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Margaret Mitchell MSP  
Convener  
Justice Committee  
Room T2.60  
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*Dear Margaret,*

**JURY RESEARCH**

As you may recall, during the passage of the Criminal Justice (Scotland) Bill, I announced that the Scottish Government would take forward jury research. The commitment to undertake jury research was also included in the Programme for Government where we stated that “we will commission by spring 2017 independent jury research to consider the dynamics of decision-making by juries, including the current jury majority and three verdict system, helping to inform future proposals for the reform of the criminal justice system”.

One of Lord Bonomy’s recommendations in his post-corroboration safeguards review was that jury research should be undertaken to ensure that changes to several unique aspects of the Scottish jury system are only made on a fully informed basis.

Lord Bonomy’s recommendation was that jury research would include the following:-

- What jurors understand to be the difference between not guilty and not proven;
- Why they choose one over the other;
- Why, and to what extent, do jurors alter their position as regards not proven and not guilty as a result of deliberations;
- The extent to which the members of a jury of 15 (as compared with a jury of 12) actually participate in deliberations;

- The differences in outcome (assuming an identical factual matrix) as between a 12 person jury with only 2 possible verdicts and a 15 person jury with 3 verdicts, and the reasons for those differences; and
- Whether there are benefits in requiring the jury to attempt to reach a unanimous verdict.

I have given careful consideration as to what should be included in the final remit of the research and what methodology should be adopted. As part of considering the final remit and methodology for the research, my officials undertook a series of stakeholder engagement meetings. This engagement has helped shape my thinking and I have decided that the research should include all of Lord Bonomy's recommendations with the inclusion of two potential additional topics. These are;

- Methods of conveying information to jurors; and
- Whether or not evidence which is given in open court is assessed differently from evidence which is pre-recorded

The proposed research methodology is a mixed-method approach using case simulation and literature review(s). The research will not involve actual or live criminal court cases and as such will not observe real jurors currently sitting on actual cases or ask questions of jurors about their past experience(s) of jury duty. This means that there will be no requirement to amend the current Contempt of Court legislation. Instead, the case simulations will involve what is commonly known as "mock jurors". This will still enable the dynamics of decision making in the context of the Scottish jury system to be appropriately researched.

This research is likely to take at least two years to complete but it should be possible for the literature research to provide some helpful insights during the first year of this research.

My officials are now preparing to procure this jury research. The first stage, a Prior Information Notice (PIN) advising of this forthcoming procurement, will be published on the Public Contracts Scotland web portal on 21 November 2016.

I hope this update is helpful to the Committee. We shall of course keep you and members updated on this research as it progresses.



**MICHAEL MATHESON**