back in.

Dr McLellan: I promise that you will get three answers.

15:00

Jackie Baillie: There has been a lot of discussion about throughcare, which I will be at pains not to duplicate, but I want to explore the subject further. First, aside from tackling overcrowding—the impact of which on throughcare you are clear about—what are the two or three simple things that could be done to improve the quality and level of throughcare throughout Scotland?

Secondly, what are the key ingredients of a good throughcare programme? I understand that recent research suggests that all the investment by the Scottish Prison Service in cognitive skills has actually had little effect and has not had any impact on reducing reoffending behaviour. That is of concern, if that is what we are offering.

Thirdly, on key performance indicators, I am conscious that the focus is on incarceration rather than rehabilitation. While I accept that the Scottish Prison Service cannot cure the ills of society—which is a point that you make—the indicators are quantitative rather than qualitative. In other words, we measure bums on seats going through the programmes, rather than the distance travelled by the individual in reducing reoffending behaviour.

I am leading you to say, do we need to change our performance indicators? Do they matter to the Scottish Prison Service in driving behaviour? Should we be going for an outcome-based approach rather than an input-driven approach?

Dr McLellan: The answer to the last part is that you need the Scottish Prison Service and you need me. Its job is to say, “Here is what we’re doing.” My job is to ask, “What good does that do?” Both are important, but it is clear from the terms of my appointment that the chief inspector of prisons—however well or badly he or she does it—has primary responsibility to ask not, “What do they say they are delivering?”, but, “What does that actually mean for prisoners on the ground?”

The first of your questions was about throughcare and the simple things that could be done. All that I want is that you and the Minister for Justice encourage the Scottish Prison Service by

saying that it has made a wee start and has begun to do some good things in throughcare. In particular, if the SPS can crack throughcare issues for people at the end of long sentences, for young offenders and—most difficult of all—for people who are convicted of sex offences, it will have made a significant contribution to a safer Scotland.

The Convener: But to return to Jackie Baillie’s point, are we too focused on quantitative measures rather than qualitative measures? Are you satisfied with the mechanisms for assessing what happens to prisoners on release, in terms of whether their preparation for release has worked?

Dr McLellan: No. If you are agreeing with Jackie Baillie, I think that you are both right.

The Convener: That is unusual, but thank you.

Margaret Mitchell (Central Scotland) (Con): I want to develop the throughcare aspect in relation to chaplaincy and pastoral care, which are important aspects of the rehabilitation and reintegration process. When prisoners are first admitted, what access do they have to chaplaincy and pastoral care at that key point in their prison sentence? We know that people who are not religious in any way often seek out that kind of help and support when they have a crisis in their lives. You also mention in the throughcare section of the report that, for the first time, Low Moss has a throughcare chaplain. Could you expand on what the chaplain does? What kind and what levels of pastoral care are available in each prison? Finally, do you think that the resources are adequate or should more resources be put into that important aspect of throughcare?

Dr McLellan: I am so pleased to hear that question, as it is on a matter close to my heart. I have been astonished by how much chaplains in prisons are valued by secular authorities and by people who are not concerned with matters that are central to chaplaincy. They still recognise how important chaplains are in helping prisoners to deal with deep issues, particularly around guilt, repentance and forgiveness. Every prisoner has a right to see a chaplain and, in my experience, in almost every prison every prisoner does so as part of the induction process—they have the chance to see a chaplain almost as soon as they come in. In several prisons—most notably in Polmont—governors and prisoners have gone out of their way to say that the role of the chaplain in their prison is central.

The throughcare chaplain at Low Moss is part of an interesting experiment in which the chaplain is based for half the time in the prison and half the time in a drop-in centre that the Church of Scotland runs in the centre of Glasgow. Many of the prisoners gravitate to that centre, so the chaplain is able to maintain contact both in the prison and after release.

Margaret Mitchell: What level of pastoral care can be expected in other prisons in Scotland? Is that determined by the number of prisoners or the seriousness of offences committed? How is it all worked out and rationed?

Dr McLellan: Providing chaplaincy in Scotland's prisons has been the subject of fairly vigorous discussions over the past two or three years between the churches and the Scottish Prison Service. I speak for neither the churches nor the Scottish Prison Service on that matter, but I am glad to say that in the past 10 days, an arrangement has been agreed by the churches and the SPS that will shift the balance towards providing full-time chaplains. There will not be full-time chaplains in every prison; there might be shared arrangements in some of the smaller prisons. Nevertheless, I welcome that move. It seems that prison chaplaincy is so demanding and specialised that it requires people who are able to give it their full attention.

Margaret Mitchell: So it is not an area that causes you concern. Do you think that the progress that is being made is adequate?

Dr McLellan: I did not go quite that far. Current circumstances, whereby some prisons do not have proper chaplaincy arrangements and some have chaplains who have other duties but who do their best, are not adequate. The new arrangements that have just been arrived at in the past 10 days will be adequate. They will show how seriously not only the churches but the SPS take chaplaincy.

Margaret Mitchell: So it is a case of so far so good.

Dr McLellan: The situation will get better.

Maureen Macmillan: My question is about staffing. Staffing levels at Inverness are described as a "growing problem" in the annual report. Do you feel that staffing levels are a problem in the prison service as a whole? What impact are staff shortages and absences having on the prison regime?

Dr McLellan: Staff sickness complicates the issue of staff shortages. In some prisons staffing is under complement, whereas in others it is at the expected level but staff are not there because they are sick. That puts extra pressure on staff. In almost every prison where I have been, when I have met the local branch of the Prison Officers Association Scotland, it has been clear that its members feel strongly the impact of staff shortages.

I obviously have to notice that, specifically in terms of the implications for prisoners, of which there seem to be two. First, when staff shortages occur, prison staff become increasingly stressed. A stressed prison officer in a very stressful

environment is not always in the best position to make long-thought-out or reasoned decisions. Secondly, there is the matter on which Pauline McNeill pressed me earlier—the combination of overcrowding and staff shortages resulting in prisoners' lack of access to the regime, to employment, to education and to other things.

Maureen Macmillan: Does the SPS appreciate that and is it doing something to address the situation?

Dr McLellan: Over the past year, it has been interesting for me to observe—and no more than that, as it is not my business—increasing conversation and engagement between the various trade unions and the SPS. They have signed up to a partnership agreement, part of which is to seek to reach a common mind on a range of issues in a world in which industrial disharmony has, in the past, been significant. There has been a considerable step forward, in that it has been possible for the SPS and the trade unions to talk to each other. That might lead to their listening to each other as well.

Mike Pringle (Edinburgh South) (LD): Can I come in on that?

The Convener: We are very pushed for time. You will be called to speak in a moment or two. Perhaps you can ask your question then.

Karen Whitefield: In your earlier comments, you touched briefly on the issue of escort duty and the fact that it sometimes impacts negatively on the workings of the prisons. How do you feel that the proposed changes to escort duty will impact on the operations of the SPS? Do you think that there will be benefits from the changes? If so, what will those benefits be? Do you anticipate there being any difficulties, especially with regard to how staff feel about the changes?

Dr McLellan: The escort system will be of significant benefit to prisoners, provided that it is not used simply as a way of cutting staff in every other part of a prison. If, as is planned, the escort system releases prison staff so that they can be prison staff, that will have a significant impact on the matters on which Pauline McNeill engaged with me earlier.

For example, if a prison has five officers who are dedicated to prison escorts, that might mean that, on any one day, 15 officers will be engaged in escorting. Even if reductions are made, 10 of those 15 will still be available to undertake the education and employment work, the engagement with prisoners, the sentence management, the security work and all the other things that the SPS has to do.

As far as relationships with the trade union side are concerned, I understand that the unions have

been part of those conversations right from the beginning. However, I am not privy to the specific views of the trade unions on the matter.

The only difficulty that I envisage in escort arrangements being the responsibility of a company other than the Scottish Prison Service is a difficulty for me. It appears that there could be at least the possibility of other responsibilities for me in inspecting the way in which prisoners are escorted. That brings me back to a matter that Mr Fox addressed at the beginning of this session. However, I am in conversation with the Justice Department on that matter, and it may be that no such responsibilities come to me.

The Convener: Marlyn Glen has questions on women prisoners and specific issues to do with Aberdeen.

Marlyn Glen (North East Scotland) (Lab): I will ask those questions separately. My first question is on the growing number of women prisoners and the consequent transfer of some women from Cornton Vale to Greenock. I would like you to expand on the suggestions in the report for reducing the number of petty offenders in prisons and on the suggestions that relate to selective early release with electronic monitoring.

Dr McLellan: I hope that my answer does not sound like a cop-out: the reference to early release of people in Cornton Vale for petty offences comes from one of the first five inspections, which I did not carry out. Although I did not carry out the inspection on Cornton Vale, I have been there many times and have inspected Greenock, where women are also imprisoned. It appears to me—although the statistics are the Scottish Prison Service's business, not mine—that persons are still imprisoned for minor offences, but the number of people who are imprisoned for fine default, as far as I can ascertain, are not as high as I had anticipated. The public concern about the matter has been well ventilated in recent years, and my understanding is that the number imprisoned in Cornton Vale for fine default at any one time will be in single figures.

15:15

Marlyn Glen: Do you have concerns about the women prisoners who are housed in Greenock? Is there suitable accommodation for them?

Dr McLellan: I do not have concerns about them and I believe the accommodation to be suitable. It is attractive to prisoners to be near their families, and when I was in Greenock last, which was about four or five weeks ago, every woman to whom I spoke—which, of course, was not every woman—was pleased to be in Greenock prison. You understand what I mean by that.

Marlyn Glen: You mentioned a 38 per cent overcrowding rate at HMP Aberdeen, which is an unfortunate low point on which to end my questions. Do you consider HMP Aberdeen to be properly resourced? What do you think needs to be done to address the continuing concerns about the prison?

Dr McLellan: Six weeks ago, I published a follow-up report to the report done by Clive Fairweather on Aberdeen. It will appear in the next annual report, but I am happy to speak about what it says. It acknowledges that Aberdeen has taken considerable steps on two aspects in particular: addressing safety, which is critical to any prison—Aberdeen is clearly a much safer prison than it was a year ago—and providing a drug-free area within the prison, which Karen Whitefield mentioned earlier and which has had a significant effect in giving a number of prisoners an improved morale. There is also no doubt that staff morale in Aberdeen has progressed significantly since the report that is contained in the annual report.

Mike Pringle: Some of the questions that I was going to ask, such as those on Cornton Vale, have already been answered, so I will ask two others. You talk about assaults in prisons and in your report on HMP Edinburgh you say:

“there had already been eight serious prisoner on prisoner assaults this year (which is close to the annual KPI target of ten, with a further six months to go),”

but, in your report on Inverness, you say that there have been no assaults at all. Do you have any views about why that is the case? Is Inverness safer? Does it have a better regime?

My other question is on something else that you say about HMP Edinburgh in your report:

“It also appeared that those visitors who arrived a few minutes late could often be refused visits; this seems, to us, to be somewhat inflexible.”

I would take a stronger line and say not that it is inflexible but that it is simply unacceptable. There could be all sorts of reasons why somebody could be late, such as that the bus did not come or the taxi taking them got caught up in traffic. Is Edinburgh addressing that problem? You have already said how important prison visits are. If a prisoner expects a visit from his wife and family and is suddenly told that, because they were two minutes late, he cannot see them, he might get pretty upset.

Dr McLellan: It is interesting that every question about an individual report has been about a report that I have not done.

Mike Pringle: I am sorry.

Dr McLellan: Your first question was about assaults. The report suggests that the number of prison assaults in both Aberdeen and Edinburgh is quite high.

Mike Pringle: In Inverness prison, there have been none.

Maureen Macmillan: It is a nice wee prison.

Mike Pringle: Are the other prisons any different? I suspect not.

Dr McLellan: It seems that prison assaults are the result of a combination of different factors. First, overcrowding sometimes plays a part, although Inverness is a highly overcrowded prison. Secondly, the history of a prison plays a part. There is no doubt that different prisons have different cultures. Thirdly, the kind of prisoners who are contained in a prison is immensely significant, and prisons differ greatly because of that. Fourthly, if a large number of people who have been involved in drug feuds outside prison—or who are the brothers of people who have been involved in drug feuds outside prison—find themselves in a prison together, that can have a significant effect.

As far as visits are concerned, Mr Pringle uses exactly the kind of language that I would use. I have not carried out an inspection of Edinburgh prison, but Mr MacCowan may be able to tell us what the current situation is. Are you able to do that?

Rod MacCowan: No.

Dr McLellan: I am sorry, but I am not able to tell you what the visiting arrangements are in Edinburgh. It would be fair to say that on most matters on which we report—apart from the ones that I really care about, such as overcrowding and slopping out—prisons take very seriously what the inspectors say. I would be surprised if language as strong as that in an HMCIP report had not been acted on. However, prisons can do nothing about overcrowding, as they have to take whomever they are given.

Mike Pringle: You and I both hope that HMP Edinburgh has done something about that issue.

Dr McAllister: Can I say something about the visiting arrangements at HMP Edinburgh? I was there a couple of months ago, and the prison is now carrying out some innovative work with visitors. During induction, visitors are given the opportunity to meet prisoners, and members of staff take about half an hour to go through a list of issues, describing some of the rules and regulations in order to allay any fears or problems that families might encounter. The prison has acted on some of the issues that were raised in the report.

The Convener: Colin Fox has a question about slopping out.

Colin Fox: Slopping out is a huge issue, but I suspect that we are running out of time to do it

justice. In one of your predecessor's reports, the Executive gave a commitment, or made the suggestion, that it would try to phase out slopping out by 2004-05. Do you believe that the Executive is on target for that and that we will see the end of that disgusting practice by then?

Dr McLellan: I do not know. The practice has been reduced considerably, but not enough. The difficulty is that, again—how boring I must sound—the issue relates to overcrowding. If a prison is overcrowded, where are the prisoners to be put while the hall is being refurbished? I am in no sense justifying slopping out—I hope that I am not perceived to be an advocate of slopping out. However, that is the practical, technical difficulty. If the prisons are absolutely full, how can the SPS get the plumbers in?

Colin Fox: I must say that I was hoping for a bit more optimism. I hoped that you would say that the practice would be phased out by 2004-05. I sat in on the Napier case at the Court of Session—a case in which the Executive was taken to court for abuse of human rights. I am sure that we all agree with the Executive that slopping out is a practice that should be phased out. Is it a particular problem at Barlinnie? Are we likely to see it phased out elsewhere before it is phased out there? Where will be the last wall to fall?

Dr McLellan: It is a problem in Barlinnie, Perth, Edinburgh, Peterhead and Polmont. However, Peterhead is the only prison in which slopping out happens universally. There is no facility for any access to night sanitation for any prisoner at Peterhead.

Colin Fox: Are you satisfied that progress is being made as quickly as it ought to be made?

Dr McLellan: I do not understand how you could possibly hear in what I have said that I am satisfied that progress is being made as quickly as it could be made. I want the practice to be stopped now.

The Convener: Maureen, do you want to press your question on women's issues, or has it been answered?

Maureen Macmillan: We have talked about Cornton Vale and Greenock, but there are women in local prisons in other parts of Scotland, such as Inverness and Aberdeen. I am concerned that they are being overlooked.

The Convener: What is your question for Dr McLellan?

Maureen Macmillan: Do you think that we should pay more attention to what is happening in those other prisons rather than concentrate on Cornton Vale and Greenock?

Dr McLellan: That is an important point. I promise the committee that I do not ignore the circumstances of women in Aberdeen, Inverness and Dumfries, where there are small numbers of women prisoners. Small numbers make it difficult to provide the kind of regime that the women need. There are advantages to their being in a local prison, as they are nearer to their family, but there are disadvantages in terms of costs. However, it is important that the women in small, local prisons are treated with justice and fairness. I am very conscious of that.

The Convener: Dr McLellan, on behalf of the committee I thank you and your colleagues, Mr MacCowan and Dr McAllister, for being with us this afternoon. You have answered our questions fully and the committee has welcomed the opportunity to flesh out the report with your presence here. We appreciate your attendance.

Dr McLellan: I have found the committee's questions very searching but courteous. Thank you.

The Convener: We now move into private session for consideration of our draft report on the budget process.

15:26

Meeting continued in private until 15:37.

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