



The Scottish Parliament
Pàrlamaid na h-Alba

Official Report

JUSTICE COMMITTEE

Tuesday 26 June 2012

Session 4

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JUSTICE COMMITTEE
23rd Meeting 2012, Session 4

CONVENER

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

DEPUTY CONVENER

*Jenny Marra (North East Scotland) (Lab)

COMMITTEE MEMBERS

*Roderick Campbell (North East Fife) (SNP)

*John Finnie (Highlands and Islands) (SNP)

*Colin Keir (Edinburgh Western) (SNP)

*Alison McInnes (North East Scotland) (LD)

David McLetchie (Lothian) (Con)

*Graeme Pearson (South Scotland) (Lab)

*Humza Yousaf (Glasgow) (SNP)

*attended

THE FOLLOWING ALSO PARTICIPATED:

Dame Elish Angiolini (Commission on Women Offenders)

Dr Linda de Caestecker (Commission on Women Offenders)

Mary Fee (West Scotland) (Lab)

Siobhan McMahon (Central Scotland) (Lab)

Stuart McMillan (West Scotland) (SNP)

Dennis Robertson (Aberdeenshire West) (SNP)

Sheriff Danny Scullion (Commission on Women Offenders)

Jean Urquhart (Highlands and Islands) (SNP)

CLERK TO THE COMMITTEE

Peter McGrath

LOCATION

Committee Room 4

Scottish Parliament

Justice Committee

Tuesday 26 June 2012

[The Deputy Convener *opened the meeting at 17:32*]

Commission on Women Offenders (Final Report 2012)

The Deputy Convener (Jenny Marra): I welcome you all to the Justice Committee's 23rd meeting in 2012 and ask everyone to switch off mobile phones and other electronic devices, as they interfere with the broadcasting system.

Apologies have been received from Christine Grahame and David McLetchie. I welcome members of the Equal Opportunities Committee—Siobhan McMahon, Dennis Robertson and Stuart McMillan—who have joined us for the meeting. I understand that more members of that committee will join us in a couple of minutes. Given the number of members who are present this evening, it would be useful if members and witnesses could introduce themselves briefly.

I am the deputy convener of the Justice Committee and an MSP for North East Scotland.

John Finnie (Highlands and Islands) (SNP): Good evening. I am an MSP for the Highlands and Islands.

Roderick Campbell (North East Fife) (SNP): I am the MSP for North East Fife.

Colin Keir (Edinburgh Western) (SNP): I am the Edinburgh Western MSP.

Stuart McMillan (West Scotland) (SNP): I am an MSP for West Scotland and deputy convener of the Equal Opportunities Committee.

Dennis Robertson (Aberdeenshire West) (SNP): Good evening. I am the MSP for Aberdeenshire West.

Sheriff Danny Scullion (Commission on Women Offenders): Good evening. I am a sheriff for south Strathclyde. I sit as a resident sheriff in Hamilton sheriff court.

Dame Elish Angiolini (Commission on Women Offenders): I am Elish Angiolini.

Dr Linda de Caestecker (Commission on Women Offenders): I am the director of public health for NHS Greater Glasgow and Clyde.

Siobhan McMahon (Central Scotland) (Lab): I am an MSP for Central Scotland.

Alison McInnes (North East Scotland) (LD): I am an MSP for North East Scotland.

Graeme Pearson (South Scotland) (Lab): I am an MSP for South Scotland.

The Deputy Convener: Thank you. The only item on the agenda this evening is evidence on the report from the commission on women offenders, which was published in April. The Scottish Government published its response to the report yesterday. I am pleased to welcome Dame Elish Angiolini, chair of the commission on women offenders, and Dr Linda de Caestecker and Sheriff Danny Scullion, who are members of the commission. We will move straight to questions from members.

Roderick Campbell: The Scottish Government has said that it favours a pilot scheme for community justice centres. Do any of you have views on an appropriate area for a pilot scheme?

Dame Elish Angiolini: A pilot scheme would be useful for planning, provided that the pilot was not so lengthy that it delayed the construction of other community justice centres. It is clear that community justice centres will differ according to location and the profile of offending there. In rural towns and communities, different issues might arise. It might be useful to have a community justice centre in a large metropolitan area and one in a semi-rural area or one that served a rural area, so that contrasts and challenges could be examined in more detail.

Roderick Campbell: So you suggest at least one rural and one urban community justice centre.

Dame Elish Angiolini: On the basis of my experience, I think that that would be useful. Sometimes, the resources that are available to a concentrated population in a city setting—and even the location of resources—differ from those in a smaller town that serves a rural hinterland.

Dr de Caestecker: I agree absolutely about looking at different models for rural and urban areas. Glasgow, which has a large number of women offenders, would be an ideal place for a pilot—I do not argue that just because that is my patch. A pilot would allow people to understand the complexity, the size of centre that was needed and the size of the team that was needed, for example.

John Finnie: I thank the panel for the report. Mental health features a lot in all such deliberations. A ridiculously high percentage of inmates at Cornton Vale have mental health issues. What impact does that have? I note with interest the suggestion of mental health awareness training for police officers. How would that work? The idea has been floated over the years, but it was previously said that such training

would be challenging because of the complexity of conditions. How would such training help?

Dame Elish Angiolini: It is critical for all who are involved in the justice system to understand mental health issues.

Beyond that, many witnesses and accused people have conditions of which we might hitherto have been unaware—for example, people might be on the autistic spectrum or might suffer from epilepsy. Today, we must understand the dynamic of what is going on with a witness, to ensure equal access to justice.

The same point applies to mental health. In the past, it might have been acceptable for a small number of specialists to understand mental health issues, but now, it is the duty of all who are involved in the justice system to understand the fundamental issues. That is not to suggest that they should all become professional counsellors, psychiatrists or psychologists, but understanding mental health issues might well lead to a much better understanding of what might work in addressing people's behaviour. That applies across the board.

Police officers are on the front line and often deal with the manifestations of mental ill health. In the 21st century, it is appropriate for our officers to understand what they might be facing.

Dr de Caestecker: As John Finnie said, mental health disorders are very prevalent among women offenders. A small number have severe and enduring mental illness, but the majority of the mental health problems are anxiety, distress and, particularly, borderline personality disorder.

The training and understanding that we talk about relate to how such disorders are managed in a range of situations. The National Institute for Health and Clinical Excellence, which looks at all the best evidence about what works, has produced guidance on the management of borderline personality disorder. That is not about psychiatric treatment but about how to manage a woman who is manipulative, who cannot manage her emotions and who is reactive to her circumstances.

Police officers, people who work in prisons and a range of non-psychiatric professional staff can make a difference to such women if they understand their disorder and the best way of dealing with it, on which there is good guidance.

Graeme Pearson: My question broadens out the theme that you have just discussed. When we consider alternatives to imprisonment, there are two issues, one of which involves looking at the evidence. During your review, did you find evidence out there about what works in dealing with reoffending and supporting women who are in

difficult circumstances? Do we gather the appropriate evidence? Do we know where we want to redirect our funds from the examination that you have just conducted?

Dame Elish Angiolini: Perhaps Sheriff Scullion could deal with some aspects of alternatives to imprisonment.

We found a rich cornucopia of projects throughout Scotland. The real difficulty was their fragmented, localised or short-term nature. We would often find apparently excellent projects that had a duration of a year to 18 months, after which they would have to be morphed into something else in order to get a new grant. There was a temptation to reinvent projects in order to persuade people that something new was being offered, without adequate research or measurement of the impact of those apparently attractive sentences.

However, part of the difficulty—we had evidence of this—was that sheriffs, when sentencing, were not aware of all the alternatives to imprisonment in their jurisdiction. Likewise, the Government was initially unable to tell us what all the alternatives are because there are so many of them. That disparate, fragmented picture leads to a lack of cohesion and understanding, as well as a limited value in the research that is carried out. The sample sizes are usually so small that there are heavy caveats attached to them.

That is why we see the need for consolidation in how these projects are procured. They need to be longer to give them greater stability, so that they can be looked at properly and measured to see what works. Part of the problem is that sheriffs and other sentencers may not have confidence in such sentences because they do not have the evidence that Graeme Pearson suggested. That formed part of our report. However, we have a sheriff with us who might be able to add to that.

Sheriff Scullion: One of the factors that we mentioned in the report is that there is some anecdotal evidence that suggests that, once one is in the court setting, if there is going to be a community-based sentence, which I presume is what Mr Pearson is talking about, and if that sentence is being managed by the court, a degree of consistency in the management of the sentence can lead to improved compliance with court disposals and court orders.

We were conscious of the fact that the evidence is not entirely certain, which is why we suggest in the part of the report on sentencing that there is room for a pilot of what we have called a solution-specific approach to sentencing, which can inform us, the Parliament and the Government about how robust the evidence is. We thought that there might be value in having a pilot scheme for a

solution-specific, problem-solving court for those whom we describe as low-level offenders who have multiple and complex needs, so that more evidence can be gathered about what works, why it works and, if it does work in an appropriate and acceptable way, how it could be rolled out. That was one of the things that we had in mind.

That is the court aspect. On the community-based aspect, the report is peppered with references to the importance of developing sentences and community programmes that are women specific and focused on women's needs, so that those can be part of the holistic approach to the management of women offenders in the community.

Graeme Pearson: From your experience, and perhaps that of your colleagues, do sheriffs generally have confidence in schemes out there in the community that you believe work and which you can access, or do you have only distant experience of what these schemes may or may not do?

17:45

Sheriff Scullion: I am on the commission only as a personal member and I do not speak for the judiciary as a whole. In my experience as a sheriff, I have had no difficulty in finding out what is available in my area. I receive great assistance from criminal justice social workers on what is available and what can be done. I believe that the judicial management of a community-based sentence is important. I receive anecdotal feedback—I do not pretend that it is any more sophisticated than that—that indicates that judicial management can have a positive bearing on the sentenced person's compliance with the order. From time to time, I receive anecdotal feedback from criminal justice social workers that court-based reviews assist their management of sometimes difficult cases in the community.

Graeme Pearson: Going back to what was said earlier, that is not very scientific and not helpful, in terms of policy.

Sheriff Scullion: We recognise that, which is why we read widely on the subject. Although the solution-specific approach seems to be well received by practitioners, persons subject to sentence and various other participants in the justice system, we recognised that the evidence was incomplete. A case could be stated for having a pilot, which could be properly evaluated in a Scottish context outwith that of the designated drugs court, which is a solution-specific court that we are all familiar with. That is one of the reasons why we arrived at our conclusion.

Dame Elish Angiolini: During the course of our work, some research was carried out into the 218

centre, with which we are particularly impressed, as members of both committees will be aware. The research showed that, at the 218 centre, reconviction levels were about 20 to 30 per cent, in comparison with rates of about 80 per cent for a similar cohort of women at Cornton Vale, although there are caveats in terms of the scale and length of the research period. We spoke to prisoners in Cornton Vale who told us about how they were influenced by a sheriff taking an interest in them. Sometimes those prisoners felt that that was the first time that an individual in authority had ever shown a genuine interest in them. They responded very well to the fact that the progress that they felt they were making was being checked by the sheriff.

The other difficulty is that the effectiveness of prison has never been measured. There has never really been a scientific measurement of prison, which has become a default option in many jurisdictions over the years, to see what value it adds and whether it deters crime and assists the community. However, we know that prison is extremely expensive and that it is almost a revolving door for many women offenders—it does not cause them to desist from offending. If we are to build up confidence in community-based sentencing, we must have a robust evidence base. The current structure militates against that.

The Deputy Convener: Do members have any questions on community-based sentences?

Dennis Robertson: I would like to link the discussion of community-based sentences with the mental health aspect. How much priority do you believe that you will be applying in taking cognisance of women's mental health during sentencing?

Dame Elish Angiolini: What do you mean by how much we would—

Dennis Robertson: How much priority will you be able to give to imposing a community-based sentence if you are aware that a woman has a significant mental health problem?

Dame Elish Angiolini: We have produced our report and it will now be for Parliament, the Government and others to take it forward. Mental health issues are clearly of great significance. Mental health problems are a common feature among those who are incarcerated in prison, and the matter is therefore of considerable priority. We must tackle the root causes of behaviour, which may be mental ill health. Addiction to drugs or alcohol is clearly a major issue. We have often found that an individual becomes an addict because they are self-medicating for a mental illness, which can be the result of a number of extraneous circumstances that they have suffered in their life. We can punish those individuals, but

unless we tackle those health issues, they will punish themselves more than the courts do. Many of them are filled with self-loathing, and it is not possible to punish people who hate themselves and who harm themselves constantly. They will simply go out into the community and find a way to self-medicate again. It is a matter of priority. Dr de Caestecker has a greater understanding of the issue and its importance.

Dr de Caestecker: You are talking about how the court deals with somebody with a mental illness. If it is a severe mental health issue that requires psychiatric treatment, that treatment must be available. On the whole, the evidence that we heard was that such cases are dealt with well. The more prevalent and lower-level mental health problems are the difficulty, and we must ensure that the community resources and sentences are available to deal with them. Often, it is about providing a woman with good housing and mentoring support and ensuring that she is getting help with her addictions, rather than providing her with any specialist psychiatric help.

Mary Fee (West Scotland) (Lab): When I read the commission's excellent report, I was struck by the absence of any mention of children or of family and child impact assessments. I am the convener of the cross-party group on families affected by imprisonment. A question that has been raised at the group is whether the routine use of child impact assessments, either by a sheriff in sentencing or before a case goes to court, might prevent more women from receiving a custodial sentence and ensure that they get more community-based sentences. Did you look into that?

Dame Elish Angiolini: Yes. We gave very serious consideration to children in those circumstances. Indeed, the first page of our report mentions children, and the impact on the prisoner of dislocation from their family is intricately woven throughout the report. The prospects of rehabilitation for women in particular are often closely aligned to what is happening to their children. Once they lose their children, their prospects of rehabilitation can be significantly limited.

On page 3 of our report, we say:

"Approximately 30 per cent of children with imprisoned parents will develop physical and mental health problems, and there is a higher risk of these children also ending up in prison."

I am not sure that we could have highlighted the issue in starker terms. That is a frightening and ominous situation. We often see generations of families coming through Cornton Vale, and intervention is necessary to prevent the next generation of offenders.

We took some excellent evidence from Dr Nancy Loucks on the impact that family and child impact statements could have. We gave careful consideration to the matter, but I do not believe that any judge who sentenced without reference to the fact that someone had children and the impact that imprisonment would have would be doing their job appropriately. I do not believe that that is happening. We have one example—I am not referring to a specific case. It is very difficult to conceive of a situation in which a solicitor—even one with only a basic qualification—would not, in mitigation, bring to the attention of the court the existence of children and the potential impact of imprisonment. The social worker who was preparing the social inquiry report would also want to investigate that. Even if those issues are not being raised, we do not need a separate report, as that would simply add to the bureaucracy, and there is already a snowfall of papers for every court case. We are trying to streamline the process to get to the critical parts.

The issues should be raised, but a separate document would not assist and would simply add to the number of reports and papers that would need to be looked at; they should be integral to what we consider should be, in most cases, a truncated report. Social workers sometimes spend long hours—even days—preparing social inquiry reports that will never be used to the extent that they are intended to be used. As members will be aware, we have also expressed concern that many social work departments are funded on the basis of the number of those reports that they produce. If ever there were a perverse incentive, that is it.

We must move away from creating more bureaucracy—more reports—and look at what would make a difference to the sentencing process. Consideration of children should be critical to that process, but I believe that such issues should arise out of the professionals' training—it should be their bread and butter. That is how social workers, defence solicitors and judges should approach the matter.

Sheriff Scullion may have something to add.

Sheriff Scullion: The point that Ms Fee makes is vital—it is clearly critical that any court that is about to pass sentence on any convicted person has access to current, cogent information about the impact on children. That is the case whether it is a male or a female, but, obviously, we are talking in a context of female convicted persons. I totally agree that the information is critical.

Again, speaking from my own experience, I see many social inquiry reports, and they all contain information about children and so on. One has to bear in mind that, as part of our system, unless by specific choice of the accused person, every

woman offender who ends up in custody is represented. That means that, as Elish says, a series of steps are taken and safeguards are put in place, involving a qualified solicitor, the prosecution and—in by far the majority of cases in which a custodial sentence might be the outcome—the social inquiry report, which is now called the criminal justice social work report. At the end of all of that, there is a judge or a sheriff. I am quite confident that all members of the judiciary whom I know would consider—even if they were not told about it—the family situation of the person and how any children might be affected.

The information is key and critical to the decision of the court. However, after careful consideration, we took the view that there was no need for us to make a specific recommendation about an additional report because, from the evidence that we heard, the system provides that information at the moment.

Alison McInnes: Before I ask my substantive question, I want to follow up on Roderick Campbell's question about the setting up of community justice centres. In his response to your report, the cabinet secretary said that he will establish a pilot project that will run for about 18 months. Do you think that that is an overcautious response? Do you think that we need a pilot project, given that the idea is based on existing services that you have already seen working on the ground?

Dame Elish Angiolini: Clearly, it is for the Government to decide how it takes forward work in this area. The logistics are important if the Government is looking to establish a Scotland-wide network of centres, as that will be a different way of delivering the service. We are not talking about additional resource; it is a reconfiguration of the existing resource. We are not suggesting that the Government builds all sorts of new, fancy buildings. Any buildings that are in a relatively good condition would do, whether they are disused buildings—there seem to be a lot of empty primary schools around the country—or existing social work premises.

It is important that such a network be set up. Although we would like that to get going, the imperative is to stop, as soon as possible, women going to prison unnecessarily. We have to leave it to the judgment of those who are setting up the system to consider how long they need to measure developments in order to get the system right. It is more important that it is right in the long term than it is set up quickly.

Alison McInnes: The cabinet secretary stopped short of agreeing your recommendation on the setting up of a national community justice service. In a way, that kind of centralisation might be seen as being contrary to the rest of your report, which

is very much about emphasising a tailored, community-based response. Until now, community justice has been very much linked in with the local authority family, so there have been those connections. What persuaded you that that was a necessary step?

Dame Elish Angiolini: We gave long and anxious consideration to the issue throughout the time when we were taking evidence from various people. We asked why, after 10 reports about what the way forward might be, nothing had been taken forward. Why were there no measurements in relation to impact? Why were there disparate approaches without any real consideration of why one project was selected instead of another?

18:00

There seems to be real evidence that many of the community justice authorities and the 32 local authorities are pointing in different directions: there is not a cohesive whole. The disparate nature of the support means that there is a real weakness in the community justice service.

Where was the voice for that service when there was an apocryphal tale of someone spending their community payback order time smoking cigarettes or having a coffee? Where were the people to lead the public and parliamentarians to have confidence in that system and to see it as a cohort of real professional alternatives so that prison ceases to be the default?

You said that services have always been delivered locally. Of course, they are delivered locally by national services too. The police service is about to move to a national service, and the Procurator Fiscal Service is national but delivered locally; the emphasis there is very much on the local delivery of services. The idea that a national service cannot have local delivery, a significant local profile and a local operational unit is a non sequitur. It can be very much consistent with local delivery.

We also heard evidence that criminal justice social work departments are a very small part of the social work components of local authorities. Therefore, in terms of their impact, they are to some extent isolated already. They are looking towards the courts in support, and they have connections with the much bigger battalions in social work, so their possible impact is reduced. Some social workers considered that they were not taken seriously enough as professionals. From my experience and knowledge of many criminal justice social workers, I know that they did not feel that the court understood. They felt that there was a gap there. The community justice centres address that by focusing on a relationship with the court, which enhances the professional respect

between the court and the centres. They are working with the court, and the court becomes familiar with them.

With regard to leadership, however, there is a vacuum in operational and strategic direction. There is not a voice for that service. It is not enough to have a Cabinet Secretary for Justice dealing with every problem that comes up in relation to that, or building confidence; the service needs an operational head. A chief executive is needed to drive the whole dynamic forward so that community justice alternatives become a central part of the justice system rather than the marginalised Cinderella that they are at present.

That is partly due to the structure. We have a population of fewer than 5 million people in this country, but we have 32 separate social work departments that provide services in relation to courts, which are nationalised, and other services. I do not believe that creating a national criminal justice service would mean that there would be a disconnect with the social work departments, because that depends on how we set it up. It will be set up locally, and that will be an important aspect of it.

What we saw was that some of the criminal justice social work departments are already quite isolated. That reality will not change, but we might produce a cohort of professionalism for criminal justice social workers that can strengthen their voice, sense of professionalism and ability to be heard in the criminal justice system. A local structure may create barriers in that regard, not because people are not trying to do the right thing in all those agencies, but because they need to be able to get together. We can have fine words about collaboration and partnership working, but sometimes we need someone in that hierarchy to tell people to do things and to provide leadership. That is where we consider there to be weaknesses.

There may be other issues that I have missed—Dr de Caestecker might have a view on that.

Dr de Caestecker: I do not have a lot to add; Elish Angiolini has expressed well our thinking behind that. If we are to shift resources from certain areas that we do not consider effective into other areas, and create real multidisciplinary teams, we need good national leadership and not a lot of fragmented services.

I have nothing else to add.

Sheriff Scullion: I have nothing to add.

Alison McInnes: That was a very comprehensive answer—thank you.

Roderick Campbell: I will move on to the question of mentoring. The Government has announced that it proposes to use the reducing

reoffending change fund for the next three years to set up a mentoring scheme for female and male offenders. I took it as read that the whole £7.5 million would be used for that.

In your report, you talked about evidence in Dundee and south-west Scotland. What is your general view of the sums that have been allocated? How important is it to get a mentoring scheme under way?

Dame Elish Angiolini: That will be a critical part of successfully keeping women out of prison. Those women who have experience of the limited number of mentoring projects have responded positively. In the Circle and routes out of prison projects, for example, women are met at the gate of the prison when leaving. We often find that women make some progress in effective programmes in prison, but of course their participation is over as soon as they are released. We must remember that a drug or alcohol addiction programme cannot be completed successfully in two or three months, or even six months. Someone suggested that a literacy programme can be completed in a month, but that is simply nonsense. Women are a captive audience for programmes when they are in prison, but such programmes need to take place over a long period.

When women are released from prison, they are given a cheque for £65, which is supposed to last them for five or six weeks until they are entitled to benefits. Most of them will of course have to apply for benefits, because it is very difficult for someone who has come out of prison to get a job.

In reality, many of the women do not get past the nearest drug dealer or off-sales, which means that their money has gone. What will they then survive on for six weeks? Logic dictates that if their experience has been stealing or getting money from being a prostitute on the streets to feed their addiction, then they will revert to that. In a sense, therefore, we set women up to fail when they get released from prison.

A mentor, however, can engage with a woman for a couple of weeks before she leaves prison, then accompany her from the prison gate to supported accommodation and stay with her for the next few difficult weeks when she is trying to readjust. The difference that that can make for such women is extremely impressive. Former prisoners have told us what a difference such mentoring can make.

Having a positive role model to compare with their drug addict peers can show women that there is another way of living. However, it is important that the mentor is not a social worker. Many offenders told us that they are wary of sharing issues with social workers because they are afraid

that that might mean losing their children. It is good for them to have someone who can be encouraging, or a constant nag who will take them by the collar and get them out of bed in the morning to go to appointments or to remind them of what to do.

When I sat as a prosecutor in the early 80s, drugs were not about in Scotland. We had only one solicitor in Glasgow—Keith Bovey—who specialised in drugs cases and was regarded as an expert. Offenders who disobeyed the law at that time did so in a different set of circumstances from now. Offenders nowadays do not have the same rationale for their actions, so punishment might not have the cognitive effect on them that we might like. It is because they are enslaved by their addictions to alcohol, which is a historical addiction, and to drugs.

We must deal with those offenders like a street doctor. The idea that they will respond in a middle-class way and come for appointments, given that their lives are utterly dysfunctional and chaotic, is just naive. We must be cleverer in how we deliver programmes for such people and mentoring will be a key part of that. Mentors will dig the women out of their beds and get them to places while they are trying to get through their addictions, which is when they can begin to tackle the root causes of their behaviour. Mentoring is an important part of trying to keep women out of prison and it is well worth the expenditure.

I cannot consider the budget for mentoring; that is something for those in government to work out. All mentors do not necessarily have to be professionals, though, because there is a role for volunteers, who can be very successful as mentors. John Matthews told us about the success of a number of projects involving volunteers. In addition, reformed former prisoners can have a tremendous effect as mentors. We therefore do not necessarily need a professional cohort of mentors. Professionals have a role to play, but different types of people would be suitable as mentors for different types of prisoners.

Dr de Caestecker: Such a mixed economy of mentoring needs to involve a combination of support workers, outreach workers and volunteers as well as peer support from ex-offenders. It is important to remember that even if some mentors are volunteers, there is still a cost for co-ordinating the mentoring, and training and supporting mentors.

Sheriff Scullion: I have little to add to what Dame Elish and Dr de Caestecker have said. We were entirely persuaded that there was a strong case to be made for intensive mentoring. A point that recurred again and again in our evidence-gathering sessions was that there is evidence that some vulnerable women who have offended

respond more positively to a mentor-type figure in whom they might, for whatever reason, have a degree of trust that they would not necessarily have through a more formal source. We were entirely persuaded that there was great value in pursuing that intensively.

The Deputy Convener: Would anyone like to follow up on the issue of mentoring?

Humza Yousaf (Glasgow) (SNP): I would like to, if I may.

You are giving us a fascinating insight. Projects such as routes out of prison, which is run by the Wise Group, and the 218 centre, work with people for a few weeks before they are released. The success of those projects, which some of us have been to see, is phenomenal—they make a huge difference through one-to-one mentoring. I remember one ex-offender telling us that in Cornton Vale she felt as if she was a number, but that in the 218 centre she felt that, for the first time in her life, she had a productive relationship with someone.

What more can be done for those who are long-term prisoners? On the routes out of prison project, mentoring can be done for six weeks before release—I think that that is the maximum. What can be done by way of mentoring for those on long-term sentences?

Dame Elish Angiolini: Those prisoners who are serving long-term sentences, in particular, require mentors. If they are in for 15 years, it would be naive to suggest that their mentor would be the same person throughout that period, because people move house, move jobs and move on in life. We looked at the role of community justice centres in intervening at the cradle stage—by which I mean when women begin to come to the attention of the police and are subject to diversion or alternatives to prosecution—right through to providing support for those who are serving sentences. The community justice team should be the base of the model. It should also serve and support those who are in prison, so that there is continuity.

Part of the problem is the fact that, as the governor of Cornton Vale told us, 100 different services come in to the prison, which means that many different people deal with the prisoners. Different local authorities have different approaches, even on issues such as transport back home. The community justice centre should be at the heart of a streamlined process that provides support. It is critical that, through that process, a link is maintained with the community. Women who are serving long sentences in prison will come home on home leave. They will be released at different stages, so it is important to know what the situation is at home. Home is very

important for some women, but others would unravel if they went back to what can sometimes be the source of their criminality. They might have an abusive partner who has been using them to traffic drugs or they might have been the subject of abuse. It might be the case that their immediate family, far from being a source of support, encourages their criminality. Home is the last place that women in those circumstances want to be. Continuity of knowledge between the community justice centre and the prison would be critical.

Humza Yousaf: You said that you saw community justice centres intervening from the cradle to the grave. Earlier, you said that we were setting women up to fail. Do we miss a trick early on in picking up on school exclusions or even before that stage? Is it the case that, in this country, we are not geared up enough to detect what may be the early signs of offending? That could apply to male and female offenders. Would the community justice centres try to detect those signs?

Dame Elish Angiolini: I do not think that they are a panacea for all of society's problems. By the time many women have come into the criminal justice system, they are substantially damaged and have many problems. Our ability to deal with some of their problems can be limited because of the extent of what has gone before. Many such women have been victims of mental, sexual or physical abuse in their lives. That is a common theme.

As I mentioned at the time of the launch of our report, I started off as a prosecutor with the messianic view that I was there to help victims of crime and to put all the bad, evil people away. Within two days, I discovered that, in fact, the two are not mutually exclusive and that many victims and those who are accused have a common profile—in essence, they suffer from deprivation. There are not many people from affluent middle-class areas in prison. Poverty is a major factor; there is a lack of nurturing; there is abuse, including physical abuse; low self-esteem; and learning difficulties in children. All those things create barriers.

18:15

Those are much wider issues that the commission could not deal with. We reflect that by saying that early intervention is critical and that we could prevent many people from coming into the system if we had effective ways of tackling the manifestation of those problems at an early stage, such as support on parenting skills and support for families. However, we were not tasked with examining that; we were tasked with considering one aspect, which was the adult system.

I agree absolutely that we need to deal with those other aspects as well as we can. From what I understand, there are huge leaps forward in social work departments and in local authorities more generally in dealing with those aspects, although I am not sure that we are where we need to be. Early intervention with a child starts with the mother, before the child emerges from the womb. That is how we have to look at the issue. We have to assist at that early stage.

Humza Yousaf: I have a final question. I apologise, but I have to leave shortly to go to another event.

There is an issue about the political culture. The members who are round this table from various parties no doubt agree on the value of community justice, but any party that is in government and that tries to put the emphasis on that will almost always be shot down, not necessarily by fellow politicians, but perhaps by the media or the prevalent culture, as being too soft on crime. When conducting the research for your report, did you detect that the situation is changing at all? I have found that, once I explain to people on the doorstep that the approach will not only save money, but make our community safer, they start to soften up a little. However, in my opinion, the prevalent culture is still that, if a Government goes down that route, it is thought to be far too soft on crime.

Dame Elish Angiolini: The epithet “soft on crime” is a wonderful political mantra with which to batter those in government. I have served as a civil servant in Governments of various political complexions. For a significant number of years, I served under a Conservative Government, including giving advice to ministers. Thereafter, it was a Labour and Liberal Government, and then a nationalist one. I did not discern a difference in what they tried to do when in government, which was to find effective ways to reduce offending. Indeed, in the early years of the Conservatives, they were radical and developed diversions and fiscal fines and were then criticised by others as being soft on crime.

The great shame is that there is still a tendency to politicise justice issues when in fact a cross-party approach is necessary. The issues are far too important and complex for what I suppose we might call a tabloid approach. In the past, we would just bang people away for long periods, and many people still say that they want that. Early in my time as Solicitor General for Scotland, an experiment was carried out at Glasgow Caledonian University—it was attended by a cross-party group of MSPs, including Annabel Goldie—involving volunteer members of the public who were asked to give sentences for various crimes. Initially, they all suggested hefty sentences

of six months to a year or two years and so on. They were then given the papers that the judge had had, including the social inquiry report, which explained the individual's background. Once people had all the information, they revised their sentences. Almost to a man, they shifted the sentences downwards and outwards into the community.

Therefore, we need education and a more sophisticated approach and we need to abandon those politically sexy labels. The public are beginning to get a much greater understanding. They would rather have clean and safe communities and a justice system that actually makes a difference by making the community a better place than pay thousands and thousands of pounds to lock up people to do nothing or very little all day, to come out worse than when they went in and to commit the same crimes again. A leap of faith is required, which is why it is critical that we have an evidence base to show that community justice approaches are robust and resilient, that they address the crime and that they are punishment. That has to be there for the community to buy in to community justice, which must be as strong and as strategic as possible.

John Finnie: On that last point and in relation to your earlier allusion to fiscal fines, I note that you suggest in the report that police officers

“should highlight in their report whether a person is suitable for diversion, taking into consideration the victim and community.”

What factors would be used to provide evidence in that respect and what sort of challenge could be laid? After all, the victim might have a totally different perspective on the matter; they might, for instance, want swift retribution.

Dame Elish Angiolini: The purpose of any criminal justice system is to bring about justice and to look for a just disposal. The European convention on human rights requires that effective criminal sanctions be in place to address victimisation; however, that does not necessarily mean prosecution, which can be a disproportionate and, in fact, counterproductive response that sucks into the system people who might have put only a tentative toe into the water of offending. Once they are sucked in, they begin to normalise.

The notion that short prison sentences are useful because they are short and sharp—I think that that was the alliterative phrase that was used in the past—is frankly nonsense. The reality is that going to prison for the first time is like being inoculated; it normalises the experience. Once people stop being frightened of the prospect and once they realise that they can cope with it, the deterrent effect is removed. As a result, you want to keep imprisonment from offenders as much as

possible and find other effective ways of addressing their behaviour.

Victims' views must be taken into account. Although prosecutors and the police act independently of victims, they need to know what the impact on the victim was and what the consequences have been. After all, certain consequences are not immediately apparent—they might be psychological as well as physical—and that needs to be taken into account in reaching a balanced decision. However, we have been finding more and more in evidence—and Victim Support Scotland has been very positive on this matter—that not all victims want offenders locked up or retribution without balance. They want the behaviour to stop and no one else to suffer what they had to suffer; they also want some punitive aspect for the individual in question.

Some people's offending requires them to be locked up for a long time—and for very good reasons. When I was Lord Advocate, I did not shirk from making such decisions. For example, I asked for longer periods of imprisonment for life sentences for murder, and I asked for such sentences to be reviewed. We are not woolly hearted about this; we are simply looking for what works, what will make our community better and safer and what will make a difference. Incarcerating people for short periods is not a revolving door—it is a spinning door. Those individuals do not resolve or address their behaviour, and we need to take a mature approach and accumulate an evidence base that we can consider and support.

Alison McInnes: Another recommendation that the Government has said it will consider further before proceeding relates to the introduction of two new sentences. It would be useful for our subsequent discussions to hear about the commission's thought processes on that matter and how it reached that conclusion.

Dame Elish Angiolini: Sheriff Scullion will respond to that question.

Sheriff Scullion: We concluded from our deliberations that there was a place for new sentences that could, where necessary, combine a custodial element and an educative, constructive, rehabilitative and community-based element. As a result of the evidence that we heard, we were alive to the desirability of being able to suspend the custodial element—and, indeed, to avoid it completely if compliance with certain conditions led to improved conduct in the community.

Of course, the custodial element would still have to be served in certain circumstances. However, we were interested in the possibility of conduct in the institution being subject to review and we

thought—we continue to think—that there is a place for that; that is why we recommended it.

The Government noted our observation that there might be concern that the type of sentence that is referred to in the Government's response as "suspended sentences"

"might be applied inappropriately in cases where no imprisonment is currently imposed".

We acknowledged in our own report the anxiety that was expressed to us by some people who gave evidence that up-tariffing would take place. We are alive to that.

We saw the value of a new type of sentence lying not in situations in which no imprisonment is currently imposed, but in situations in which imprisonment is currently imposed. Based on some of the evidence that we heard, we felt that for cases in which the judge or the sheriff believed that only custody was appropriate, a composite sentence would be of great value and would provide another alternative. That type of sentence would not clutter up the community payback order landscape; it would be a useful tool in cases that, at present, lead to custody being imposed.

Alison McInnes: I thank you for your insightful report, which is comprehensive and covers the range of disposals and problems in dealing with women offenders. The danger for us in the Parliament is that changes are implemented at different stages. How important is it that they all move forward at the same time?

Dame Elish Angiolini: As I have said, implementation must be for the Government. I hope that the Parliament and its committees will take the Government to task on that effectively. Reports of this nature can sometimes look very fine but be a waste of good trees.

Implementation has to be monitored, and it is for the Parliament to do that. The Cabinet Secretary for Justice gave us a fairly unrealistic timetable for completing the report, but I am delighted that he gave his response before the summer recess. That is an indication of his sincerity and determination to deal with the matter.

The momentum must be kept up. We are talking about a small number of women. We had the recent tragedy of the death of a 19-year-old in Cornton Vale. Only when such events occur is the light shone on what is a Cinderella area. Someone has to maintain the momentum to ensure that the changes are done logically, because doing one thing without the other would not work. The pilots and consultation processes will have to be completed before other aspects are considered, but that is for the Government and the Parliament to determine.

Graeme Pearson: The cabinet secretary acknowledged that Cornton Vale cannot be dealt with overnight—we all appreciate that. The committee has commented almost annually that deferring dealing with the problem to another day has probably brought Cornton Vale to where it is today. We should acknowledge that a lot of people in Cornton Vale are doing good work, but evidently you did not find the bricks and mortar and the way in which the prison is organised to be fit for purpose in modern society. How debilitating is the on-going presence of Cornton Vale in the process of moving forward? Will we be able to work around the current hiatus until a replacement is built?

Dame Elish Angiolini: As you are aware, a number of prisoners have been moved out of Cornton Vale so the population has been reduced, taking a significant amount of pressure off the prison officers. However, many of those who have been transferred out are at the most straightforward level. The more complex and challenging prisoners are still in Cornton Vale and we are conscious that the staff's real everyday objective is to prevent self-harm and suicide. Touch wood, they have been largely successful in avoiding that until recently, but that is not to say that there are not many attempts and near misses, or incidents of self-harm.

The prison was designed for 200-odd minor offenders, but we now have everyone in there— young offenders and serious criminals who are in for serious crimes, as well as significantly damaged women who have committed minor offences and repeat lower-level offenders whose behaviour is seen as being out of control and not something that can be dealt with in the community at present. There is a real mix, and some of them are mixed in with each other. The officers, meanwhile, are wholly preoccupied with trying to find places to put people. Until the situation was alleviated recently, a very young, vulnerable offender could be put in with someone who was serving a life sentence for murder. That could be just as disturbing for both of them, as the person serving a life sentence would have someone different sharing their cell every few days. It would be very disruptive for their progress to have different people who were disturbed or not settled coming in and out of their cell constantly. That is one practical aspect of it.

18:30

The estate was built in 1972, and basically it has lots of nooks and crannies that people can kill themselves in. That makes the job of the prison officers very difficult. Even having a shower is a humiliating process for prisoners, as they cannot have a shower curtain because they might use it as a ligature. There are all sorts of gaps, and male

prison warders are walking up and down at a discreet distance. Those are two other aspects.

There is no room for real work to take place. Externally, there is lots of garden available, which could be great for a market garden—lots of produce could be grown out there. However, because the prison staff are preoccupied simply with preventing people from harming themselves, the focus is very much on keeping order and keeping people safe in the prison.

The prison is not working, despite the best efforts of the staff. We heard from the officers at Cornton Vale that no one wants to work in Cornton Vale because it is so difficult, although they might go there for a promotion. The prisoners there are different from the large majority of male prisoners and require a different skills base. Because many of them have a borderline personality disorder, interacting with them can be mentally exhausting as they are much needier in many ways. The support that prison officers require in that context is greater and it is critical that they are able to deal with the mental health problems that Dr de Caestecker mentioned.

It is not news, but some of the accommodation—the back cells, which are now being addressed—was simply antediluvian and appalling. Other, similar cells are still in operation and have a woman sleeping with her head on the floor next to the toilet—that is the reality. I had the great pleasure of taking a number of editors and journalists to Cornton Vale, and when some of them went into in one of those cells the temptation to lock the door was great. People talk about prison as though it is relatively easy. Superficially, it could be easy in the sense that it removes the problems that people have to deal with in the community—it is a relief for them to get away from those problems, and prison shuts them off from reality—but it is a miserable place despite the best efforts of the prison staff who have done a tremendous job to get where they are at the moment.

There are one or two little oases within Cornton Vale, which are very positive—the craft workshop, the bicycle workshop and the cooking—but only a small number of prisoners get access to those at the moment because all the resources are focused on movement, accommodating people and even taking them to court. We heard evidence of one prisoner being taken from Cornton Vale to court in Elgin or Inverness. They had to get up at 4.30 in the morning for a four-minute hearing before returning to Cornton Vale. That is not sensible ecologically, apart from anything else. Videoconferencing facilities should be enhanced as a way of avoiding the disruption and the labour that is wasted in that way in our prisons, instead of

tackling the problems that the prisoners have to grapple with.

Graeme Pearson: The report is comprehensive and it is satisfying to get that overall picture, but we should take no comfort from the fact that we have identified those issues, which are still critical today. The prison is a key priority that needs to be addressed as a matter of urgency.

Dame Elish Angiolini: The prison needs to be dealt with. I said that it may take five to seven years to build a prison, but there might be construction people out there who would be able to procure one in a much shorter period than that. I am prepared to accept that prisons are complex places, but there must be an emphasis on taking that prison down and getting the women into safer places to be incarcerated.

The Deputy Convener: If there are no further questions from members, perhaps I could ask a couple of questions.

It was interesting to hear your closing remarks on Cornton Vale. A number of members around the table today have visited Cornton Vale and their experience is reflected in what you say.

As part of your vision for the future, do you recommend better and more comprehensive training of prison staff on how to deal with all the issues that you have touched on today? I was particularly struck by the lack of activity in Cornton Vale. There was activity in the bike workshop and the card shop, but many female prisoners looked like they would really like something to do. Is part of your vision a much more integrated training of staff to address those needs through activity?

Dame Elish Angiolini: The skills base of prison officers has changed over the years and will continue to do so, the more we understand why people behave in the way that they do. The mentalisation programme that the Scottish Prison Service has introduced is a good example of how the complexity of that has been recognised. The programme has been rolled out to try to assist and support officers at Cornton Vale.

Constant re-examination of the skills base is needed, and people from outside the prison community, such as entrepreneurs and business people, need to be brought in to assist the officers. If you grow lots of vegetables, you can bottle and pickle them and sell them to the community, or you can provide vegetables to local care homes. Gardening is very good for mental health, so you deal with all sorts of other issues as well.

A great deal of creative work that could be done to address some of the issues cannot be done because to some extent it is hand to mouth for prisons. Hopefully that will be resolved when the prison population decreases. However, to

decrease the population, we need sentencers who are confident that the alternatives to custody work, and a public and a Parliament that also believe that. As long as there is any cynicism about that, the default position will remain prison and we will continue to incarcerate more and more of our female population, and indeed our male population. The difficulties that we are talking about are not confined to women, although we were asked to look only at women. Many young offenders and male offenders suffer some of those difficulties.

Dr de Caestecker: As the deputy convener said, many of the women need and would benefit from meaningful activity, which would be good for their physical health as well as their mental health. The issue is the prison regime and environment, and whether we can bring in voluntary organisations or community groups to do some of the work that Elish Angiolini suggested.

Our vision is for a smaller prison population. It is to have more women in supported accommodation and to be able to engage in a range of meaningful activities.

On the future of Cornton Vale, the important issue, in terms of the pace of change, is that we must have the alternatives in place while we are trying to reduce the prison population. Otherwise, there will be more overcrowding. The timing of all that is right, but we need to ensure that the alternatives are realistically and practically available on the ground.

Sheriff Scullion: I agree with that and have nothing to add.

The Deputy Convener: I thank the panel very much indeed for making the time to come to the Parliament tonight.

Our next meeting will take place on Tuesday 4 September, when we will continue taking evidence on the Scottish Civil Justice Council and Criminal Legal Assistance Bill.

Meeting closed at 18:38.

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e-format first available
ISBN 978-1-4061-9218-6

Revised e-format available
ISBN 978-1-4061-9229-2

Printed in Scotland by APS Group Scotland
