

Wednesday, 1 November 2023

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(10.00 am)

LADY SMITH: Good morning and welcome to the second day this week of our evidential hearings into Phase 8 of our case studies, looking into the abuse of children in residential accommodation for young offenders and children and young persons in need of care and protection.

We move this morning to taking evidence from a panel of two, who will be giving evidence today and probably tomorrow as well. I think they're ready; is that right, Mr Peoples?

MR PEOPLES: Yes. Good morning, my Lady. Yes, the next two witnesses will be giving evidence together. One is Teresa Medhurst, who is the current Chief Executive of the Scottish Prison Service and the other is Neil Rennick, who is here on behalf of the Scottish Government. He has a new title. I'll leave him to tell you what it is, but he has, obviously, a connection with and the responsibility for the Prison Service.

LADY SMITH: I can see that, and he's had a background in his career in justice at one point. He'll no doubt tell us all about it, so we can understand his experience.

MR PEOPLES: We'll get something about that in due course. So if I can call them now.

1 LADY SMITH: Thank you.

2 Neil Rennick (sworn)

3 Teresa Medhurst (sworn)

4 LADY SMITH: Thank you both for agreeing to come along this
5 morning. I have begun by being very presumptuous,
6 assuming that you are both comfortable for me to use
7 your first names. But if you would rather I didn't I am
8 very happy about that.

9 MS MEDHURST: Quite comfortable, thank you.

10 LADY SMITH: You have the hard copy of the report, or
11 reports, that you've provided that are very helpful.
12 Thank you for that. We'll put some material up on
13 screen, I think, from time to time as well; that maybe
14 helpful to you.

15 If at any time you have any questions or concerns,
16 please don't hesitate to tell me. So far as the
17 scheduling is concerned, I normally take a break at
18 about 11.30 in the morning, so we can all get a breather
19 and cup of coffee for about 15 minutes or so. Then the
20 lunch break and a short break in the middle of the
21 afternoon. But if either of you want a break at any
22 other time, please tell me. If it works for you, it
23 works for me. That's the key; all right?

24 MS MEDHURST: Thank you.

25 LADY SMITH: If you're both ready, I'll hand over to

1 Mr Peoples and he'll take it from there. Mr Peoples.

2 Questions from Mr Peoples

3 MR PEOPLES: My Lady.

4 Good morning. I understand you're quite happy if
5 I can use your first names also?

6 MR RENNICK: Yes.

7 MS MEDHURST: Yes.

8 MR PEOPLES: Can I perhaps begin by saying that you do have
9 a copy of the report that was provided to the Inquiry in
10 four parts, as it were. You have a hard copy in front
11 of you which you are free to consult and, if it's
12 necessary to do so, parts of the report can be brought
13 up on screen as well.

14 You are free to use your own notes, if you have any,
15 if it will assist in answering any questions I may have.

16 Otherwise, I think what I propose to do, and I think
17 I've already outlined in brief when I saw you this
18 morning, I propose to follow a broad structure of
19 looking largely at the report that's been provided to
20 the Inquiry and to look in particular, to begin with, at
21 part B of that report.

22 But, before I do any of that; can we perhaps do some
23 introductions, in the sense of informing those present
24 of what your respective interests and roles are in this
25 matter?

1 I think you've both provided some form of CV to the
2 Inquiry, but it may require a little updating, I gather,
3 at least in some cases. So can I perhaps just start
4 with Teresa to begin with? Can you perhaps tell us what
5 your current position is? You are Chief Executive of
6 the Prison Service; is that correct?

7 A. That is correct.

8 Q. For how long have you been in that position?

9 A. Almost two years substantively and approximately two
10 years prior to that on an interim basis.

11 Q. I think your career has largely been in the Prison
12 Service, but you've had another role as well. I think
13 you told us in your CV that at least for just over
14 a year you were in a job, the title of which was Deputy
15 Director of Adult Mental Health; was that within the
16 Prison Service or a more general role?

17 A. So that was a secondment to Scottish Government, which
18 should have lasted for two years, but was cut short, and
19 that was as, you see, Deputy Director of Adult Mental
20 Health.

21 Q. That wasn't necessarily a prison related job?

22 A. No. It wasn't a prison specific role at all.

23 Q. But, I think, in that role you did have some
24 responsibility for, or involvement in, an independent
25 review of mental health legislation; was that one of

1 the --

2 A. That is correct. That --

3 Q. -- responsibilities?

4 A. It was. It was.

5 Q. And I think that before that role you had been Director
6 of Strategy and Innovation within the Scottish Prison
7 Service; is that correct?

8 A. That is correct. And that was for a period of around
9 three years.

10 Q. I think I have three years and four months; is that --
11 is your successor Sue Brookes?

12 A. That's correct, she is.

13 Q. Who has given evidence to this Inquiry? As I think
14 you're aware.

15 A. Yes. She has.

16 Q. In that role, I think as I understand from the
17 information you've provided, you led on the delivery of
18 what is described as a "vision for women in custody"?

19 A. That is correct.

20 Q. I think we heard quite a lot about the development of
21 the management of women in custody from Sue Brookes,
22 when she gave evidence?

23 A. That's correct, yes. From 2015, when the approach to
24 the vision for women in custody changed on the
25 instructions of the Cabinet Secretary for Justice at

1 that time, up until 2018, when someone else took over.

2 Q. Yes. You can take it we have quite a lot of detail
3 about that and the change of direction, and the change
4 in terms of the creation of a new prison at Stirling,
5 rather than a different prison at Inverclyde at one
6 point. So we are aware of that development already.

7 I think before then you had direct operational
8 experience of being in charge of a prison? You were
9 Governor of HMP Edinburgh for, I think, just around two
10 years and eight months; is that correct?

11 A. That's correct.

12 Q. When was that?

13 A. That was 2012 until 2015.

14 Q. So far as the prison population within HMP Edinburgh
15 that you were responsible for; was that a particular --
16 is that an adult prison?

17 A. That was all adult. It comprised of six populations at
18 the time. Remand, short-term convicted, long-term
19 convicted. There were -- there was a proportion of the
20 population that were sex offenders that were required to
21 be kept separate. What we describe at "non-offence
22 protection", so people who require separation from
23 mainstream for other reasons and we had women at that
24 time as well.

25 Q. If I could call it, it was a mixed prison, in the sense

1 there were both genders?

2 A. Correct.

3 Q. I think before then, for a period of around three years,
4 you had been Governor of HMP and YOI Cornton Vale; is
5 that correct?

6 A. Yes, that is correct.

7 Q. Again, can you just put a date range on that?

8 A. 2009, I can't remember exactly which month. Until 2012.

9 Q. That, I take it, was at that point a women's prison?

10 A. It was all women, including young women. So there was
11 under 21.

12 Q. I think, according to the information I have, at that
13 time you had a responsibility for seeking to make
14 improvements to that particular establishment following,
15 I think what is described in what I have here as
16 a "negative inspection report" via the Chief Inspector
17 of Prisons and the improvement involved some form of
18 redesign of the operating model at Cornton Vale; is that
19 correct?

20 A. There was a challenging inspection report, which did
21 criticise the conditions there. Mainly, but not solely,
22 but mainly around the numbers in Cornton Vale at the
23 time. We were woefully overcrowded.

24 I think we had almost 450 women in Cornton Vale for
25 an establishment that should have held just over 300,

1 and half of the accommodation at that time was
2 self-locking, so it wasn't secure. Therefore, a lot of
3 the work that staff had to do was focused on
4 transactional day-to-day work in order to keep people
5 safe and make sure that they were in the most
6 appropriate accommodation, given their risks and needs.

7 Q. I think there was, at that stage, development work on
8 developing a young offenders strategy at Cornton Vale;
9 is that correct?

10 A. That is correct, yes.

11 Q. And that another significant responsibility, I think
12 around that time, was the transfer of the responsibility
13 for healthcare services from the Prison Service to the
14 NHS, in 2011; is that right?

15 A. That is correct.

16 Q. And you had -- I think you were at least one of the
17 leads in relation to that?

18 A. I took the lead for Forth Valley prisons, so that's
19 Glenochil, Cornton Vale and Polmont at that time, and
20 helped or supported the transfer with a lead from the
21 NHS Forth Valley.

22 Q. Can I turn to you, Neil, now, just to get a brief resume
23 of your career and your current position?

24 I think the title has changed from the one that
25 I have in front of me; is that correct?

1 A. Yes, until July I was the Director of Justice within the
2 Scottish Government and then I became the Director
3 General for Education and Justice from July.

4 Q. Where?

5 A. Within the Scottish Government.

6 Q. In your role as Director General for Justice, I think
7 you were in that role from around December 2015 to the
8 present day, but you had also had a spell -- until July
9 of this year -- I'm sorry -- but you also had a spell as
10 acting director from April 2014 to December 2015; is
11 that correct?

12 A. Yes.

13 Q. One of your responsibilities -- although you had
14 a number of others, I think -- is that as Head of the
15 Directorate you had responsibility for advising
16 Ministers on, among other things, the policy relating to
17 prisons; is that right?

18 A. Yes.

19 Q. But you also had responsibility for advising them on
20 other matters, such as aspects of criminal and civil
21 law, operation of the justice system, and policy
22 relating to community justice; is that right?

23 A. Yes, that's correct.

24 Q. It was quite a broad responsibility?

25 A. Yes. I also had responsibility for the portfolio budget

1 for justice as well.

2 Q. I have here -- I don't know whether this is right --

3 that you were finance lead for the budget and I have

4 a figure here of GBP 3 billion; is that right?

5 A. Yes.

6 Q. That is sort of budget that the --

7 A. For the --

8 Q. For justice?

9 A. Justice as a whole.

10 Q. Broadly speaking, what proportion of that was allocated

11 to prisons?

12 A. Roughly 10 per cent.

13 Q. And who, if I may ask, would have decided how the cake

14 was cut?

15 A. There's an annual budget process that's taken forward

16 through Parliament. So Ministers provide a draft budget

17 to Parliament and each year that's then considered by

18 the Parliament and goes into a budget bill. So it's

19 Ministers that determine the proposed budget and then

20 that's approved by Parliament.

21 Q. Is it the Ministers who then say that within that budget

22 so much will be spent on, for example, prisons?

23 A. It will indicate in the draft budget how it's allocated

24 across the different elements of justice and that's then

25 reflected, but within that there is some flexibility in

1 terms of how --

2 Q. They're not set in stone?

3 A. No.

4 Q. Once it's been decided, the money can be redistributed

5 to a degree?

6 A. Yes.

7 Q. Presumably, that budget would include allocations for

8 any capital expenditure --

9 A. Yes.

10 Q. -- such as refurbishment or replacement of prisons and

11 modernisation and so forth?

12 A. Yes.

13 Q. As well as funds for programmes that would be provided

14 to those who are serving sentences?

15 A. Yes.

16 Q. And obviously staff costs?

17 A. Yes. The largest element of the justice budget goes on

18 staff costs.

19 Q. Yes. Can you give us a ballpark percentage of the -- if

20 10 per cent of the overall justice budget is allocated

21 to prisons, within that 10 per cent; how much would be

22 accounted for in terms of staff costs?

23 A. I would need to check.

24 MS MEDHURST: It's about 60 per cent of our overall budget

25 goes on staff costs.

1 MR PEOPLES: Neil, going back to your roles before being
2 director and acting director of justice -- before I go
3 to that, you had, I think from November 2020 to
4 April 2021, a temporary posting as Director of
5 Organisational Continuity within Scottish Government;
6 can you just explain what that was?

7 A. Yes. It was a short-term role supporting the Scottish
8 Government's response to a Parliamentary inquiry into
9 harassment complaints.

10 Q. I see. In that period; did that mean you were no longer
11 in your substantive post?

12 A. Yes, just for that period.

13 Q. Then I think that from August 2012 to April 2014 you
14 were Deputy Director of Criminal Law and Licensing
15 within Scottish Government; is that right?

16 A. Yes.

17 Q. And you led a division which was responsible for the
18 development of policy and legislation relating to
19 criminal law sentencing, penal policy and victims'
20 rights; is that right?

21 A. Yes.

22 Q. Obviously, penal policy would have a particular
23 relevance to the service, the Scottish Prison Service?

24 A. Yes.

25 Q. And you were also, I think at that time, Secretary to

1 the Justice Board for Scotland; can you just tell me
2 what that involved?

3 A. The Justice Board brings together key leaders from the
4 main national organisations, so the Scottish Prison
5 Service, the courts, the Crown Office, police, the Fire
6 Service, Legal Aid Board and Community Justice Scotland.
7 So I acted as secretary in that role and then I became
8 one of the two co-chairs of the Justice Board and I took
9 on director role in 2014.

10 Q. Are you currently a co-chair of the board?

11 A. No, that stopped when I took on my current role as
12 Director General, in July.

13 LADY SMITH: Neil, could I ask you to pull the microphone
14 a little bit closer to you? That's helpful. Teresa,
15 likewise. I think sometimes you are a little bit quiet.
16 Thank you.

17 MR PEOPLES: Is that the purpose of getting all the leaders
18 and the various elements of the justice system to get
19 together and discuss matters of mutual interest and
20 concern?

21 A. Yes.

22 Q. Before then, from July 2009 to August 2012, my
23 information says you are Executive Director of Strategy
24 and Infrastructure at the Scottish Court Service?

25 A. Yes.

1 Q. And that you were a member of a four-person executive
2 team responsible for day-to-day management of the
3 Scottish courts?

4 A. Yes.

5 Q. Before then, from July 2007 to January 2009, you were
6 Head of Older People Policy within the Scottish
7 Government; is that right?

8 A. Yes.

9 Q. One of your responsibilities was to support an implement
10 a review by Lord Sutherland of free personal nursing
11 care?

12 A. Yes.

13 Q. And another was advising on policy relating to the
14 provision of care for older people?

15 A. Yes.

16 Q. Just pausing there, your roles have involved advising on
17 policy issues and while the user of the services may
18 differ, such as the elderly or the prisons or so forth,
19 that's part of your function, that you give advice on
20 how to provide services, care, how you manage people in
21 a particular setting?

22 A. Yes, that's right. As a general civil servant you work
23 across a number of policy areas. I started in the Civil
24 Service working on the transfer of people out of
25 long-stay hospital institutional care, and that was

1 a good bedrock in terms of the impact that policy had --

2 Q. I think historically, if I remember Professor Levitt
3 right, he said in the good old days it used to be that
4 people would perhaps stay in one area and they would
5 then have that sort of corporate knowledge of the -- of
6 one area from start to finish. They'd work their way up
7 in one particular area. But I think you reflect a more
8 modern situation, where people are moved around?

9 A. My experience just on -- anecdotally would be that in
10 the UK Government more people tend to stay in single
11 departments. Obviously, within the Scottish Government,
12 because we cover a wide range of different policy areas,
13 there are more opportunities to move across those.
14 Although I've certainly stayed within the justice system
15 for an extended period.

16 Q. If I go back in time further to around 2007, July
17 2006/2007 and for a short period in 2009, you were Head
18 of Public Bodies and Relocation and Head of
19 Simplification. It's all a bit of a mouthful, but what
20 exactly was that?

21 A. That was taking forward Ministers' policy for reviewing
22 the public body landscape, reducing the number of public
23 bodies, and then also trying to ensure that public body
24 opportunities were spread across Scotland.

25 Q. I see that in that role you had some responsibility for

1 the introduction to the Scottish Parliament for Public
2 Services Reform (Scotland) Bill; is that right?

3 A. Yes.

4 Q. Can you tell us what exactly that was designed to
5 achieve?

6 A. It was a Bill that included a number of different
7 elements, including creating a number of new bodies, for
8 example, a new culture body. But the main element of
9 the Bill related to creating more flexibility in terms
10 of adjusting the functions of public bodies, but it
11 covered a range of other elements as well.

12 Q. Did that involve the creation of the Care Inspectorate?

13 A. I think it did. I'm trying to test my memory, but, yes.

14 Q. Before then, for a period of just under two years, you
15 were Private Secretary to the Permanent Secretary in
16 Scotland; is that right?

17 A. Yes.

18 Q. The top civil servant; is that right?

19 A. Yes.

20 Q. To the Scottish Government?

21 A. Yes. Sir John Eldridge was the Permanent Secretary at
22 the time.

23 Q. Before then, Head of Children's Services Integration;
24 what was involved in that role?

25 A. It was a precursor to what became Getting It Right for

1 Every Child, trying to draw together the work across
2 Government in terms of children's rights and the
3 different elements of support that we provide for
4 children across education, health, social work,
5 et cetera.

6 Q. I think that was from July 2003 to October 2004 you were
7 in that role. Before then, for a period of just under
8 five years, you were Head of Local Government Finance;
9 is that right?

10 A. Yes.

11 Q. That's really dealing with money for Local Authorities'
12 services?

13 A. Yes. The main element was agreeing the distribution of
14 resources across Scotland's Local Authorities.

15 Q. That is money provided by Scottish Government to
16 supplement money raised through local taxation?

17 A. Yes.

18 Q. Before then, you were a Community Care Policy Officer
19 for just under six years; is that right?

20 A. Yes.

21 Q. Is that the one that you mentioned earlier --

22 A. Yes.

23 Q. -- about transferring people with long-term care needs
24 from hospitals to community settings?

25 A. Yes.

1 Q. Which I think was a reflection of a change of approach
2 to how we deal with people in that situation; is that
3 right?

4 A. Yes.

5 Q. Getting them back into the community, rather than keep
6 them in some form of institutional care?

7 A. Yes.

8 Q. To some extent that might be coming forward now in other
9 contexts, such as the prisons, that development?

10 A. I can certainly see parallels in terms of the benefits
11 for individuals being in the community rather than being
12 in institutional settings.

13 Q. In these various roles you've had responsibility for
14 different types of people, the children, young people,
15 the elderly, the prison population, but to some extent
16 some of the issues are the same, are they not?

17 A. There's certainly a lot of cross-over in terms of needs.
18 For example, we know people with long-term care needs
19 are proportionally more likely to come into contact with
20 the justice system. We know that people with a care
21 background are more likely to come into the justice
22 system. So all that's taken account of in our policy
23 advice.

24 Q. Obviously, you then have to address how the State
25 provides services and whether these services are

1 provided to them in the community or in some form of
2 residential or institutional setting; that is part of
3 the discussion from time to time, is it?

4 A. Yes. Obviously, Scottish Ministers and civil servants
5 don't take the decision on where people are -- who are
6 convicted are sent to, in terms whether or not they
7 receive a custodial sentence or not. That is for the
8 judiciary to decide, certainly in terms of policy advice
9 on the availability of alternatives to custody. We
10 would advise Ministers on that.

11 Q. I probably -- bad question, because I was probably
12 talking more generally that you have to consider in
13 a variety of contexts, including no doubt the prison
14 settings, the merits or demerits of residential or
15 institutional care and provision of services. That's
16 a broad issue that will arise in all the various roles
17 that you may have had some involvement with over the
18 years?

19 A. Yes, and ensuring that whenever the decision is taken
20 for somebody be cared for that they are safe and
21 supported and have access to the right services.

22 Q. I didn't take it from your academic qualifications, but
23 I see that your first -- your degree qualifications were
24 in architecture?

25 A. Yes.

1 Q. I think you graduated in 1985 -- sorry, between 1985 and
2 1990, you did a Bachelor of Architecture degree, with
3 honours, at Glasgow University?

4 A. Yes.

5 Q. Then you did a postgraduate in architecture at the same
6 university in the early 1990s?

7 A. Yes.

8 Q. But, subsequently -- and I see you went to another
9 university in Glasgow, Strathclyde, around 2010/2011 to
10 do a certificate in civil paralegal studies?

11 A. That was while I was working for the court service, and
12 I thought it would be helpful to undertake that.

13 Q. To have some understanding. Is that to some extent
14 reflecting the fact you were moving into the area of
15 justice, in the broad sense?

16 A. Yes.

17 Q. If I could move from there to looking at why you're here
18 today.

19 You are both here representing Scottish Government
20 and the Scottish Prison Service and that prior to
21 appearing today, the Scottish Ministers and Scottish
22 Prison Service have provided to the Inquiry a report in
23 four parts, which was essentially a response to a large
24 number of questions that were posed by the Inquiry.

25 We refer to it sometimes as an A to D response. If

1 we sometimes say that, then you'll understand why we use
2 that expression.

3 Can I perhaps just say for the record that the --
4 this doesn't concern you -- report falls into four
5 parts. Part A is SGV-000085432. Part B is
6 SGV-000085423. Part C is SGV-000085427, and part D is
7 SGV-000085433.

8 It's that report that I'll probably principally ask
9 you to consider matters in relation to, but I may ask
10 you about certain information in three parts of
11 an appendix to that report, to part D of that report.
12 If I do so, I'll come to them. But perhaps I could just
13 give the references just now in case -- the appendix 1,
14 which is appendix 1 to part D, is in three parts and the
15 first part is SGV-000085424. Part 2 is SGV-000085426.
16 And part 3 is SGV-000085428. I think you'll have a hard
17 copy of the appendix and its three parts before you, if
18 we need to refer to it.

19 Scottish Ministers and the Scottish Prison Service
20 have also helpfully provided what is described as
21 an "overview" of documents that have been provided to
22 the Inquiry. Again, I think there's a copy in front of
23 you, a hard copy, and I'll just give the reference.
24 I don't plan to spend a lot of time on that, if
25 anything, but I'll give the reference, SGV-000085425.

1 I may not refer to much today, but obviously we have
2 all that. We have been given all that. In addition,
3 we've been given a large amount of material that fed
4 into both parts A, B, C and D and also the appendices
5 that I've just referred to. We have been given all that
6 material, or a large part of it, by Scottish Ministers
7 and the Scottish Prison Service.

8 Before I turn to the report; can I just at this
9 stage put in play a few numbers, so we get a context for
10 today's discussion? These numbers are based on
11 information that has been provided in the report by the
12 SPS. If I can call it the SPS report.

13 I think it's been estimated -- because the Inquiry
14 asked this question -- that the overall number of young
15 persons in custody between 1930 and 2014 were 63,905.
16 I'm not too worried about the odd number here and there,
17 but that's the general scale that we've been told of
18 numbers, of which it's estimated that 37,454 were under
19 18.

20 I think, again, within that subgroup of under 18s it
21 was estimated that there were something in the order of
22 2,825 young people who were under 16 in custody, in that
23 period.

24 I'll give another number at the moment because
25 I think we'll come back to this in due course, but the

1 number of children in custody between 1995 and 2014 was
2 approximately 8,167; does that ring a bell?

3 MS MEDHURST: That does, yes.

4 MR PEOPLES: Can I just check, when we talk about children,
5 because we know from earlier evidence that in terms of
6 classifications the normal range for sending people to
7 SPS establishments was, broadly speaking, 16 to 21.

8 I think the records to some extent reflect that that is
9 the range that people are dealing with. So there's not
10 always a clear distinction between those under 18 and
11 those between 18 and 21; is that correct?

12 A. There isn't a distinction per se. Although what I would
13 add, probably, is that over a number of years now,
14 probably since about, maybe, 2010, we tried to separate
15 out those that were under 18 at that time.

16 Q. The number I gave you of 8,167, so I'm clear, who were
17 in custody between 1995 and 2014, which was used in part
18 for our sampling analysis, which we'll discuss in due
19 course; were all of these under 18 or were some under
20 21, between 18 and 21?

21 A. I would need to -- I'm really sorry --

22 Q. Perhaps you can clarify that for us, if necessary, so
23 we're clear?

24 LADY SMITH: I'm wondering whether it depends on whether or
25 not the categorisation was according to the then

1 criminal procedure legislation about detention as
2 opposed to imprisonment, detention taking you up to
3 age 21, and needing to sentence any young person up to
4 the age of 21 to detention not imprisonment. It could
5 be as simple as that.

6 MR PEOPLES: It is as simple as that, really, because
7 I think there was never a legal distinction in the
8 framework between children, ie under 18, and those
9 between 18 and 21, which could be perhaps termed "young
10 adults". For the legislative purposes, you could be
11 sent to a borstal if you were under 21 and you couldn't
12 be sent to a prison because you were under 21. So
13 that's a consequence of the legislation. So perhaps
14 that maybe explains why no one made the bright line
15 divide between children on the one hand and those
16 between 18 and 21 on the other; is that your
17 understanding?

18 A. That does makes sense. I think, though, for -- I was
19 a bit thrown by your question there. But I think for
20 the purposes of our report what we have done is focused
21 on those that we were able to identify in the under 18
22 category.

23 Q. I think -- I thought that was the case, but I wanted to
24 check that I didn't have that wrong.

25 A. That is the case, yes. Absolutely.

1 Q. So far as numbers are concerned; can I just introduce
2 another number? We were told very recently that the
3 number of young persons under 18 in custody today
4 numbered five; I don't know if there's been any change
5 since Sue Brookes gave evidence?

6 LADY SMITH: That was a few weeks ago.

7 A. No, there has been no change. There are five young
8 people in custody at the moment.

9 MR PEOPLES: That can contrast between the report in part
10 A -- and I don't think we need to go to it -- said that
11 on 3 May 2022 there were nine young people under 18 in
12 custody. On 23 November 2021, there were 18 young
13 people under 18 in custody. There's been this reduction
14 and it's now in single figures and is five at present.

15 We'll perhaps to come where this is heading in due
16 course.

17 But that clearly is a relatively recent development
18 and, therefore, historically there were many more
19 children under 18 in the system --

20 A. Yes, that's correct.

21 Q. -- between 1930 and the present time?

22 A. Yes, that's -- I would agree with that. That has been
23 a gradual shift. But, certainly in the last two years
24 in particular, the numbers falling into single figures
25 has become more the norm in the last year or so than it

1 had done previously.

2 Q. I don't know if you can remember, but if you cast your
3 mind back to Cornton Vale between 2009 and 2012, then
4 presumably, young offenders, there could well have been
5 more than five young people under 18 in Cornton Vale at
6 certain times?

7 A. There could have been. It probably would have been
8 unusual in Cornton Vale at time because the numbers of
9 young people in custody was still relatively small at
10 that time.

11 Q. We have to bear in mind that the present overall prison
12 population is in the order of 8,000 or thereabouts.
13 I think it's just shy of that, but it's expected to
14 rise, according to the Chief Inspector, if I'm reading
15 my reports correctly. And that a relatively small
16 proportion of that are women?

17 A. That's correct.

18 Q. We are talking about 400/500, perhaps?

19 A. 316, as of yesterday, women in custody.

20 Q. 316?

21 A. Yes.

22 Q. In a total population of just under 8,000?

23 A. 8,000.

24 Q. I think that over the decades the prison population,
25 despite maybe attempts to keep it to certain levels, has

1 increased markedly. I think if we go back to the 1960s,
2 there may have been something around 5,500 overall, so
3 there's been an increase over time.

4 A. That's correct, yes.

5 Q. Which has to some extent caused overcrowding issues over
6 time?

7 A. It has, yes.

8 Q. The only other figure I want to just mention -- I don't
9 know if we can take it very far -- is that the Prison
10 Service has provided some information about the number
11 of people who have worked in the four institutions that
12 we've particularly focused on for the report, Polmont,
13 Glenochil, Longriggend and Barlinnie, that in that
14 period, 1993 to 2014, there were approximately 7,076
15 people identified as having worked in these four
16 institutions. I think that's information that was
17 provided to us?

18 A. Correct.

19 Q. In various roles?

20 A. Yes, that is correct.

21 Q. I don't know, again, if you can help us in broad terms
22 to break that down. What percentage, perhaps, would
23 reflect front-line officers, for example?

24 A. The biggest proportion would be front-line staff. So
25 it's difficult for me to quantify on the spot, but

1 probably at least a third to a half of those would be
2 the front-line staff.

3 Q. You have told us in the report -- and I don't want to go
4 through this -- there is a hierarchy in any
5 establishment, from the governor down to the basic grade
6 prison officer who is on front-line duties, so there
7 will be a team, if you like, including a management team
8 in each establishment, headed by the governor?

9 A. Yes. But, I think, probably I would adjust that figure
10 I gave you because I was incorporating some of the
11 ancillary staff as well. It probably sits more akin to
12 around between 50 and 60 per cent would be front-line
13 staff, I would suggest.

14 Q. Of course, the numbers you've given us for these four
15 institutions doesn't reflect the numbers who would be
16 dealing with young people in custody, because some of
17 these institutions would have adult prisoners?

18 A. Correct. That's right.

19 Q. That could be adults on remand or adults serving
20 sentences?

21 A. Correct.

22 Q. Before turning to the part B of the report, which I plan
23 to do, I just want to be clear about the background to
24 part B, which contains a number of acknowledgements. Am
25 I right in thinking that these acknowledgements are

1 based on a substantial review of records by Scottish
2 Ministers and the Scottish Prison Service from a variety
3 of sources?

4 A. That's correct. Those are electronic records that we
5 hold on our system and also paper records, some of which
6 are held by National Records of Scotland.

7 Q. If I just -- I'm not going to be exhaustive here, but if
8 I can just say -- perhaps, give examples of what has
9 been looked at for the purposes of the review and
10 production of the report.

11 The service and the Ministers have looked at annual
12 reports for what was then the prisons department for
13 Scotland, which was a part of the departmental structure
14 within the Scottish Office and the reports looked at --
15 cover a period around 1930 to 1994, or thereabouts. We
16 don't need to be too precise.

17 We have reports that have been looked at for various
18 decades, 1930s, 1940s, 1950s, 1970s, 1980s and part of
19 the 1990s, before there was a change, a significant
20 change in the way the service was organised; is that
21 right?

22 That's one of the sources that has fed into the
23 report and influenced the acknowledgements; is that
24 correct?

25 MR RENNICK: Yes.

1 MS MEDHURST: That is correct.

2 MR PEOPLES: And then another source is -- it is the same
3 type, the SPS annual reports from 1994 through to 2020,
4 which are the continuation of annual reports by the
5 Prison Service.

6 Another source, which I think has been drawn upon
7 probably quite heavily for the historical periods, or
8 part of the historical period, are HMIPS inspection
9 reports from 1982 to the present day?

10 A. That is correct.

11 Q. I think we know from the Chief Inspector's evidence that
12 particular Inspectorate was established around 1981/82
13 and started doing its work and produced reports on
14 various establishments from then on and continued to do
15 so?

16 MR RENNICK: Yes.

17 MR PEOPLES: I think other sources would include, I think,
18 material relating to what is I think termed the
19 independent prison monitoring system, Independent Prison
20 Monitors. So I think some of the material looked at was
21 material that related to that particular group,
22 Independent Prison Monitors.

23 MS MEDHURST: Correct. Yes. I think we have again heard
24 from other witnesses that the Independent Prison
25 Monitors started up in around 2015 and replaced what

1 were known as "visiting committees", who had a long
2 history of visiting prisons, going back to 19th century.

3 MR RENNICK: Yes.

4 MR PEOPLES: That was to a large extent following a report
5 or review by Professor Andrew Coyle, who has given
6 evidence to this Inquiry.

7 A. Yes, the main driver was to ensure compatibility with
8 the optional protocol against --

9 Q. It was a sort of human rights-type development to get
10 an independence from those that were -- from the
11 department, if you like, or -- because I think the
12 visiting committees had a closer connection with the
13 prisons department, in terms of appointment?

14 A. Certainly the view was to be compatible with OPCAT we
15 had to make the change.

16 Q. OPCAT, we have heard this, it's to do with
17 an international treaty to do with prevention of torture
18 and so forth?

19 A. Yes.

20 Q. It's kind of observation is monitored in each State by
21 something called the Committee for the Prevention of
22 Torture?

23 A. The National Preventive Mechanism.

24 Q. Through what is called the National Preventive
25 Mechanism?

1 A. Yes.

2 Q. You can take it we've heard a bit about that from
3 several witnesses, including one yesterday,
4 Dr Alan Mitchell, who told us he's the current chair or
5 President?

6 LADY SMITH: He's the current chair of the Committee on the
7 Prevention of Torture and Inhuman and Degrading
8 Treatment.

9 MR PEOPLES: You have looked at some material again --
10 before we look at the acknowledgements -- that was
11 produced by the independent prison monitoring bodies.

12 I think that would include quarterly reports they
13 were producing from time to time and monitoring --
14 independent monitoring bulletins for example.

15 Another source -- and I'll just mention it -- was
16 the Year of Childhood Pre-inspection Survey 2021.

17 I think that was -- can you tell us what exactly that
18 involved?

19 MS MEDHURST: So this is the Chief Inspector who introduced
20 a pre-inspection survey -- I'm not quite sure when that
21 change occurred -- which is distributed in all prisons
22 prior to a formal inspection and then the Chief
23 Inspector and her team will use that as a basis on which
24 to test and probe areas during the inspection that they
25 are either concerned about or they want to raise as good

1 practice.

2 Q. Was that the first time that the Chief Inspector had
3 introduced this or did this just happened to coincide or
4 it's significant because of the year of the childhood?

5 A. I think it was significant because of the year. If --

6 Q. It wasn't the first survey she had done as part of the
7 methodology of inspection?

8 A. The pre-inspection survey is normally done as part of
9 every inspection, yes.

10 Q. Has been done for some time?

11 A. I can't remember when it was introduced.

12 Q. Don't worry about dates, but you think it would have
13 been before 2021?

14 A. Yes.

15 Q. In your time at Polmont, I don't know whether the
16 inspectors were carrying out pre-inspection surveys.
17 I keep saying Polmont.

18 A. Cornton Vale.

19 LADY SMITH: I think your mind is geographically going in
20 that direction in Scotland, Mr Peoples, but it's not
21 quite right.

22 MR PEOPLES: If I can correct myself, it's Cornton Vale.
23 I don't know if you can remember that far back.

24 A. I think when Wendy Sinclair-Gieben took on the role of
25 Chief Inspector that is when it was introduced. When

1 she reviewed the standards and put them on a more human
2 rights basis, as part of that she introduced the
3 pre-inspection surveys.

4 Q. That would probably be around 2018, if I have my dates
5 roughly correct.

6 A. Yes.

7 Q. We can check it, but that's the broad time.

8 I'm right in thinking as well that one innovation in
9 relation to surveys was a prisoner survey was introduced
10 by the Prison Service some time before that?

11 A. Yes. We had been running the prison survey for quite
12 a number of years, either on an annual or biannual
13 basis.

14 Q. That goes back to 1990 or perhaps even before?

15 A. Yes, it does.

16 Q. I think you make reference in the report at times to
17 things that were drawn from prison surveys about how
18 prisoners felt about various aspects of prison life?

19 A. Absolutely, yes.

20 Q. Including reporting of complaints or whether they felt
21 safe, and things like that?

22 A. Yes, absolutely.

23 Q. Again, that fed into your acknowledgements?

24 A. Mm-hmm.

25 Q. Then you have also, I think as part of the sources that

1 were looked at as part of this review, looked at various
2 departmental files, such as Scottish Home Department
3 files and Scottish Home and Health Department files,
4 when I think there was a change in departmental
5 structure in the early 1960s from SHD to SHHD, something
6 like that.

7 MR RENNICK: I can't remember the detail of exactly when
8 those changes were made. But, yes, that's right.

9 MR PEOPLES: There was a look at files, whether files
10 relating to particular establishments were of interest
11 to us in particular or files that contained material
12 relating to meetings, visits, and reports of visiting
13 committees over the years --

14 MS MEDHURST: Yes.

15 Q. -- which were relevant to your report and the
16 establishments that you were focusing on.

17 A. Yes, that is correct.

18 Q. I think again -- without going to it at this stage --
19 you have made reference from time to time to material
20 that was drawn from these files, which tells us
21 something about the operation of visiting committee
22 systems and what they were having to deal with and how
23 they were dealing with matters?

24 A. Yes, that's correct.

25 Q. When they were still part of the system, in a broad

1 sense. They were one part of a system at one stage.

2 A. Yes.

3 Q. One significance is -- we'll come back to this -- that
4 the visiting committee had direct responsibility while
5 it still existed for entertaining and determining
6 complaints by prisoners about their treatment. That is
7 one function that they performed as part of their work?

8 A. Yes.

9 Q. Can I be clear, again without going into detail at this
10 stage, that the visiting committee wasn't the only
11 avenue for dealing with complaints by prisoners. There
12 was also a system of complaints that could involve the
13 governor without reference to the visiting committee?

14 A. Yes. There were a number of strands that individuals
15 could pursue where they felt they had a legitimate
16 complaint, one of which was the visiting committees
17 which were seen to be independent of prisons. Another
18 was through the prison structure, through to the
19 governor, yes.

20 Q. In broad terms, historically, while the visiting
21 committee was still in being, there was a two-tier
22 system of complaints. You could go down the visiting
23 committee route or you could pursue it internally
24 through the SPS route, if you like, that could involve
25 the matter being determined by the governor; is that

1 right? I'm trying to get a broad understanding.

2 A. Those are two strands. In addition to those two
3 strands, some individuals chose to pursue complaints
4 through their legal representatives and governors would
5 review, again, those complaints and provide responses.

6 In addition to that, any individual who considered
7 it appropriate could write to their MP or MSP and raise
8 concerns through them as well.

9 Q. Yes. We'll come to this. No doubt it has been said in
10 the report that there were a lot of avenues they could
11 pursue, but maybe the real question is whether these
12 were effective and accessible. We can come to that in
13 due course.

14 There were a number of avenues that, at least in
15 theory, they could employ --

16 A. Yes.

17 Q. -- if they had some grievance or complaint they wished
18 to air with the authorities, if you like?

19 A. Yes.

20 Q. They could ask to see or petition the Secretary of State
21 or see an official of the Secretary of State, that was
22 another possibility?

23 A. Yes.

24 Q. And if a visiting sheriff happened to be coming to the
25 institution they could speak to him or her?

1 A. Yes.

2 Q. There were a lot of things that the legislation or the
3 framework provided. So that was part of the system, if
4 you like, but you have also mentioned something that was
5 not part of the system, just someone taking a solicitor
6 and asking them to take up some matter on their behalf?

7 A. Yes, that's correct.

8 Q. Maybe just ask you one broad question at this stage. It
9 sounds overly complicated to me and perhaps maybe
10 difficult to use, but not necessarily that accessible;
11 is that fair comment?

12 A. In relation to?

13 Q. Prisoners. If the users have to go through or decide
14 which route to go, and they have to perhaps use various
15 writings and forms and various stages, on the face of it
16 it might seem to be not user friendly to have all these
17 different options swirling around, rather than a simple:
18 well, this is what you do if you think someone is
19 treating you badly or someone has assaulted you, whether
20 staff or otherwise.

21 I'm just asking, at this stage, what your broad view
22 is.

23 A. I suppose it allows people choice and accessibility to
24 means or avenues that they may have more confidence in
25 than others, and certainly the range of options that are

1 available to people would be explained to them, so that
2 they can make a choice for themselves. And I think it's
3 important that people feel in prison that they do have
4 a choice in some respects.

5 Q. I fully expect you to tell me that these days these
6 explanations are forthcoming, and are clear and succinct
7 and understandable by those that need to know them.
8 But, historically, I suspect the reports suggests to me
9 that you can't be entirely confident that would have
10 been the position?

11 A. No. Yes, I would agree with that.

12 LADY SMITH: I'm also wondering, Teresa, of the multiple
13 options. Where there would be someone or some people
14 that the average prisoner would feel is there for them,
15 maybe the visiting committees, if the personalities
16 gelled with the prisoners, might seem the easiest
17 option. But the others, it's not looking like they're
18 people that the prisoners would automatically feel would
19 be a comfortable listening ear for them, is it?

20 A. If we look historically and go back in my time, I can
21 understand that would be how people would feel. That,
22 you know, where are the avenues that they would
23 necessarily feel comfortable or have confidence in?
24 Although clearly the role of staff is to support them
25 and has always been to support them in airing complaints

1 or grievances, that they may have.

2 But I think as time has passed and those options
3 have become better known, more grounded, with more
4 evidence around them, then I think choices today, people
5 are better informed than they would have been even 20 or
6 30 years ago around either the number of avenues or the
7 way in which they would navigate those avenues.

8 LADY SMITH: If you are going to give reassurance that by
9 complaining the prisoner won't just make things worse
10 for themselves, you are really going to have to work
11 hard at supporting them, at convincing them that it will
12 be okay, and there is a safe system within which -- and
13 I use the word "safe" advisedly -- they could complain.

14 A. Yes, I would agree with that.

15 MR RENNICK: I think it's helpful to say that obviously
16 across public services as a whole there's been
17 significant developments over -- since the time of
18 devolution around complaints systems with the
19 establishment of the Scottish Public Services Ombudsman,
20 who tries to encourage greater consistency in terms of
21 complaints handling approaches, but also methodologies
22 for providing reassurance to people in a range of
23 different settings to feel confident in complaining and
24 how you communicate with people to let them know that
25 they can complain and that that complaint won't have the

1 effect that you are saying.

2 That is not specific to the Prison Service, but
3 a wider development across the public sector.

4 MR PEOPLES: I take your point. On the other hand -- and
5 we'll come back to, perhaps, the rather late development
6 of whistleblowing policy for the service. But I think
7 we are all familiar that people who want to make
8 complaints -- and this is more to inform staff --
9 sometimes perceive that's not a good career move?

10 A. We also know the prisons are dealing with some very
11 vulnerable people as well, and that has to be taken into
12 account as well.

13 Q. We'll come back to the whistleblowing.

14 The other things about complaints is -- you'll no
15 doubt make this point about the more recent times --
16 that people are perhaps better informed that they do
17 have rights, although they're in prison. Yet
18 historically, perhaps that wasn't explained to them when
19 they entered Polmont or Longriggend, or wherever, or
20 Glenochil, that: you have rights and these are your
21 rights.

22 That's certainly a modern development; not probably
23 something that's very evident in the historical records,
24 is it?

25 MS MEDHURST: When people came into custody, they would have

1 been given basic information, but it wouldn't have been
2 focused on the rights and certainly not in the way that
3 it is today, definitely not.

4 Q. We are living, now, in a human rights society, an era,
5 where people are more conscious of the existence of
6 human rights and perhaps they can even trumpet Article 3
7 or 8, or Article 10 or whatever, but if someone had
8 mentioned that to a person in Polmont 20 or 30 years
9 ago, they would have said: what are you talking about?

10 A. Yes, I would agree with that.

11 LADY SMITH: You also mentioned, Teresa, something
12 interesting there. You said: when people come into
13 custody they're told.

14 My understanding is, typically, at that stage not
15 very many people are in a state of mind that they can
16 take much in. They may have been told, but are they
17 going to be able to understand it and retain it?
18 Probably not.

19 So you then have to have a system that will maintain
20 the message and enable them to keep learning about what
21 their rights are. What their rights aren't, in
22 fairness, some people misunderstand the extent of their
23 rights. But you can't just tick the box once they've
24 been processed on the way into prison.

25 A. I would agree with that entirely.

1 LADY SMITH: Mr Peoples.

2 MR PEOPLES: Just to finish off what the broad sources were.

3 There was also, I think, consideration given in

4 reference to at times, particularly in maybe the more

5 post-devolution era of policy, procedure and guidance

6 documents that have been issued from time to time and

7 something called GMAs and also SOPs. GMAs being

8 governor and managers actions, and SOPs being standard

9 operating procedures?

10 MS MEDHURST: That's correct.

11 Q. Help us with this: I think it's fair to say that these

12 documents, this class of documents that were looked at

13 for the review, are generally speaking post-devolution

14 documents that you have looked at. You are not finding

15 too many of these for the pre-1990, for example, or

16 pre-1998 period?

17 A. No, there wouldn't have been -- in fact, I think pre

18 that time, in the 1980s and early 1990s, it was more

19 standing -- called standing orders that was applied

20 rather than GMAs. So, yes, I would agree that it has

21 been towards the latter part.

22 Q. Perhaps also: these are the rules?

23 A. Yes.

24 Q. Have you broken them or have you not?

25 There wasn't much that expanded on terms of other

1 guidance or other policies, like written policies on
2 bullying or written policies on restraint or written
3 policies on other matters; that is the picture I think
4 that's emerging from your report?

5 A. Yes.

6 Q. You have not found evidence of that type of approach?

7 A. No. It would have been basic rules and standing orders
8 that I can recall around the mid-1980s. Prior to that,
9 probably. Not even standing orders, but I'm not quite
10 sure what it would have been prior to then.

11 But certainly the policies that you are referring
12 to, that we now have, the suite of policies and
13 strategies that we now have wouldn't have been in
14 existence at that time.

15 Q. Because we are now -- again, it's a bit like human
16 rights -- in the era where people are expected to have
17 written policies; they're expected to have strategies;
18 they're expected to have visions; they're expected to
19 have mission statements and so forth. But that's
20 something that historically -- you are not finding
21 evidence that that was the way things were done then?

22 A. No. I think the main policies and strategies that were
23 adopted in the SPS really came about subsequent to the
24 riots that took place in mid to late 1980s and early
25 1990s.

1 Q. Yes, like the Peterhead ones, a notable example, but it
2 wasn't the only one by any means?

3 A. No.

4 Q. And I think, as we will maybe look at in due course,
5 there were -- well, we will look at -- some significant
6 changes in terms of the service and the creation of the
7 Scottish Prison Service and Executives Agents in around
8 1991/1992?

9 A. 1992, I think.

10 Q. Thereabouts?

11 A. Yes, that is correct.

12 Q. And the appointment of the Chief Executive?

13 A. Yes.

14 Q. Of which you are now the current holder. So that was
15 quite a sea change in one sense?

16 A. It was, definitely.

17 Q. That seems to have resulted in features such as
18 policies, strategies, action plans, whatever, and
19 reviews, regular reviews?

20 A. There was a recognition, in terms of those in custody,
21 that we needed to have stronger and much clearer
22 guidance for staff around how people should be managed.
23 Particularly those on long sentences, during their time
24 in custody. That's what really drove the development of
25 the policies from then on.

1 Q. Just going back to the acronym, GMAs. Without getting
2 bogged down in detail; can you just explain what GMAs
3 are and who are they intended for?

4 A. Governor and managers action notices are really designed
5 for governors and their teams to highlight any changes
6 or new policies that are being introduced. It gives
7 them an overview and helps them understand what the
8 expectations are of them in relation to the
9 implementation of either changes or new policies.

10 Q. As the name implies, "governors and management actions",
11 they are not really intended for front-line staff?

12 A. There are staff notices as well for anything that refers
13 to them. But, in general terms, when policies are
14 implemented the governor and their senior teams are
15 expected to take responsibility for delivering those.

16 LADY SMITH: Who drafts the GMAs?

17 A. Those are normally drafted by the policyholders within
18 headquarters. So whoever has taken responsibility for
19 developing the policy, their name is also then attached
20 to that GMA. So if people have questions or queries,
21 then they can raise them with the person direct.

22 LADY SMITH: When you say "headquarters"; you mean SPS
23 headquarters?

24 A. Yes. SPS headquarters, my Lady.

25 MR PEOPLES: You will have people with direct responsibility

1 for policy, and I think you were in a role of director
2 of strategic operational -- if I can remember the title.
3 That would involve policy issues and development of
4 policy?

5 A. That's correct, but those -- my name was probably rarely
6 on the GMAs; it was the people who were directly
7 responsible for the drafting. I would merely oversee
8 and sign off.

9 Q. But the expectation and indeed the responsibility for
10 giving effect to GMAs, they're handed down to the
11 establishment, is the governor and the senior management
12 team at the establishment, to make sure that whatever is
13 in it is communicated and applied?

14 A. That's correct.

15 Q. How is that monitored for compliance, currently?

16 A. So there are a number of different ways that we can
17 monitor compliance. There are business reviews that are
18 conducted. They used to be done on a quarterly basis
19 between the director of operations and establishments;
20 they're now done on a bi-annual basis, where they go
21 through and undertake a thorough review of the operation
22 of the establishment and the delivery.

23 In addition to that, we have an operational audit
24 team that also -- as the policies are devised there are
25 audit standards that are also set and they'll go in and

1 review establishments on an annual basis, against a set
2 of -- so different establishments will be audited on
3 different policies each year.

4 LADY SMITH: Teresa, can you give me an example of one or
5 two subject matters that a GMA might cover?

6 A. So, for example, the Talk To Me policy would be one area
7 that would be checked. Another would be cell-sharing
8 risk assessments. So cell-sharing risk assessment is
9 applied when someone comes into custody, to determine
10 whether or not -- is that individual -- are there any
11 issues that need to be taken into account when placing
12 that individual in a room with somebody else or do they
13 need to be on their own. So it looks at a range of
14 factors.

15 So it's things like that, related to operational
16 delivery.

17 LADY SMITH: If I was a governor receiving a GMA; would the
18 GMA tell me how you expect me to implement this policy
19 or would it leave it with me to implement it in the way
20 I think it will work in my prison, but always to achieve
21 the objective of the policy?

22 A. It will have both elements to it, because every
23 establishment is different. So there will be elements
24 which are fixed and which governors must apply, and
25 those will be the elements that are audited. But the

1 way and means which they do so may be different, given
2 the different contexts and the different policies types
3 that they have.

4 LADY SMITH: Thank you. That's very helpful.

5 MR PEOPLES: So there is an element of discretion and
6 judgment as to how they apply it. There may be some
7 things they have to do because the policy says -- or the
8 GMA says, "From now on we report all assaults to the
9 police", for example.

10 A. Correct.

11 Q. They have to do that, and if they don't, they're
12 breaching the policy?

13 A. Correct.

14 Q. But, in other areas, depending on the population they
15 deal with, whether it's young people, women in custody,
16 adult prisoners, there may be matters in the GMA that
17 allow them some degree of individual judgment and
18 discretion as to how they apply it in their particular
19 establishment; is that what you're telling us?

20 A. Yes. So it's more about the how rather than the what.
21 So the what is usually fairly fixed, but it's how that's
22 then done. It's usually the part that they can apply
23 some discretion.

24 Q. Just to help her Ladyship, I think based on my reading
25 of the report, the sort of matters that I picked up were

1 reporting of suspected or alleged incidents of assaults;
2 excessive use of force and hate crimes; revised court
3 and role training standards; control and restraint
4 training; prevention of suicide in prison strategy; SPS
5 strategic approach to encouraging respectful behaviour
6 in prison; prisoners' complaints procedure; recording of
7 prisoner complaints within prisoner records; strip
8 searching of prisoners; children in prisons; guidance on
9 the use of safe cells; removal from association; prison
10 discipline; SPS anti-violence policy; cell-sharing risk
11 assessments; anti-bullying strategy; unruly
12 certificates; child protection measures, and
13 implementation of new rules applying to young offenders
14 institutions, restraint, encouraging family contact.

15 I picked those out from some of the GMAs that
16 I think the report -- so is that -- that is the sort of
17 things that are now at least the subject of GMAs that go
18 to governors and managers of establishments?

19 A. Yes, that's correct.

20 Q. But that's a relatively recent innovation, is it, GMAs?
21 How long have they been used?

22 A. I would need to check that. Certainly since the 1990s,
23 I would think, but I would need to check that for
24 definite.

25 Q. Obviously, there has been produced to the Inquiry and

1 has been a source of no doubt the responses to the
2 questions in the report that's been produced, there's
3 also been reference to various SPS policy procedure and
4 guidance documents. But, as I say, I think we spoke
5 about this earlier, but ultimately -- or essentially
6 they are documents which are of fairly recent origin, in
7 terms of post-devolution policy document?

8 A. Yes, I would suggest that's correct.

9 Q. There has also been reference to some reports and so
10 forth that have been produced that may have been
11 influential and any reviews that had some bearing on
12 practice or procedure or policy. You have referred to
13 some of them in the report, so these are other sources
14 that have been drawn on that we can maybe look at in due
15 course.

16 In terms of how one monitors compliance with GMAs at
17 establishment level; can I just go back to one thing you
18 said? I think you said there were quarterly business
19 reviews involving the director of operations at
20 headquarters; is that right?

21 A. So they were quarterly, they are now bi-annual.

22 Q. Less of them?

23 A. Yes, twice a year.

24 Q. What was the thinking behind making them less often?

25 A. It's to give more time to really -- quarterly reviews

1 you are looking at a three-month period. Six-monthly
2 reviews, you've obviously got slightly longer. So where
3 you are looking at performance against a set of
4 indicators, the six-monthly timeline gives you a richer
5 picture, so it was deemed more appropriate to reduce it
6 to make it more meaningful.

7 Q. But the system of regular audit visits and audits, it's
8 the other way of seeking to monitor effectiveness and
9 compliance?

10 A. So the audit team normally audits -- most prisons
11 receive between four and six audits across the range of
12 subject areas in the course of a year. In addition to
13 that, I should say we also have an internal audit
14 function. So if there are particular areas that are
15 executive level we can look at; if there are particular
16 areas that are of concern, then we can ask our internal
17 auditors to review that as well, and you also obviously
18 have the independent monitors who are in prisons and the
19 Chief Inspector.

20 Q. I'll come to that. I just wanted to know what was
21 happening internally.

22 There is some sort of body that I think you have
23 made reference to, to do with auditing, who go around.

24 Is this the one you are talking about: the AAU?

25 A. That is the operational audit team.

1 Q. Is that the assurance and audit unit or the audit and
2 assurance unit?

3 A. Audit and assurance unit.

4 Q. Is that the body you are talking about that's this
5 internal audit system; that they audit against various
6 standards and carry out visits and assess performance?

7 A. They will assess compliance against the standards that
8 have been set when the policies, new policies or
9 amendments to policies, have been published. They'll do
10 an assessment against those standards.

11 Q. They then, to some extent, make awards, as it is called,
12 of some level of assurance?

13 A. Correct.

14 Q. Is the highest award substantial assurance or is --

15 A. That is correct. Yes, substantial.

16 Q. -- there is something bigger than that?

17 There is also limited assurance?

18 A. Correct.

19 Q. Is that the lowest?

20 A. My recollection is that would be the lowest.

21 Q. Is there anything in between?

22 A. Reasonable.

23 Q. Reasonable. Substantial, reasonable and limited?

24 A. Correct.

25 LADY SMITH: What if in their audit -- and one wants to say

1 this would never happen, would it? -- they can't find
2 any compliance? You can't have limited assurance then,
3 can you?

4 A. That would be -- I've never -- I've never come across
5 that in all the years the operation audit team have been
6 in place -- where there has been no assurance
7 whatsoever. I don't think that has happened during my
8 time that I'm aware of.

9 The reason why that wouldn't happen is that there
10 are other indicators. For example, one of the things
11 that was mentioned there was reporting of incidents.
12 There are other factors that would highlight that there
13 are problems within a prison. It wouldn't just be
14 compliance against policy. So if there were incidents,
15 for example, operational incidents happening on
16 a frequent basis in an establishment and we weren't
17 being made aware of it and we were only finding out with
18 hindsight, we would know there was something wrong.

19 So there are other things, other factors you can
20 consider and look at in terms of how a prison operates
21 that would highlight that there were things that were
22 seriously wrong, but no compliance in terms of policy
23 is --

24 LADY SMITH: Forgive me for interrupting. I can see all
25 that, that that hasn't happened, and that's why I said:

1 one hopes it would never happen.

2 I'm just wondering about the mindset it instills, if
3 the starting point for the auditors is in effect they're
4 being told to assume that there is limited assurance
5 being provided; do you see what I mean?

6 A. Mm hmm.

7 LADY SMITH: Rather than standing from a blank sheet, ground
8 base, and working up from there.

9 A. Mm hmm.

10 LADY SMITH: It may be the answer is that like all these
11 outcomes that you may mark something against, they're
12 blunt and quite unsatisfactory tools and what you need
13 is the content.

14 A. There is always context and I would absolutely agree
15 with that. But there is also I think -- operating
16 within an operational environment and knowing and
17 understanding that there are policies practises that you
18 should be following, as a professional, I just can't see
19 how in any circumstance that professional people would
20 find it acceptable for there to be no compliance.

21 LADY SMITH: I see all that. But you could, I suppose, get
22 a prison that is not coping, whether it's lack of staff
23 or a weak governor, who is able to say, "I know about
24 all these policies and we're working out how we're going
25 to implement them for this prison, but we haven't just

1 quite done it yet", which might be the most realistic
2 example of how it might happen that in all honesty
3 an auditor could not say there's even limited assurance
4 that there's implementation.

5 A. I think in -- what I was trying to say earlier was that
6 there are other ways that we can identify if there are
7 problems in a prison. Certainly we are not the only
8 visitors to establishments and people will flag or raise
9 concerns if there are problems or issues, for example.
10 If relationships between healthcare staff and prison
11 staff aren't working particularly well, that will filter
12 up through other means.

13 Equally, there are frequent visits from myself and
14 other senior operational leaders and you get a sense for
15 when things don't feel right, when people aren't coping,
16 and it's right then that you raise that and highlight
17 those concerns. But I suppose the culture that is
18 established and developing should encourage people where
19 they aren't coping to actually flag that as a concern
20 and come forward for support.

21 LADY SMITH: Of course.

22 Mr Peoples.

23 MR PEOPLES: Before the break, can I just follow up a few
24 questions out of that?

25 If one has a limited assurance, and you've given

1 some examples in the report, that is a red flag,
2 isn't it?

3 A. That would be of concern and that's why there is
4 an action plan and a follow-up within -- I think it's
5 six months to review.

6 Q. In that case, it generates an action plan --

7 A. Correct.

8 Q. -- to basically say: you're going to have to address
9 things.

10 Does it tell them what they have to do?

11 A. Yes, it does.

12 Q. Then how is the compliance with the plan monitored? Who
13 does that? The same team; the audit team?

14 A. So what the audit team will do is they will make
15 an assessment of the areas of non-compliance, whether or
16 not they are high risk, medium risk, or a lower risk.

17 Obviously, the high risk ones are of most concern
18 and that would then generate an action plan. Within
19 that action plan, there would be timescales with which
20 the establishment will achieve compliance and the audit
21 team will then follow that up by the business review.
22 But, obviously, the director would take personal
23 interest in reviewing where the establishment was in
24 relation to improvement.

25 Q. Is the director getting regular reports of audits to

1 show which establishments are getting --

2 A. Yes.

3 Q. -- just as a matter of course?

4 A. Absolutely.

5 Q. So with what frequency?

6 A. As soon as each audit is completed the audit report is

7 completed with the action plan, that will be shared with

8 the senior leadership team, including myself.

9 Q. Is that reviewed by the senior management team?

10 A. Yes.

11 Q. So if they could see a pattern, for example, this place

12 is getting too many limited or --

13 A. Yes, that will flag very quickly.

14 Q. That will flag?

15 A. Absolutely, yes.

16 Q. In terms of the audit team; who are they? Where are

17 they drawn from? And for how long are they appointed?

18 A. The audit team come from mainly operational people, who

19 are drawn into SPS headquarters and they undertake the

20 audits under the direction of the director of

21 operations.

22 Q. When you say "operational people"; do you mean the

23 people who have worked in prisons?

24 A. Correct.

25 Q. Prison officers or senior managers or managers?

1 A. Mainly middle to senior managers, yes.

2 Q. From prisons?

3 A. Yes.

4 Q. So they've already worked in prisons?

5 A. Mm hmm.

6 Q. And do they get specific training once they move to this
7 role?

8 A. That was something that was done at the initial
9 inception. It had fallen away and it came up as part of
10 a review of the internal audit function, because that
11 was the team within which they sat in 2020/21 and
12 recommendations were made to support training. I'm just
13 not sure what has been put in place since then.

14 Q. So there were concerns that perhaps the necessary
15 training for the audit team who perform this monitoring
16 function internally -- leaving aside what inspector does
17 and the IPMs do, who are the external monitors -- there
18 were concerns and there's been some review and need to
19 perhaps look at the issue of either the training or
20 further training this team requires; is that what you
21 are saying?

22 A. No, sorry, I've misled you there. The review that was
23 undertaken wasn't initiated as a consequence of the
24 operational audit team. It was initiated because of the
25 internal audit team. It had featured as

1 a recommendation from our external auditors and I think
2 two reports that they recommended that this review was
3 undertaken, and as the operational audit team was
4 sitting within that function at that time, that formed
5 part of the recommendations.

6 But what happened subsequently was the internal
7 audit team, as it was, for a number of different
8 reasons, the team was quite depleted and the decision
9 was taken to move internal audit to shared services
10 agreement with Scottish Government and separate out the
11 operational audit team into operations directorate,
12 which is where it now currently sits.

13 But those recommendations for training and support,
14 if I recall correctly, did also -- would have some
15 resonance with the operational audit team.

16 Q. You are losing me a little here, but maybe it's me. So
17 there was this review; there must have been a concern
18 that triggered the review?

19 A. The concern was about the internal audit team, not the
20 operational audit team per se.

21 Q. Is the internal audit team the people who sit at
22 headquarters?

23 A. The internal audit team are the team that are
24 responsible for the broader audit function, including
25 finance.

1 Q. Of the whole service?

2 A. Of the whole SPS, yes.

3 Q. Not just monitoring of compliance?

4 A. No, no.

5 Q. So the whole audit process, they thought there should be
6 a review, but not necessarily because of any specific
7 concerns about the operational audit team and the way
8 they were performing?

9 A. Correct.

10 Q. But, going back to my question then; do the operational
11 audit team members, once they've been selected for this
12 function, having come from a particular prison
13 background for example, undergo training and do they
14 undergo refresher training or further training, and so
15 forth, or not?

16 A. My understanding at the moment would be that I don't
17 think they do.

18 Q. Do they get initial training at all?

19 If a job came up tomorrow and I was a middle manager
20 in one of the establishments, and I thought, "Oh, that
21 suits me", and I applied and got the job; would I get
22 initial training or just be expected to use my past
23 experience to guide me?

24 A. I'm sorry, Mr Peoples, I haven't had much to do with
25 that team for such a long time.

1 Q. Do you think maybe we could have the answer, just to
2 know what --

3 A. Absolutely.

4 Q. Because they appeared to be performing what appears to
5 be quite a significant function as far as being
6 an internal monitoring mechanism?

7 A. Yes.

8 Q. We can talk about the other mechanisms, and we will do,
9 but I wanted to get that one.

10 One last question, if I may, because I'm conscious
11 of the time. I think the Chief Inspector of Prisons
12 told us that there is a total separation between this
13 operational audit team and what they do and what the
14 inspector does, in the sense that they don't get
15 together and put their heads together and one doesn't
16 necessarily influence the other, so there are two
17 separate forms of monitoring.

18 What if there's a tension between an award by the
19 AAU and something said by the inspector on the same
20 matter; whose views prevail?

21 A. So I'm probably trying to think of circumstances in
22 which that may happen, but certainly, for me, the audit
23 team is much more focused on specifics of the elements
24 of delivery of the policies.

25 In the Chief Inspector's remit, she would be looking

1 at practice and delivery in a slightly different way, in
2 how it impacts on the people, rather than the actual --
3 I'm trying to think of the way -- each specific element
4 of the -- I'm not describing this accurately.

5 LADY SMITH: Would you like to have a break?

6 MR PEOPLES: If we have a break, you can come back, if you
7 want to and respond further to that question.

8 LADY SMITH: We are peppering you with quite a lot of
9 questions. I think you need a cup of coffee, Teresa.
10 Let's have a break and sit again in 15 minutes.

11 (11.35 am)

12 (A short break)

13 (11.52 am)

14 LADY SMITH: Teresa, Neil, are you ready for us to carry on?

15 MR RENNICK: Yes.

16 MS MEDHURST: Yes.

17 MR PEOPLES: I'm quite happy to leave the issue that
18 I dealt -- unless you want to add something just now,
19 because I can come back to it. I was going to look at
20 it as one of the issues in due course, so I don't want
21 to take too much time. But do you want to say --

22 A. Yes, I would, if you don't mind.

23 Q. I think the question I posed was, broadly speaking,
24 there was some tension between the Chief Inspector's
25 report on a place and something said, contemporaneously

1 perhaps, by the AAU which might suggest things were
2 better than the inspector believed them to be.

3 A. I suppose what I was probably doing was getting into far
4 too much detail.

5 We would always look at what the Chief Inspector
6 says regardless of what other elements of evidence that
7 we can consider that we have and take very seriously
8 anything that she raised of concern, re-look at that,
9 re-examine it, and probably look at some different
10 optics, other than just the audit, to try to identify
11 and triangulate. So what evidence is available and what
12 is that telling us.

13 Q. Can I move on to look at the report? I would like to
14 start with part B, which involves acknowledgements.
15 There is a series of questions there, but before I turn
16 to the questions; can I just ask you this: this report
17 was prepared last year and since then I think you will
18 confirm that the Scottish Ministers and SPS have had
19 access to a large number of statements by people that we
20 call "applicants", who are speaking about experiences in
21 various settings, including establishments run by the
22 Scottish Prison Service.

23 I think there's quite a large number of statements
24 that have now been released, but they've been released
25 since the date of this report. I'm assuming -- and you

1 can again correct me if I'm wrong -- that either or both
2 of you will have seen or at least been advised as to the
3 content of these statements which have been released in
4 advance of the public hearings in this case study.

5 Firstly, can I ask you this: is there anything in
6 them --

7 LADY SMITH: Mr Peoples, can we just check whether that
8 assumption is correct? Have you been advised of the
9 broad thrust of the statements?

10 MS MEDHURST: Yes.

11 MR RENNICK: Yes.

12 LADY SMITH: Mr Peoples.

13 MR PEOPLES: Is there anything in them, looking at them in
14 their generality, which would cause the Scottish
15 Ministers or the Prison Service to depart from what is
16 acknowledged in part B of the report that we have here
17 today?

18 MS MEDHURST: No.

19 MR RENNICK: No.

20 Q. That is a "no" from both.

21 So if I can then turn to part B, which is
22 SGV-000085423, which should be on the screen and there
23 should be a hard copy for both of you on the desk in
24 front. Maybe in the large file. Hopefully it's divided
25 into four parts.

1 I'll leave it to both of you to decide who should
2 respond to the various questions that are there, but
3 I would like to, obviously, have the response to the
4 questions, which have been posed there.

5 If we turn to page 2 of part B, SGV-000085423,
6 page 2, the first question asked relates to
7 acknowledgement of abuse and the question is:

8 "Does the organisation or establishment accept that
9 between 1930 and 17 December 2014 some children cared
10 for at the establishment were abused?"

11 The latter date is relating to the terms of
12 reference of the Inquiry. I think that there is then
13 a response. I would be grateful if one or other of you
14 would read that response at this stage. If you wish to
15 add anything in the course of doing so, then by all
16 means feel free to do so.

17 MR RENNICK: I'm happy to read the response. Just to check;
18 how much of the paragraph do you --

19 Q. I think, initially, I would probably like you to take us
20 to the end of the first six paragraphs and we can maybe
21 take it from there. I think these are at least what
22 I would like to hear from you at this stage?

23 MR RENNICK: Yes, happy to do that. I'll start at
24 paragraph 2, having accepted paragraph 1.

25 LADY SMITH: Neil, can you just pull that microphone a bit

1 closer to you again.

2 MR RENNICK: I will do.

3 MR PEOPLES: I'm looking at 3.1(i), paragraph 1, which
4 starts:

5 "Scottish Ministers acknowledge ..."

6 I would like you to read from there if you could.

7 MR RENNICK: Happy to:

8 "Scottish Ministers acknowledge that children who
9 were committed to the four establishments under
10 investigation by the Inquiry during the period from 1930
11 to 17 December 2014 (the relevant period) were abused.
12 Children were also subjected to practises, conditions
13 and regimes that were either abusive and otherwise
14 plainly unacceptable."

15 2:

16 "Scottish Ministers acknowledge that children
17 committed to these establishments were subjected to:
18 physical abuse, including (disproportionate or otherwise
19 inappropriate use of control and restraint techniques by
20 staff); sexual abuse; verbal abuse; psychological and
21 emotional abuse (including bullying and neglect). The
22 abuse took place between peers and by adult prisoners or
23 staff. That should not have happened. Scottish
24 Ministers condemn such abuse in the strongest terms and
25 unreservedly apologise to those who are were abused and

1 their families.

2 "Children had to endure slopping out, which was
3 practised in all four establishments. That involved
4 urination and defecation in vessels kept inside
5 a child's cell and emptied, often in view of others,
6 daily by the child. The practice of slopping out was
7 ended by 2007. Slopping out by children was abuse and
8 Scottish Ministers unreservedly apologise.

9 "Scottish Ministers acknowledge that children
10 committed to these establishments in the past
11 experienced punishment that were abusive. Reducing the
12 portion size of food, making children sleep on wooden
13 guard beds and removing mattresses for days at a time,
14 in particular during sleeping hours, were historically
15 used as punishments and are abusive, despite being in
16 accordance with the prevailing regime of the past. That
17 should not have occurred and Scottish Ministers are
18 sorry that it did.

19 "Scottish Ministers acknowledge that children in
20 these establishments were, at times, subjected to other
21 practises, conditions and regimes that resulted in harm.
22 The following five examples are illustrative, but not
23 exhaustive.

24 "Firstly, as a result of the physical conditions of
25 the buildings and antiquated infrastructure, a number of

1 children experienced inadequate living conditions.

2 "Secondly, due to the poor quality of regime, some
3 children experienced excessive or disproportionate
4 control. For example, through removal of or
5 unacceptable limitations placed upon their access to
6 socialisation, recreation and basic amenities. Other
7 children experienced limited access to education. The
8 quality and provision of food was, at times, poor, even
9 by the standards of the day.

10 "Thirdly, privacy was not always maintained where it
11 should have been, such as in holding cells that were too
12 small to afford any privacy to multiple occupants.

13 "Fourthly, there was overcrowding within these
14 establishments that often resulted in children
15 experiencing harm, including (but not limited to)
16 neglect, loss of basic amenity and indignity.

17 "Fifthly, children were historically subjected to
18 inappropriate and unjustified isolation and segregation.

19 "Scottish Ministers apologise unreservedly for such
20 practises, conditions and regimes. Children should not
21 have had to experience any of these practises,
22 conditions or regimes which were either abusive or
23 otherwise plainly unacceptable."

24 Q. Just to confirm, the four establishments that you refer
25 to are Polmont, Glenochil, Longriggend and Barlinnie?

1 A. Yes.

2 Q. And two of these are now closed, as I think we'll
3 discover. Longriggend and Glenochil are no longer
4 operational establishments?

5 A. Glenochil is still --

6 Q. Sorry, not Glenochil.

7 MS MEDHURST: Children are -- and haven't been for some
8 time -- or young people -- no longer held in Barlinnie.
9 Longriggend closed. Glenochil closed as a young
10 offenders and detention centre, but operates as an adult
11 prison.

12 Q. Yes, sorry. Thank you for correcting that. It has
13 closed as a place of detention for young people and has
14 been closed for some time?

15 A. Correct.

16 Q. And Longriggend has completely closed?

17 A. Correct.

18 Q. The other two -- obviously, Polmont is still -- is now
19 still the main young offenders for young people, in the
20 sense of people who are under 21?

21 A. Correct.

22 Q. Although, as we have learned this morning, there are
23 very few young people under 18 now?

24 A. Correct.

25 Q. Glenochil serves as an adult prison?

1 A. Correct, yes.

2 Q. Looking at part B, I'm not going to ask you to read out
3 paragraph 7, but we'll come back to the fact that it
4 says that steps have been taken to improve matters since
5 some of the practises and conditions and regimes that
6 you have spoken about -- there have been a number of
7 steps, and I think we'll come to these steps that have
8 been taken since devolution. I'll come back to that at
9 a further point.

10 Can I just ask, perhaps, you, Neil, to go on to read
11 paragraph 8, on page 4?

12 MR RENNICK: Yes:

13 "Scottish Ministers are (like UK Ministers prior to
14 devolution) responsible for the safety, well-being and
15 development of children in the custodial system. The
16 children who were abused in these establishments and
17 their families have been failed by government."

18 Q. Can you read 9 as well?

19 A. Yes:

20 "Custodial settings hold a significant proportion of
21 people who have been convicted of violent offences, some
22 of whom continue to try to engage in such behaviour
23 whilst in custody. Whilst steps were and continue to be
24 taken to manage the risk of violence in custody, that
25 risk cannot be fully mitigated. Removal of all risk

1 would require an excessive degree of control to be
2 applied which, in turn, would impact on access to
3 purposeful activities, education and socialisation. The
4 right balance must be achieved in a system that seeks to
5 ensure safety and provide opportunities to enhance the
6 well-being, development and rehabilitation of children
7 when and if they continue to be held in custody."

8 Q. I think just last part of that sentence reflects perhaps
9 what we discussed earlier today; that the direction of
10 travel is, firstly, to reduce the number of young people
11 who are children under 18 in custody, and it's now five.
12 But perhaps you can tell us where we are, or where you
13 are, or where the Government is, with any moves towards
14 possible removal of young people under 18 from the
15 prison system?

16 A. Yes, the commitment was made in response to The Promise
17 review of care in Scotland, that young people no longer
18 be accommodated in young offenders institutions in
19 Scotland. There was then a consultation and that led to
20 the introduction in Parliament of the (Care and Justice)
21 (Scotland) Bill that is currently proceeding through the
22 Parliament. It passed its stage 1 of the Parliamentary
23 process in June and is now going through the final
24 stages of the parliamentary process.

25 Q. Can I ask you this, because I think it was raised and

1 Sue Brookes, who gave evidence, gave a personal opinion
2 about what she would like to see in terms of the sort of
3 provision in the Bill as to a complete separation that
4 would involve total removal of young people from the
5 prison system.

6 So far as the current Bill is concerned; what is the
7 Government's position in relation to that?

8 Will all children, if the Bill is passed, under 18,
9 be removed from prison settings, young offenders
10 institutions?

11 A. Yes, in terms of the Bill as it's currently drafted, it
12 would be a prohibition on anyone under the age of 18
13 being held in a young offenders institution or prison.

14 Q. Can I just ask you this: does the bill explain what will
15 happen to children who are believed to require some form
16 of secure conditions that would restrict their ability
17 or liberty?

18 A. The Bill would allow for young people to be placed in
19 secure care, so in a secure care setting.

20 Q. These would be secure care settings that were run by
21 providers other than the Scottish Prison Service?

22 A. Yes.

23 Q. Currently, I think we understand, there are secure care
24 services in Scotland. I think there were five, but
25 there are now only four following the closure of

1 Edinburgh Secure Services in the summer; is that right?

2 A. That's right.

3 Q. Would these be the type of settings that could

4 potentially be used to accommodate young people under 18

5 in secure conditions?

6 A. These settings already accommodate young people who have

7 committed serious offences.

8 Q. Is it possible, if you remove young offenders as a place

9 of detention, that there might be a requirement to

10 consider what resources are available to accommodate

11 young people in secure settings?

12 A. Yes. There is a range of work, including

13 an implementation group looking at the range of factors

14 you would need to take account of if Parliament passes

15 the Bill to ensure not only sufficient capacity, but

16 also training and support within those settings and that

17 sits in the wider context of wider review of work around

18 the future of secure care as a whole. So that's not

19 just limited to people transferring into secure care,

20 but how secure care operates overall.

21 Q. Is it anticipated in the Bill, if passed, that there

22 will be some form of transitional period before which

23 the full effect of the legislation will come into play;

24 that there will be some transitional period to allow

25 these changes to be made?

1 A. It would be normal practice to allow a period between
2 a Bill passing and it being implemented. Parliament can
3 impose that or it can leave it for Ministers to
4 determine the exact time around that. But, yes, it
5 would be normal practice to allow a period of time.

6 But obviously in the meantime, as has happened over
7 recent years, we continue to work, and agencies continue
8 to work, to keep young people out of YOIs as much as
9 possible.

10 Q. Has thought been given -- I suspect it has -- to how
11 long would be needed, if the Bill was passed next year
12 for example, to make this change?

13 A. There hasn't been a formal public commitment in terms of
14 exact timescales. That is partly the work of the
15 implementation group, looking at what would be
16 necessary. But, in the Government's response to The
17 Promise report, the intention was to have young people
18 no longer going to YOI without unreasonable delay.

19 LADY SMITH: Neil, would I be right in thinking that --
20 let's call them the new places, would not be subject to
21 the current inspection regime because they're not
22 prisons?

23 A. As it stands, they wouldn't be subject to inspections by
24 the Inspectorate --

25 LADY SMITH: They would?

1 A. They would not.

2 LADY SMITH: So what do you foresee happening in terms of
3 monitoring and inspection?

4 A. The Care Inspectorate regulates secure care settings and
5 would continue to do so.

6 MR PEOPLES: So there are no plans in the legislation to
7 alter those current arrangements? The Care Inspectorate
8 would simply have responsibility, as they have at the
9 moment, for secure services outwith the SPS that they
10 would continue to perform that function?

11 A. There is a constant process looking at the regulatory
12 standards and arrangements, so that would continue as it
13 does just now. But, in terms of the Bill, the intention
14 would be that the Care Inspectorate would continue to
15 inspect secure care.

16 Q. You said, I think in answer to some of the questions,
17 that there was a wider review of secure care; can you
18 just tell us a little bit about what's going on there?

19 A. Yes. There's been a commission for the Children and
20 Young People Justice Centre to do some work looking at
21 what is described as the future of secure care. I can't
22 remember the exact name of the title of it, but it's
23 looking more broadly at secure care and what the future
24 structure of that might look like. Also, as well,
25 whether there are alternatives to secure care for some

1 people who would be in other settings. It's a wider
2 look at the overall operations.

3 Q. Has that been commissioned by Scottish Government?

4 A. Yes.

5 Q. Have you any idea when that's due to report?

6 A. There is different work going on. There are preliminary
7 reports expected over the coming months, but it's part
8 of the -- the wider work is part of our Scottish
9 Ministers' commitment to keeping The Promise, which runs
10 up to 2030.

11 Q. Am I right in thinking The Promise is perhaps wider than
12 taking children out of a prison setting? They would
13 like to take children, so far as possible, out of secure
14 care settings --

15 A. Yes, significantly wider.

16 Q. -- if they can?

17 Although am I right again in thinking that at the
18 moment there are -- or I think at least until the
19 closure of ESS there were something like 84 places in
20 secure care in Scotland?

21 A. Yes, although that's split between children and young
22 people referred within Scotland and the number of
23 cross-border placements --

24 Q. I was going to ask you. We did hear some evidence that
25 in order to survive, if I could put it that way, some

1 secure services in Scotland do accept young people from
2 other jurisdictions and, indeed, one, according to the
3 Chief Inspector, may take entirely from other
4 jurisdictions, but I'm not sure if that's correct.
5 I think she said something along those lines. They've
6 done that in the past at least, because of the need to
7 fill spaces, to function?

8 A. The balance has switched over time in terms of the
9 number of placements from Scotland and the number from
10 other locations. Part of the work that's being
11 undertaken around the Bill is to ensure there is
12 capacity available, both for children referred from the
13 hearing system and for those young people who might
14 previously have been placed in YOI. So clearly having
15 sufficient capacity is a key part of that implementation
16 work that we were discussing.

17 Q. There would have to be a discussion, presumably, about
18 whether places can be held, if you like, to accommodate
19 people who are sent, for example, by the courts to
20 a secure setting under new arrangements? Because
21 I think at present you book a place, but you don't have
22 a block booking system?

23 A. There's been some pilot work to ensure that capacity --
24 from the Scottish Government to ensure that capacity is
25 available across the country, to make sure that places

1 are available, and that's been expanded as part of the
2 work around the (Care and Justice) Bill.

3 Q. It's not something -- removing young people who are in
4 a young offenders institution for perhaps committing
5 quite serious crimes, even when they were under 18,
6 having them in a secure place other than a young
7 offenders is not unique. It's not going to be something
8 that's going to happen for the first time after the Bill
9 is passed. Because as I understand, the present policy
10 is that any young person under 16 who commits a serious
11 crime would not be in a young offenders institution as
12 a matter of policy; they would be put in some form of
13 secure setting.

14 A. Yes. There are children who have committed serious
15 crimes who have been (overspeaking) in secure care.

16 Q. Where in that situation (overspeaking).

17 They're not starting to take a completely new type
18 of resident?

19 A. No, although, as I say, as part of the implementation
20 work we are looking broadly at the training and support
21 that would need to be available within the secure care.

22 Q. I suppose it might be said that some of the work that
23 may have been done to improve matters in the prison
24 system over the last ten, 15 years or longer perhaps,
25 there may -- required to be similar work done in

1 relation to secure settings, to ensure the vision for
2 young people in custody, in the SPS, is the same vision
3 if they need to be in secure services run by other
4 providers?

5 A. I think very much that secure care, part of the reason
6 for the policy and Ministers' justification for the
7 policy is that secure care is a different sort of
8 setting from young offenders institutions. It's a care
9 setting. In particular, standards are published by the
10 Care Inspectorate that set the expectations around the
11 pathways for people at the margins of going into secure
12 care and those who are in the care of secure care. So
13 there are separate standards that are set by the Care
14 Inspectorate for young people in there, but
15 I'm confident that the Inspection Agencies learn from
16 each other in terms of good practice --

17 Q. For example, matters which have often been commented
18 upon by prisoners about the extent of meaningful or
19 purposeful activity, then clearly if you put that cohort
20 into secure settings you want to make sure they will get
21 the same or perhaps better opportunity as well. You are
22 not wanting to put them into a situation where the same
23 old problems arise?

24 A. Yes. And it's a key part of the standards that the Care
25 Inspectorate set in terms of the activity and

1 opportunities that are available for young people in
2 secure care, including education.

3 Q. You will be aware, I'm sure, of the ESS situation. It
4 was closed this summer, after quite a damning report
5 following whistleblowing allegations. There was
6 a report submitted to Edinburgh Council, who ran the
7 service, and that has resulted in closure. It appears
8 that the situation there, there were problems over
9 a prolonged period, perhaps ten or 11 years, that were
10 looked at in that report.

11 Will consideration be given to that? Because all
12 the mechanisms that now exist, including the Care
13 Inspectorate, were in place during that period, but
14 still there was a problem and still there were
15 difficulties in terms of the way children were perhaps
16 treated and handled and managed; is that something that
17 will have to be looked at as part of this broad review?

18 A. Certainly my expectation would be, even where
19 an establishment closes, any lessons that were learned
20 by the inspection body or any issues that were raised,
21 those would feed back into the inspection process for
22 those establishments that are still there. So,
23 absolutely, I would expect that to be the case.

24 Q. It's a wider point just than lessons from that
25 establishment. It's lessons whether those that were the

1 monitors and the inspectors, if they didn't pick up or
2 didn't interpret in the way that they ought to have
3 done, then that might be something that needs to be
4 looked at, as to why that was over a period of time?

5 A. I'll be honest, I don't know enough of the detail in
6 terms of what was reported over time about that
7 particular establishment and what actions were taken
8 around that.

9 I do know that the overall process for the standards
10 within secure care had been subject to reviews, so it's
11 not been a stable position over that full ten-year
12 period. Things have been reviewed.

13 Q. It might be the methodology has to be looked at.
14 Because if the standards were applied and the
15 methodology was used, but certain things were not picked
16 up or not flagged up sufficiently, it may be that
17 someone has to say: well, where was that?

18 That would be a question at least, if that's the
19 situation that is disclosed by the report; would you
20 agree?

21 A. I would expect any process of inspection to be looking
22 at that, and whether -- the impact of the inspection
23 process and whether that's resulting in change, and
24 that's my understanding about all the Inspectorates that
25 I've engaged with -- have operated.

1 LADY SMITH: Neil, am I hearing you telling me that so far
2 as policies for the new establishment for secure
3 provision are concerned you are really looking to the
4 Care Inspectorate to indicate what policies they should
5 be adopting or are policies coming from somewhere else?

6 A. No, there's a wider implementation group that is looking
7 at the arrangements for implementing the (Care and
8 Justice) Bill specifically in terms of the regulatory
9 function, the responsibility for the regulation of
10 secure care sits with the Care Commission, but there is
11 wider work that happens around the support that we
12 provide for young people in care more generally.

13 LADY SMITH: Is the short answer that you haven't yet come
14 to the stage of being able to point me to what, for
15 example, will be in place of SPS being able to send out
16 the GMAs because of their policy group and the drafting
17 of their policy group?

18 A. Sorry --

19 LADY SMITH: Let's think of something we've heard about from
20 SPS. I can hear that some of the policy directions
21 reflect what has been recognised as a fundamental right
22 under ECHR, for example, of a young person.

23 What happens is, there is the group that is
24 responsible to Teresa, they will draft, the GMAs will go
25 out to governors and then they will implement.

1 That's not going to happen for these other places.

2 You certainly have the Care Inspectorate telling them
3 what standards they expect, but that's different.

4 Where are the policies that they're expected to
5 follow and implement going to come from?

6 A. The secure care pathways, and standards and pathways
7 that were published a couple of years ago, provide steps
8 that facilities are expected to operate. There will be
9 other sources of guidance and advice, but these are
10 individual settings. They're not part of a single
11 organisation in the same way that the Prison Service is.

12 LADY SMITH: That's all coming from SG Guidance, is it?

13 A. That is Care Inspectorate Guidance developed in dialogue
14 with others.

15 LADY SMITH: Thank you. Mr Peoples.

16 MR PEOPLES: The Care Inspectorate has powers to issue codes
17 of practice, guidance, and something that in a broad
18 sense might be the equivalent of a GMA, albeit from
19 a regulator rather than from an employer.

20 The GMAs are from the employer currently, the SPS.
21 They're not an independent form of guidance and
22 instruction.

23 A. I would need to do some further thinking and thought
24 about that, because there are obviously other sources of
25 requirements that secure care settings would have to

1 follow in terms of education, in terms of health, in
2 terms of other health and safety, et cetera. So there
3 are other sources of direction to how secure care
4 settings operate, but I would need to do some more
5 thought about what those are.

6 Q. Perhaps I can leave it this way: I think we'll be
7 meeting again before Christmas and no doubt just to
8 respond to any evidence we'll hear in the weeks ahead.
9 But perhaps that's a matter that if you have any
10 thoughts on that and how you perhaps at least see what
11 the issues are, and how the present arrangements to some
12 extent either are similar to or contrast with how things
13 operate in the prison setting, maybe we could have your
14 thoughts on that, at that time?

15 A. I'm happy to come back on that.

16 Just an important general point. Clearly the
17 intention behind this is to improve the experience of
18 children and young people and the support available for
19 them, taking account of the trauma that they've
20 experienced, et cetera. So the underlying driver is
21 they'll have an improved experience in secure care than
22 it's physically possible to do, despite all the
23 excellent work that is done within Polmont that we're
24 able to do there.

25 Q. That's the general thrust of things like The Promise.

1 Regardless of the setting, children, if they do have to
2 be in a setting away from home, should to some extent
3 have the same experience in terms of a positive
4 experience.

5 A. Yes. Again, the important thing to say is the majority
6 of children who are in secure care are there on care and
7 protection grounds, not on offence grounds.

8 Q. Of course, you say that, but historically one of the
9 issues that has been raised and one of the issues raised
10 by applicants is, saying: I went to an Approved School
11 on care and protection grounds and, lo and behold, when
12 I got there a number of people there were there for
13 different reasons, who had convictions, some for
14 significant offences.

15 They didn't necessarily think that lumping them
16 together, if you like, to put it crudely, was good for
17 them.

18 A. The fundamental principle, as I understand it from
19 Kilbrandon, is you treat children and young people as
20 children and young people, and you focus on the needs
21 not the deeds, and that's the underlying principle.

22 Q. It goes further back than that. I'll go on to
23 Professor Norrie, but I am just making the point: we
24 hear evidence about, well, you put them together and
25 perhaps that at times, however laudable the thinking

1 behind doing that, the reality is that someone who may
2 be there for care and protection grounds is mixed with
3 someone who perhaps has a different experience and that
4 can lead to problems?

5 A. I wouldn't claim to be an expert on secure care. But my
6 expectation would be that part of the role of secure
7 care is to manage the population of young people who are
8 in there, take account of their variety of needs and
9 requirements and backgrounds, in terms of how they
10 manage each of those people as individuals.

11 Q. Maybe we can leave that one for the moment. Perhaps
12 it's something we can explore in due course, because --

13 A. Yes. As I say, it's not unusual for secure care to be
14 managing people who have committed serious offences.

15 Q. I follow that. It's just perhaps that one has to go
16 back to asking some fundamental questions and also
17 seeing whether the underlying rationales, however
18 attractive they appear to be; do they work in practice
19 or have unintended consequences?

20 That's all I'm putting to you, as an issue to be
21 addressed. I'm not suggesting or offering that the
22 Kilbrandon philosophy or that that preceded it should be
23 changed. I'm raising that point because I think it is
24 something that our applicants have at times raised about
25 who they associate with if they came to an Approved

1 School on sometimes quite flimsy grounds.

2 A. The only last thing I would say is: clearly, compared to
3 a number of years ago, there were several hundred people
4 under the age of 18 who society thought the right place
5 for them was in a young offenders institution. Those
6 young people or their equivalents are now in other
7 locations and are being safely managed.

8 Q. To that extent, we have moved on?

9 A. Yes.

10 Q. If I can go back to part B, SGV-000085423, the -- can we
11 turn to -- I think you say at paragraph 13, page 5, this
12 is the commitment to take young people under 18 out of
13 the criminal justice system -- out of the young
14 offenders institution, I should say, not out of the
15 criminal justice system. I don't think that's going to
16 happen entirely. But I think part of the thinking is
17 that so far as possible they should not be dealt with by
18 the criminal justice system; is that the current
19 thinking, if it's possible to find alternatives?

20 A. We obviously -- the Scottish Government, with the
21 approval of Parliament, raised the age of criminal
22 responsibility a number of years ago to the age of 12,
23 so that did take a number of children out of the
24 criminal justice system.

25 Our general policy approach is to try to, as far as

1 possible, redirect children away from the criminal
2 justice system. But, obviously, the decisions around
3 that rest with the hearing system and with the Lord
4 Advocate.

5 Q. To use a familiar expression, there are no plans to
6 raise the age of criminal responsibility in Scotland
7 that you're aware of?

8 A. There is a review. There's a commitment made in the
9 legislation that changed it to have a review and that
10 will report back on what the future age of criminal
11 responsibility should be. I can't remember exactly on
12 that.

13 Q. The age was raised relatively recently.

14 A. Yes.

15 Q. But there is a commitment at least to review the matter?

16 A. To review the matter, yes.

17 Q. I think Scotland still has quite a low age in comparison
18 with some other countries?

19 A. Higher than other UK administrations, but lower than
20 other international ones.

21 Q. I think that's been at least the subject of concern in
22 some quarters in the Scottish context?

23 A. There are certainly stakeholders who view the age should
24 be higher than that.

25 Q. Can I go on in part B to page 5, to the second question,

1 which is:

2 "What is the organisation or establishment's
3 assessment of the extent and scale of such abuse?"

4 We have the acknowledgement of abuse. This is
5 really looking at some attempt to assess the scale and
6 extent of abuse within the context we're looking at,
7 which is the four institutions that are the focus of
8 this case study, so far as the SPS is concerned.

9 Can I ask you to read some of that as well, starting
10 at paragraph 1, under (ii), on page 5. I'll tell you
11 maybe to pause once I reach a convenient moment. There
12 are a couple of things I want to raise, but if you could
13 read that out for me?

14 A. Of course:

15 "It is fully accepted that the records that have
16 been identified, recovered and reviewed by Scottish
17 Ministers for the purpose of this report will not
18 reflect the actual extent and scale of abuse suffered by
19 children at the four establishments. It is likely that
20 the extent and scale of abuse is much greater than the
21 available and reviewed records depict, for reasons that
22 will be further expanded upon below. As such Scottish
23 Ministers cannot be certain of the extent and scale of
24 abuse which occurred throughout the relevant period.

25 "Scottish Ministers' ability to assess the extent

1 and scale of abuse has been constrained by limitations
2 associated with the records.

3 "Relevant historical records have proven, in
4 particular, difficult to identify and recover. In
5 considering why that may be so, there are distinctions
6 to note between the recording of information and
7 creation of records at the relevant time, and the
8 archiving of records and ability to recover records at
9 a later date.

10 "Professor Levitt has provided evidence to the
11 Inquiry on historical data retention and destruction
12 practice, noting that in the period between 1930 and
13 1992, only records that were deemed to relate to major
14 questions of policy and principle were preserved. This
15 explains why, prior to the establishment of SPS in 1993,
16 certain Central Government records were not retained.
17 However, there is not, within the Scottish Government or
18 SPS, relevant experience or expertise on the history of
19 prison record keeping to fully explain why more
20 historical records were not retained."

21 Q. I'll stop you there. I'll ask this: there is an issue
22 here about Longriggend and Glenochil, which I think you
23 flag up in part A of the report and I can maybe just
24 direct you to that at this stage, it's SGV-000085432,
25 which is part A, and I think the page that I'm looking

1 at is pages 61 and 62. If we could turn to that for the
2 moment, just briefly.

3 I'm looking at the bottom half of that page, if we
4 could scroll down. There is the question:

5 "Was such information retained and updated?"

6 This is all to do with records. Maybe I can do
7 a little reading here, just to introduce this issue:

8 "It was not until SPS' records management practice
9 notes were issued in 2005 and applied to all records
10 that there appeared to be clear guidance on how to
11 manage policy files and retention periods for financial,
12 personnel and prisoner records."

13 Then:

14 "Prior to 2005, there was no standardised process
15 for record retention. A large volume of records had
16 been transferred to NRS [the National Records of
17 Scotland] dating from the late 1800s to the present
18 date. These include prison admissions, liberations
19 registers, registers of discipline punishment, prisoner
20 files and policy files."

21 It goes on:

22 "It is worth noting that Longriggend detention
23 centre closed in 2000 and Glenochil YOI closed in 2010.
24 Records from both of these establishments (with the
25 exception of a small number of files identified within

1 the SPS' key historical records) have been destroyed and
2 there is no evidence of records being transferred to
3 NRS."

4 Can I ask you this: the records that have been
5 identified and seem to have been reserved; are they in
6 the SPS' possession in their archive? There is
7 a registry that the SPS has which keeps records; is
8 that -- there are some things --

9 MS MEDHURST: There is the SPS registry. There is also the
10 prisoner records system, the electronic system, so the
11 electronic records would not have been destroyed and
12 anything that were retained within registry would not
13 have been destroyed either, is my understanding.

14 MR PEOPLES: So far as Longriggend and Glenochil is
15 concerned, the way I'm reading that is the bulk of any
16 records directed at both of these cannot be found and
17 are presumed to have been destroyed?

18 A. Correct.

19 Q. They're not in NRS or in the possession of SPS?

20 A. The PR2 would have individual records for individuals in
21 custody. I would be -- I would need to check, but
22 I would not consider that they would have been destroyed
23 and would have been captured as part of the 8,000 or so
24 cases that were reviewed.

25 Q. I think there was a review of a large volume of

1 electronic records --

2 A. That's right.

3 Q. -- of young people in custody -- and we'll come to

4 this -- between 1995 and 2014, which is what you are

5 describing.

6 A. Yes.

7 Q. I think that's dealt with in part B, once we go on. So

8 there are electronic records, prisoner files, that exist

9 and were able to be reviewed?

10 A. Yes. That is my understanding, but I will check.

11 Q. Some of these would relate to young people who were in

12 custody at Longriggend or Glenochil?

13 A. Correct.

14 Q. When was the PR2 system introduced, roughly?

15 A. In the 1990s.

16 Q. The records you are talking about on the system relate

17 to individuals, like their personal case file?

18 A. That is correct.

19 Q. It would only contain information personal to them?

20 A. It would contain information that was linked directly to

21 them, yes.

22 Q. For example, if they had made a complaint in the period

23 that the system was in operation, that complaint should

24 have been recorded on the PR2 system?

25 A. So when the prisoner complaints system was included as

1 part of the electronic records, then those complaints
2 would be on that system, yes.

3 Q. If the PR2 system itself was in the 1990s, when was
4 a decision taken to put complaints on to that system?
5 Was that much later?

6 A. I couldn't answer that question, I'm sorry.

7 Q. Could someone maybe give us an answer to that?

8 A. Yes.

9 Q. So that wouldn't necessarily have gone on from day 1 of
10 the PR1. It would depend when the decision was taken to
11 put complaints into the record or into the file?

12 A. Correct.

13 Q. The electronic file?

14 A. That would be my understanding.

15 Q. What about restraint; was that put on to the file and,
16 if so, from the electronic file, from day 1?

17 A. So what I would need to do, Mr Peoples -- and I'm happy
18 to do that, between today and tomorrow and come back to
19 you on this -- is just look at what the iterative
20 process was. So what was introduced in the mid-1990s,
21 when PR2 was first introduced. But, as policies and
22 processes developed, different elements would have been
23 included or added on to the electronic system, depending
24 on what could be either included as part of the record
25 as it appeared electronically and what could then be

1 attached as a separate document. So there are some
2 elements of our case management system, for example,
3 which are attached to the prisoner record system as
4 opposed to embedded within it. There are certain
5 domains which are embedded.

6 Q. You are getting too technical for me.

7 A. I probably am.

8 Q. You understand the general point I'm making?

9 A. Yes.

10 Q. I'm saying there is a electronic system that has existed
11 perhaps since the 1990s or early 1990s?

12 A. Yes.

13 Q. Therefore it's possible at least to in some way input
14 information that's either in that record or can be
15 linked and attached to that record; is that right?

16 A. That's correct, yes.

17 Q. That is what the system can do?

18 A. Yes.

19 Q. It depends on what the instruction is as to what should
20 be inputted in either of these ways?

21 A. Correct.

22 Q. What I'm probably interested in is the particular types
23 of matters relating to that prisoner that would have
24 been put on and from when. If the PR2 system was
25 introduced in the 1990s, for example, in particular

1 complaints, if they were made by them, whatever outcome,
2 restraint, if it was used on them, and perhaps
3 segregation, for example, which would be another. One
4 might say it might be an obvious candidate to be put on
5 the file, so there is a record of how often someone is
6 in solitary, for example. And whether there would be
7 other matters that would be included which might be of
8 relevance to our Inquiry. That is the general point
9 I'm trying to get to.

10 I appreciate, when we look at the appendices, there
11 is information in them that has come, I think, from the
12 PR2 system, but I'm not clear from that just exactly
13 what's come from there and why, and whether there are
14 specific instructions as to "someone should do this".

15 For example, in relation to an alleged complaint of
16 assault, another matter might be -- and it's raised as
17 a systemic weakness -- is whether something was reported
18 to the police?

19 A. Yes.

20 Q. We know when that system -- instruction was given. It
21 was given quite recently, I think. But, presumably,
22 that goes on to the PR2 system that it's been referred
23 to the police, if it's a complaint, or is it?

24 A. So, in general terms, what I think I need to do for the
25 Inquiry, Mr Peoples, is to provide a more comprehensive

1 understanding of PR2 and how it's changed over the
2 period and, therefore, what it contains and what it
3 doesn't contain.

4 With regards to how we capture data about referrals
5 to the police; is this complaints against staff we're
6 talking about?

7 Q. I suppose any complaints. It might be a complaint of
8 assault by a fellow inmate. I don't know how often they
9 make them, personally. I think generally -- as I get
10 the impression from the information you've given us --
11 complaints about assault tend to be picked up by
12 observation, rather than the person coming forward
13 personally to say: my fellow inmate or cellmate
14 assaulted me.

15 It tends to be something that is watched and
16 recorded?

17 A. And so if that has been observed by a member of staff,
18 then that record, in terms of the disciplinary
19 procedures, would be on the individual who was the
20 perpetrator of the violence, and included in that should
21 be a referral to the police, because that is what should
22 happen. But it depends, there are some circumstances
23 where we may refer matters to the police when there
24 hasn't been a witness, but we're aware there has been
25 somebody injured.

1 Q. Should it also go on the file of the complainer?
2 Because there are two parties there.

3 A. Yes. But that's not my understanding of how it would
4 operate. My understanding is it's the perpetrator's
5 file that would be recorded, rather than the individual.

6 Q. In this day and age, I suppose some of us might think
7 that it's good to have data and it's good to have it
8 linked in the right places, so you can see either
9 patterns, or particularly when you have a system to try
10 to make sure -- if I use the colloquial term -- enemies
11 are not put together or associate together, or share
12 a cell together?

13 A. So what we do have, rather than a complaints system,
14 it's our intelligence system, and as part of that -- is
15 termed the keep separate system. So within the
16 intelligence files would be incorporated all the
17 information that staff observe which may be not
18 necessarily raised as a complaint, but observed
19 behaviours that they are concerned about regarding
20 individuals, about relationships, about issues.

21 All that is captured on our intelligence files and
22 those intelligence files can then be used to ensure that
23 people are kept separate or kept safe within the
24 environment of prison.

25 Q. Am I right in thinking that what is described -- there

1 are examples that you have given of intelligence, if
2 I can put it that way, and they are logged in the
3 intelligence electronic system?

4 A. Yes.

5 Q. But am I right in thinking they are not necessarily
6 lodged in the individual files of the people who are the
7 subject of that intelligence, such as two people are
8 involved in a fight?

9 A. If two people are involved in a fight and that is
10 observed, then those -- that will be in the individual
11 files, because there will be a disciplinary process and
12 outcome to that. So that will be within the electronic
13 files, yes.

14 Q. Say there's intelligence that they both come from the
15 same area and have a little bit of bad blood between
16 them when they arrive at the place, and that's in
17 the intelligence system, then even before the fight
18 breaks out; are you saying that information wouldn't
19 find its way into their respective files and be relevant
20 to a cell-sharing risk assessment, for example?

21 A. So what happens is that on admission, as people are
22 undertaking the cell-sharing risk assessment, they'll
23 refer to the intelligence file and they will use that to
24 inform the decision about where somebody needs to be
25 placed for their safety.

1 Q. But the individual's file might not have that
2 information at that time?

3 A. It may not, no. That's correct. It would come from the
4 intelligence files. Not everything from within the
5 intelligence file would necessarily be recorded.

6 Q. I suppose then my question might be: you have to make
7 sure, if you have all these wonderful systems, that they
8 both talk to each other and are accessed at the
9 appropriate time for the appropriate purpose to make
10 sure that you make the maximum use of these great
11 technologies we now have?

12 A. Yes, that's correct. But the keep separate system and
13 our intelligence systems have developed into quite
14 sophisticated systems over a number of years and we
15 take -- gather intelligence from a number of sources,
16 including we have really strong links with Police
17 Scotland and so there is sharing information with Police
18 Scotland as well. So it is well honed and well
19 developed, and it is a source of information staff know
20 they can rely on it.

21 What the intelligence -- so, yeah, whilst it's not
22 necessarily on -- the keep separate part, sorry, will
23 be -- I will need to check it, but I think that's
24 recorded on the individual file. The devil's in the
25 detail, Mr Peoples.

1 Q. For example, if two people should be kept separate, it
2 would make sense in their individual files to say: keep
3 him separate from X and vice versa.

4 You don't just want it lurking in an
5 intelligence system. Because there is a danger, if it's
6 not in an obvious place, that someone will fail to do
7 the exercise of trying to match up. With the best will
8 in the world, I'm not suggesting it's deliberate always,
9 but there is a risk, is there not -- that the more you
10 can internally join up the systems --

11 A. And they do, Mr Peoples. I'm probably not describing it
12 in the best way, because it's not something
13 I've operated, but allow me to go and check that.

14 Q. By all means. I think it would be helpful for us to
15 know in this day and age because historically there
16 wasn't that luxury available to the Prison Service, when
17 they had new admissions, to work out using these aids
18 where people should be put and also, perhaps, there
19 wasn't the same degree of recording anyway of matters of
20 the kind that now go on to the PR2 system?

21 A. Yes, I would agree.

22 Q. Can I ask you finally on that: was there a PR1 system?

23 A. I don't think so. PR2 was the inception and I'm not --

24 Q. PR stands for prisoner record, doesn't it?

25 A. Correct.

1 Q. I just wondered if it's the second version of a system.
2 You can --

3 LADY SMITH: There could have been a pre-SPS system,
4 I suppose, that was PR1, could there?

5 A. Could be.

6 LADY SMITH: Maybe it doesn't matter.

7 MR PEOPLES: I'm trying to get an idea of how things have
8 changed, because we don't have these systems going into
9 the earlier decades at all?

10 A. No, absolutely not.

11 Q. Now we're being told that things improved, we have this
12 system. All I'm exploring is whether it works as well
13 as it can do or whether it could be improved still as
14 well, by asking some of these questions.

15 A. Yes. I understand that.

16 Q. I suppose you can't answer me the question of whatever
17 happened to the Longriggend and Glenochil records, can
18 you?

19 A. I'm afraid I can't, Mr Peoples, no.

20 Q. It seems astonishing that the records don't survive
21 apart from the odd one, does it not? Were you not
22 surprised?

23 A. I genuinely can't explain it.

24 Q. They did have a certain notoriety, did they not, these
25 places, when they were in operation?

1 A. Yes, I would say both had reputations. But, as I say,
2 I wouldn't even like to assume why those records are not
3 available. I've no idea, I'm afraid.

4 LADY SMITH: Could it simply be -- and it would be
5 an ill-informed belief -- that on closure the records
6 wouldn't be needed anymore?

7 A. It could have been, because we had closed previous
8 prisons. So Penninghame, for example, Noranside, they
9 may have followed a similar path.

10 LADY SMITH: Thank you. Mr Peoples.

11 MR PEOPLES: I suppose you gave us one answer. It's not
12 a criticism of you, but one of the answers is that on
13 page 61 of SGV-000085432, there was no standardised
14 process for record retention, so there is a risk that if
15 you don't tell people what they should do in various
16 situations, as to what they should record and preserve
17 or destroy and after what interval, then there's
18 obviously the risk that the situation will arise; is
19 that --

20 A. Yes, absolutely.

21 Q. However unfortunate.

22 A. Yes.

23 Q. Just lastly on record retention, while we're on this: am
24 I right in thinking, having read the report, that when
25 it comes to prisoner files, perhaps with possibly data

1 protection legislation and principles in mind, that
2 there is some, at least currently, recognised process of
3 destruction after an interval of time in relation to
4 certain records?

5 A. In relation to certain records, yes.

6 Q. Can you explain, if you can, in a very short compass
7 what that is? Is it something to do with records being
8 destroyed after five years in certain instances?

9 A. Yes. So it is in relation to data protection, and we
10 follow the guidance that particular parts of records are
11 destroyed. Other parts may well be retained. So, for
12 example, in any legal cases, there are exemptions there,
13 but we would follow the data protection legislation.

14 Q. If I was last in on an SPS establishment more than five
15 years ago; would my record be removed and destroyed?

16 A. Not the full record, no.

17 That wouldn't be the case.

18 Q. There would always be some record of whether I was
19 there, would there?

20 A. Each individual is assigned a prison number and that
21 prison number follows them through their prison journey,
22 whether that's -- they come in and out of custody over
23 a number of years. But that is retained for the
24 duration of the time that we know them.

25 Q. We all have, if we've been in prison, a unique reference

1 number?

2 A. You have.

3 Q. That follows us around?

4 A. Yes, I'm afraid so.

5 LADY SMITH: Just to be clear, they keep that number

6 wherever they go in their journey in and out of prison?

7 A. Yes, they do.

8 LADY SMITH: It's not that they have different numbers for

9 different institutions?

10 A. No, they don't.

11 MR PEOPLES: I suppose, therefore, it's pretty easy to know

12 who's a first offender and who's not then?

13 Or at least who has been in the system before. It's

14 not entirely right what I asked you there, because

15 remand people are not necessarily offenders. If

16 I'm a first timer, if you like, to an SPS establishment,

17 I'll get assigned a number?

18 A. Correct.

19 Q. That number will be mine forever, whether I'm on remand

20 or convicted?

21 A. Yes.

22 Q. If I'm on remand before trial and I'm not convicted;

23 that number is still retained?

24 A. Yes.

25 Q. Even though I don't have any convictions --

1 A. Yes.

2 Q. -- and I was presumed innocent when I was on remand?

3 A. Mm hmm.

4 Q. Do people ever raise concerns about that?

5 A. Not that I'm aware of.

6 Q. I'm just asking. Maybe they don't know about it.

7 A. Possibly not.

8 LADY SMITH: SPS will want to hold the information, quite
9 apart from anything else, in case there is future
10 litigation or challenge of some sort, I would have
11 thought, and they may be criticised if they had got rid
12 of it.

13 MR PEOPLES: I'm conscious of the time. That might be as
14 good a time as any to break.

15 LADY SMITH: Let's pause now for the lunch break and
16 I'll sit again at 2 o'clock.

17 (12.58 pm)

18 (The luncheon adjournment)

19 (2.00 pm)

20 LADY SMITH: Welcome back.

21 MR PEOPLES: Good afternoon, can I return to part B of the
22 report that is SGV-000085423. I think we had reached
23 page 6, at paragraph 4. I had obviously been asking
24 some questions about records.

25 Then if I could just take on paragraph 5, on page 6,

1 is to do more generally with the position about records.
2 It tells us that following the establishment of the SPS
3 as an executive agency in 1993, at arms length from
4 Central Government, it held its records separate from
5 those of Central Government.

6 Just so I'm clear, when it was still a sort of
7 Government department or part of the departmental
8 structure, then the records would really be departmental
9 files that would be kept within the appropriate division
10 or branch that dealt with prisons; is that how it
11 worked?

12 MR RENNICK: I don't know the detail of it, but from the
13 material we prepared, then yes, there would be a --

14 Q. I think, if my memory serves me well, when it comes to
15 electronic recording systems, certainly within Scottish
16 Government; was that something that happened probably
17 around 2003/04, the move to eRDM?

18 A. That sounds right. I would need to check the date, but
19 that sounds right.

20 Q. In the 1990s, we weren't in the era of electronic
21 recording systems within what was the Scottish Office or
22 what became the Scottish Executive and now Scottish
23 Government?

24 A. Certainly, when I started in the government, in 1992, it
25 was all paper files.

1 Q. But the significance of that is explained in
2 paragraph 5, that I think from then on presumably SPS
3 operated its own records system as well as having its
4 own destruction and retention practises which I think
5 you told us this morning seems to have varied because
6 there was no standardised process for that?

7 MS MEDHURST: That is correct.

8 Q. I don't know whether the establishment of the SPS
9 broadly coincides with the creation of PR2, because you
10 did say it was perhaps around the early 1990s. So is it
11 possible that perhaps one of the consequences of this
12 change might have been the creation of some form of
13 system of recording?

14 A. I think it was probably a couple of years after the
15 establishment of the organisation as an executive
16 agency. But certainly it would have flowed from the
17 fact that we were obviously a separate organisation at
18 that time and needed to establish our own records
19 system.

20 Q. I think at some point -- I don't remember if it was 1992
21 or just after Eddie Frizzell came in, did he not, as
22 Chief Executive, who was an outsider, if you like, from
23 a Government background, Central Government background,
24 was he not?

25 A. I think so.

1 MR RENNICK: Yes, he was.

2 MR PEOPLES: I suppose he brought a certain difference to
3 the way things were done. He perhaps introduced ways of
4 working that he was familiar with, including perhaps
5 written policies and some structural changes in the way
6 that the service operated. Certainly, there were
7 changes around then, were there not?

8 MS MEDHURST: There were changes, and clearly he would have
9 had greater autonomy, even though it was an executive
10 agency, both -- because he would have had his own senior
11 leadership team to determine how the organisation would
12 move forward.

13 MR PEOPLES: At paragraph 6, it says that Scottish Ministers
14 recognise that a record of abuse may not have been made
15 or retained because a complaint was withdrawn or abuse
16 was under-reported at the four establishments throughout
17 the period. So these are two possibilities that
18 although -- one might question whether it was wise to
19 get rid of a record of withdrawal of a complaint. But
20 I think you did find later on that, withdrawal of
21 complaints, there is record of these things happening,
22 did you not, in the later period?

23 A. Yes, we did.

24 Q. But was sometimes, was it not, in the context of police
25 involvement and sometimes the prisoner didn't seem to

1 want the matter to become a police matter?

2 A. I think, for a variety of reasons, people withdraw
3 complaints after they've initially made them. One of
4 the reasons may well be because there is police
5 involvement, but I think there are a variety of reasons
6 for that.

7 Q. Yes. Again, there are possibilities. But certainly in
8 some cases where the police were involved there seems to
9 be a record that certain people said: I don't want to
10 pursue it, or take it any further officially, if you
11 like?

12 A. Correct.

13 Q. I think in one case that you've told us about, I don't
14 know whether for belt or braces reasons, they were asked
15 to sign a disclaimer or waiver --

16 A. Yes.

17 Q. -- to say they'd presumably renounced their right to
18 have the matter taken to the police; is that right?

19 A. That is correct.

20 Q. Do you remember an example? I think there was one.

21 A. There was one example of that, but that wasn't
22 necessarily common or standard practice.

23 Q. No. The current position, as I understand it, is that
24 whatever the wishes of the individual, if there is
25 an allegation of criminality, it will go to the police?

1 A. That is correct, yes. If the matter falls within the
2 remit that it would constitute an offence, then the
3 matter will be referred to the police.

4 Q. I suppose even if --

5 LADY SMITH: Can I just ask one thing there, Teresa? Police
6 apart, or the matter amounting potentially to an offence
7 apart, if somebody withdraws a complaint now; do you
8 still keep the record?

9 A. My understanding is we would still keep the record that
10 the complaint has been withdrawn, yes.

11 LADY SMITH: Why?

12 A. It would be -- it would -- the -- there are numbers
13 assigned to the complaints process, so if there is a gap
14 there would need to be a reason for that gap, because
15 it's a sequential number. Therefore, if there are gaps
16 in the process, we wouldn't know why there was a gap.

17 But if a complaint's withdrawn, there's no
18 consequence of that. We would just have a record to say
19 the complaint had been withdrawn.

20 LADY SMITH: Is it possible there may be value in retaining
21 the record of a complaint that's withdrawn because the
22 matter could arise again or the complainer, later, may
23 refer to having made a similar complaint previously,
24 but, as you say, for various reasons at the time
25 withdrew it? That they want to tell you: this is the

1 same thing happening again and I'm complaining now?

2 A. Yes, that's also feasible, my Lady.

3 LADY SMITH: There can be value in holding on to the record

4 of a complaint, even if at the time it was withdrawn?

5 A. Correct.

6 LADY SMITH: Thank you. Mr Peoples.

7 MR PEOPLES: Now, at least, the organisation's position is

8 that all allegations that appear to involve some form of

9 criminal behaviour, assaults, perhaps, as a common

10 example, would be reported or referred to the police --

11 A. That is correct.

12 Q. -- once they've been disclosed to the service or become

13 apparent that there's been an incident that involves

14 potential criminal activity? That is the policy?

15 A. Yes, that's correct.

16 Q. That's the policy even if there is some form of -- is

17 there, in that situation, any form of separate internal

18 investigation at that stage by the service? Or do you

19 leave it to the police?

20 A. So, in the case of those in our care, we can still take

21 that through our disciplinary process. For staff,

22 again, we could still initiate our code of conduct

23 policy.

24 Q. I think in practice sometimes where employers face

25 situations of that kind, that might involve police

1 involvement, the internal disciplinary processes are put
2 on hold, if you like, pending the police investigation
3 and then they may be resurrected if there's no action or
4 if there is action, depending on the nature of the
5 investigation and outcome of the police investigation.

6 But you say that the service itself might make its own
7 investigations at that point, rather than just leave it
8 to the police until they tell you what the outcome is?

9 A. We would initiate the investigation, and we would, in
10 most cases, probably the majority, pause it unless there
11 were very good reasons for continuing it -- but that
12 would be the exception -- until the outcome of the
13 police investigation.

14 At the outcome of the police investigation, then the
15 investigation will proceed regardless of whether or not
16 there is formal action taken by the police.

17 Q. In the situation where the allegation is an allegation
18 of assault by a member of staff on a prisoner; is there
19 any form of initial suspension, non-disciplinary
20 suspension or at least removal from the environment
21 where the alleged assault took place?

22 A. The governor has the ability within the policy to apply
23 management discretion, and that management discretion
24 can either be suspension from duty on full pay or it
25 could be transfer to either another part of the

1 establishment or another establishment.

2 Q. And if we have a situation where there is a report of
3 an assault or complaint made by a prisoner, who says
4 an officer or group of officers assaulted that prisoner,
5 the fact that that person may be the sole person that
6 can speak to the matter and the fact that there might be
7 one or more officers who are said to be involved and may
8 have a different position to take; does that make any
9 difference to the decision as to whether to refer the
10 matter to the police?

11 A. It makes no difference.

12 Q. The only reason I'm asking that is, I suppose, in that
13 situation the police can always see if there is
14 corroboration from other sources, whether interviewing
15 other inmates; did they see something? They could look
16 at CCTV if it's anywhere near the alleged locus of the
17 incident. That isn't something that would prevent the
18 application of this general policy of referral?

19 A. No, it wouldn't. There would also be a medical
20 examination, where somebody alleges that they have been
21 assaulted. There would also be a follow-up medical
22 examination and a record kept of that as well.

23 Q. That's done, presumably, as quickly as possible?

24 A. Yes, as soon as we're aware an allegation has been made.

25 Q. Even if it disclosed no evident sign of injury, despite

1 the nature of the complaint that might suggest
2 otherwise, there would still be a referral to the
3 police?

4 A. Yes.

5 Q. You are not evaluating the evidence or information
6 available at the preliminary stages; you just carry out
7 an exercise that at least maybe produces some sort of
8 relevant evidence to -- that is relevant to the alleged
9 incident, but that's all you do?

10 A. It would be both -- regardless of how many staff and one
11 individual, we would initiate both the disciplinary
12 process and referral to the police.

13 Q. In the case of an alleged assault by one prisoner on
14 another; is there preliminary action taken as a matter
15 of routine, for example some sort of separation that
16 avoids any form of contact between the two parties
17 pending the resolution of the matter by the police?

18 A. We would normally separate the individuals and there
19 would be -- the matter would be referred to the police.
20 But, as part of our internal disciplinary processes,
21 there would be interviews undertaken by the whole staff
22 and the first-line manager and assessment made as to
23 what the safest options were for the individuals, either
24 movement of one or both, depending on the circumstances,
25 and the severity of the assault that's taken place.

1 Q. Would anyone be put on report at that stage?

2 A. Yes.

3 Q. Would there be any adjudication in the orderly room by

4 the governor, even if the matter was a police matter?

5 A. We can proceed without the matter being concluded by the

6 police, but the disciplinary process can also be

7 adjourned until the outcome of the police, in the same

8 way as the discipline process for staff.

9 Q. I suppose in the example given, if there's some incident

10 involving two prisoners, then your other mechanisms will

11 kick in as well, like the keep separate processes and

12 things, they'll be recording --

13 A. Yes.

14 Q. -- to use the common parlance -- their enemies,

15 perhaps?

16 A. Yes. We would assess -- it would depend on the nature

17 of the disagreement or fallout that's resulted in either

18 the assault or fight occurring, and whether or not in

19 actual fact they are friends and it's just been a minor

20 blip in their relationship, if you like.

21 An assessment would be made and that would be -- the

22 outcome would be determined at the time by the staff on

23 the ground.

24 Q. I might come back to that at some point.

25 If we go back to part B, on page 6, it is said that

1 complaints could be withdrawn, there may be abuse that's
2 been under-reported and I think that's something that
3 you see in the evidence you've looked at in the records,
4 that you think it's likely that there's a degree of
5 underreporting, particularly of prisoner-on-prisoner
6 assaults because there is perhaps what's familiarly
7 known as "we do not grass", the prison norm that's
8 a familiar one, that people will not necessarily come
9 forward and complain, or use the complaints process?

10 A. That can be the case, yes.

11 Q. I suppose if we just take a hypothetical example,
12 suppose a group of officers gave an inmate a beating in
13 his cell, it's unlikely that would be recorded, unless
14 the prisoner made a complaint or officers not involved
15 in the incident saw it happening and were prepared to
16 report an incident involving their colleagues?

17 A. Yes. Although there may be -- if there are several
18 officers, then obviously the individual may well be
19 injured. There will be CCTV in the hall area, so not in
20 the individual cells, so you would be able to watch how
21 people were entering the cell, how they were leaving the
22 cell. So all that would give some degree of context.

23 LADY SMITH: Do they have body-worn cameras?

24 A. In public sector prisons, we don't have body-worn
25 cameras at the moment, my Lady. We are considering --

1 not considering. We are developing a pilot scheme that
2 we are in discussion with our trade union side about at
3 the moment.

4 LADY SMITH: Thank you.

5 MR PEOPLES: There is a recent article that I'm sure you're
6 familiar with, this week, about the transfer of
7 Kilmarnock private prison to the public sector next
8 year. I think there was an article about how they'd
9 offered body cameras to the service, and that their
10 offer seems to have been declined and they were going to
11 be sent south to the establishments they run down there.

12 You might think that was a reasonable gesture, to
13 ask you, to say: well, we use them here; would you like
14 to take them over?

15 Are you saying because of the policy that offer was
16 declined or were there other reasons?

17 I don't need to know the reasons, if there were, but
18 I'm just curious. I think CPT seem to favour body-worn
19 cameras?

20 A. I think probably technology has moved on and, therefore,
21 our pilot will look at something that's probably a bit
22 more modern and up-to-date.

23 Q. It might be nothing to do with the principle of using
24 them?

25 A. No.

1 Q. As I say, I think we heard evidence from Dr Mitchell
2 that the CPT have thought that's a good idea and perhaps
3 to have them switched on at all -- certainly at certain
4 times, particularly perhaps when someone enters a cell,
5 if there is no CCTV there.

6 A. My understanding is that practise is variable and that's
7 why we want to pilot it for ourselves, but with more
8 modern technology and determine, obviously, how best to
9 deploy it to keep people safe.

10 Q. If I was one of a group of officers that were minded to
11 give an inmate a beating, and I was aware there was CCTV
12 footage in the hall, I suppose the obvious place for me
13 to go with my colleagues is into the cell and do it
14 there, is it not?

15 A. Cells are private areas for the individuals who are
16 living in them at that time, which is why we have not
17 stepped into introducing anything within the cells.

18 I also would suggest that the culture, the
19 relationships, are really important and certainly from
20 practises in the past to where we are now, both the
21 complexity of our population and the need to provide
22 a safe environment for everybody would suggest that
23 body-worn cameras would be beneficial.

24 Q. I can see the advantage, particularly if you have a good
25 reason to go into a cell, accompanied or unaccompanied,

1 then if you have a camera switched on it would be for
2 your own protection against any accusation if you did
3 nothing wrong, and perhaps the person in there could
4 say: well, my Article 8 rights aren't violated there
5 because there is a reason to have it, but it's not there
6 all the time watching over me, in my private space.

7 I suppose both interests are catered for in that
8 situation, are they not?

9 A. It's about creating as safe an environment as we
10 possibly can.

11 Q. Do you have any feedback in the various surveys from --
12 or are you going to take them from prisoners as to their
13 feelings on the use of body cameras?

14 A. Absolutely. That will form part of the assessment, as
15 in everything we do now. We try to get the -- I'm not
16 sure how many people would accept this term, but "use a
17 voice", those with lived experience, to help inform how
18 we operate the new processes and systems and this would
19 be something new, from a public sector perspective.

20 Q. It won't have escaped your notice, if you are aware of
21 the applicants' statements, on some occasions the
22 accusation is that a group of officers have taken the
23 law into their own hands for whatever reason and gone
24 into a cell and administered some form of beating;
25 you'll be aware that there are statements to that

1 effect?

2 A. Absolutely.

3 Q. I suppose you are not naive enough to think these things
4 have never happened?

5 A. They clearly happened in the past. I completely accept
6 the applicants' statements. It was wrong and it
7 shouldn't have happened.

8 Q. You did look at the evidence in the records of
9 allegations against officers. I think principally you
10 have found some evidence, but not a lot of complaints
11 are officially recorded, of complaints against staff.
12 We can look at those in the specific incidents at some
13 point.

14 Going further back, when you looked at the older
15 records; did you find any occasion in the records of
16 a situation where there's an allegation against
17 an officer which has been reported by another officer?

18 A. I don't think we did come across anything of that
19 nature, no. Going back in the records, you are talking
20 about --

21 Q. Just harking back to my scenario that even if someone
22 saw three of their colleagues, or even one of them,
23 beating someone up, wherever that happened, then
24 I suppose it was maybe their duty, perhaps even under
25 the prison rules, to report that, but all I'm asking is:

1 you haven't found any evidence of someone doing that?

2 A. Not in years gone --

3 Q. Gone by.

4 A. No, no, we haven't.

5 Q. Even in the more modern examples; did you find any

6 evidence of someone reporting a colleague?

7 I know people have observed assaults and reported

8 them, assaults by perhaps inmates on inmates, but what

9 about alleged assaults by a member of staff on

10 an inmate; were these reported by officers?

11 A. Yes. I think there have been occasions. Not many, but

12 there have been occasions where that has happened.

13 Q. Just in terms of this whistleblowing policy that's now

14 been introduced from 2004 --

15 A. 2014.

16 Q. Sorry, 2014.

17 A. I think so.

18 Q. Has there been a high uptake on that, that people will

19 whistleblow on colleagues, particularly about the way

20 they treat prisoners?

21 A. Not significantly, but it's there and people have used

22 it. We tend -- not necessarily through the

23 whistleblowing policy, but we also get anonymous emails

24 being sent in, which we will obviously fully consider as

25 part of our approach to trying to improve our practice

1 and ensure that we follow-up complaints as best we can.

2 Q. There are examples where people anonymously disclose

3 things that concern them?

4 A. Yes.

5 Q. And some of these come from people who, although are

6 anonymous, appear to be serving officers; you'll be

7 aware of cases like that?

8 A. I'm aware of a case like that.

9 Q. You are aware of a case, certainly?

10 A. Yes, yes, yes. So, yes, that does -- and it has --

11 Q. Are these are not common?

12 A. Sorry?

13 Q. These types of anonymous emails, they're not that

14 common, even today, that people will say: I'm concerned,

15 I've seen this. I don't want to tell you who I am,

16 but --

17 A. No, I would agree, it's not common.

18 Q. It might be quite difficult if you have to spell out

19 what you saw in a particular environment, even if you do

20 it anonymously, to remain anonymous, in a sense, to

21 those that are accused?

22 A. So I think what I would say to that is: whilst there

23 aren't many, the culture of the organisation has changed

24 quite significantly over -- certainly over the number of

25 years that I've been in the service and, in particular,

1 our understanding of the care and the complexity and the
2 vulnerability of people who come into our care has
3 changed considerably, as the greater body of research
4 evidence, but also our policies and practises have
5 changed.

6 Trying to -- what we're moving to is to create
7 a culture whereby people feel more open and more
8 responsive to any kind of criticism or feedback about
9 their performance and better understanding as well in
10 their interaction and relationships with those in their
11 care, how their behaviours can affect the way the
12 individual responds towards them.

13 It is about creating an environment where people
14 understand, in their professional role, there are ways
15 they perform that can impact on those in their care, and
16 that they can improve their practice by being open to
17 that feedback and learning.

18 Q. I understand all of that and I get the idea of what's
19 behind it, and no doubt lots of people who receive that
20 advice in the service will understand it. But,
21 ultimately, if it's not just a case of, "I don't think
22 this is particularly good practice, it's an actual
23 direct allegation. This person treats an inmate in
24 a way that they shouldn't", not just a bad practice,
25 that's a more difficult situation for someone to speak

1 up in an institution.

2 It's not just the Prison Service that that arises.
3 You'll be well aware, in other organisations, speaking
4 up seems to leave a perception on the part of the
5 whistleblower that it has adversely affected them, as
6 much as anyone else?

7 A. Yes. That has happened in the SPS as well. I am aware
8 of that. But, as I say, creating a culture whereby
9 we're much more open and honest is where we want to be,
10 and helping people improve their practice and reflect on
11 their relationships, their behaviours, their values and
12 how that impacts on others, and to be open with their
13 colleagues as well. But I appreciate and understand
14 what you're saying, Mr Peoples. In large organisations
15 that is difficult.

16 Q. I suppose, to some extent, old habits and -- are
17 a generational thing, there is an old guard that was in
18 the service, I suppose that time marches on for
19 everyone, and I suppose if you get a new generation who
20 come up in a different environment, with a different
21 form of instruction, the hope is -- and I just say
22 "hope" -- that the culture and the attitudes change;
23 I presume that's part of your hope?

24 A. It's also part of our practice, Mr Peoples, in terms of
25 how we recruit now. It's much -- it's focused on

1 values, rather than either just questions of experience
2 or on behaviours. It is very much value-based in order
3 to better understand not just what people's experience
4 tells us about them, but also why they have made
5 particular decisions in particular ways when they've
6 been confronted with different -- either confrontation
7 or trying to build and maintain relationships; how do
8 you do that? So what is it that drives that individual
9 to act in the way that they do in order to achieve
10 an outcome?

11 That's the kind of shift that we're trying to make
12 as an organisation.

13 Q. I don't suppose you've come across, because of the lack
14 of records, a job description for a prison officer in
15 the 1950s or 1960s or 1970s and compared it with how you
16 describe the job now? You have not had that benefit of
17 comparison, have you?

18 A. I'm trying to think back to anything I might have seen
19 previously. But, no, I can't think of anything.

20 Q. In other contexts, we have seen adverts for staff going
21 a bit further back, about the sort of person they were
22 looking for and the sort of characteristics and
23 attributes they wanted, and they often were on the
24 control and discipline side of things, rather than the
25 care and compassion end of the spectrum. I'm not saying

1 in prison. I think we have seen it --

2 LADY SMITH: In other places.

3 MR PEOPLES: -- in other settings, where the job advert,
4 they were looking for certain people. And also certain
5 people from certain backgrounds. It was quite common to
6 look -- and I think the Prison Service was the same --
7 they often recruited through former military; is that
8 right?

9 A. Certainly, in my experience, from joining the service in
10 the mid-1980s, when the recruitment processes -- the
11 recruits came to Edinburgh prison at that time and there
12 were a lot of ex-military individuals. We were
13 a disciplined service, uniformed, so therefore it would
14 be attractive.

15 LADY SMITH: Teresa, you talk about SPS creating a culture
16 whereby you are much more open and honest and helping
17 people improve their practises and reflect on their
18 relationships, behaviours, values and the impact they
19 have on others.

20 What are you doing to try to achieve that?

21 A. So the -- we are shifting the dial, if you like, by
22 focusing initially on the young people's strategy and
23 the women's strategy. And in Stirling in particular we
24 are moving to a model where there will be supervision
25 and reflective practice embedded within Stirling as it

1 moves forward.

2 LADY SMITH: Pause there. Supervision of members of staff;
3 is that right?

4 A. Professional supervision, in the way you would get in
5 social work and other professions.

6 LADY SMITH: And reflective practice; how often?

7 A. It's not actually in place as yet. That's been signed
8 off and agreed and that's what we're moving to. But
9 a lot of the new policies -- so, for example, in the
10 development -- and I know Sue Brookes talked about
11 this -- of the C&R phase 2, part of the pilot has been
12 about reflection, so talking to both the young person
13 and the member of staff after a restraint -- members of
14 staff, after a restraint, to better understand what has
15 happened and to offer periods of reflection even beyond
16 that initial aftermath of the incident, if you like.

17 Through our senior leaders, a lot of the training
18 that we're providing for them now includes reflective
19 practice, and the senior leaders in particular are being
20 encouraged to move -- it's not SPS-based training, it's
21 training that's available to senior leaders not just in
22 Scotland, but across the UK, where there is a lot more
23 about professional practice and about reflection on your
24 performance.

25 LADY SMITH: You were mentioning recruitment and going for

1 a values-based approach; what does that mean in
2 practice, as compared to what you used to do?
3 A. Previously on the behavioural competencies, you are
4 basically asking someone for an example of when they
5 were assertive or influential. In terms of the
6 questions that are being posed by the interviewers, it
7 focuses much more on the why and the how they -- what
8 was it that led them to behave in that way? So it is
9 more reflective and getting a better understanding of
10 values. Because, clearly, a lot of the research and
11 evidence tells you that values are not something you
12 train people for. Therefore, if you can select people
13 with the values that reflect the values of the
14 organisation, then the training that you add on to that
15 will help them drive the culture in the way that you
16 want it to --

17 LADY SMITH: Thank you. Mr Peoples.

18 MR PEOPLES: You are trying to get the values of the
19 individual not by simply saying, "Give me an example of
20 a situation", but try to tease out why they behaved in
21 the way that they did. Perhaps by giving them a few
22 examples you can put it together and say: I don't really
23 like the reasons that caused them to act as they did,
24 although what they did on the face of it might have
25 seemed okay; is that --

1 A. You are still looking for the right behaviours as well
2 as the right values. But one of the exercises is
3 probably a better way of exemplifying it for the staff
4 who are coming in as residential officers, so working
5 directly in relationships with those in our care. There
6 is a group exercise which is, kind of, you are in a cave
7 and you can only save so many people and there are
8 people with many different characteristics and, as
9 a group, they have to work through who they would save
10 first and why.

11 Q. Are there officers in this group?

12 A. I don't --

13 Q. In the example given. That might test the value of --
14 the relative value of the officer and the prisoner. If
15 they're on a trip in a cave and they get trapped and
16 there's only so much oxygen or one is smaller than the
17 other. It sounds like one of these well-known
18 situations you get in a law school, when people run out
19 of food on a ship.

20 But that's the sort of example. You would be trying
21 to see how they would react and how they would justify
22 the actions they took and why they felt it was the right
23 decision to take?

24 A. Exactly, yes.

25 Q. Who evaluates the answers? Is it independently

1 evaluated by some experts in this sort of technique?

2 A. No, we train assessors and we have HR professionals who

3 also form part of the panels and they're trained to

4 evaluate what they are observing, as well as the

5 responses they see being given.

6 Q. How long would this kind of approach -- how much time is

7 spent as an aspect of the recruitment process in this

8 sort of method of assessment?

9 A. We start off with an application. There is -- there are

10 cognitive ability tests, which are verbal and numerical

11 reasoning. And for operation staff, they move straight

12 into an interview; for residential staff, they do this

13 group exercise with a written reflective exercise as

14 well. So that's the basis of the assessment.

15 Q. I think a number of people, including Sue Brookes, have

16 said that one of the key components in a successful and

17 safe environment are relationships between staff and

18 inmates and prisoners; what do you call them these days,

19 sorry? I should best get the correct term.

20 A. We refer to them as "those in our care". We refer to

21 them as "those in custody".

22 Q. Not prisoners?

23 A. Occasionally, we might say prisoners, but not often.

24 Q. Inmates?

25 A. No, never.

1 Q. That has gone now?

2 A. Definitely.

3 Q. In terms of that aspect of what you want from a good
4 officer, if they want them to be able to have the
5 ability to gain trust, build relationships and be people
6 that a person in custody would trust and confide in, if
7 necessary, or complain to, if they felt appropriate, or
8 say something; how in terms of the interview process
9 you've described is that characteristic or quality
10 assessed? Is there a particular way of doing that?

11 You talked about values. Not everyone has values
12 that will work in an environment has the skills to build
13 relationships with people who are, to an extent,
14 sometimes strangers. They've led a rather dysfunctional
15 life in a lot of cases. They're very vulnerable,
16 damaged and display difficult behaviour, all these
17 things, complex needs.

18 How, in this kind of process, do you manage to
19 identify people that have these skills and what tests
20 are done? Is there a form of testing of that?

21 A. I'm not an HR professional, but both the interview
22 process and the other elements for residential officers
23 are based on the organisation's values and the responses
24 in terms of the outcomes, if you like, are based around
25 behavioural competencies.

1 So particular behaviours that we would be interested
2 in are things like influencing behaviours,
3 assertiveness. It would be about building and
4 maintaining relationships. It would be about conflict
5 resolution. So all the things that we know and
6 understand prison officers require as part of their
7 day-to-day duty. We would assess those responses
8 against standards that we have in terms of what is good
9 evidence and what isn't --

10 Q. It sounds fine in theory, but if you haven't put them
11 into the heat of battle or into the reality of the
12 situation, and you've simply tested them in
13 a hypothetical way; how confident can you be that you
14 get the right person for the job that they have to do?

15 It's a difficult job, clearly, and you obviously
16 want to try to get the right person for that job.
17 I'm just probing how -- it sounds great what you're
18 saying, but I'm just wondering how in reality that is
19 done in the context of maybe a limited opportunity to
20 test these things by some kind of method that's
21 currently in vogue.

22 Are they even given a situation where, before
23 they're even taken on, they go and see a group of people
24 who are in prison and see how they engage with them? Do
25 they do that, for example?

1 A. We have had a range of methods that we've used over
2 a number of years to attract applicants in -- and I did
3 forget one part of the assessment process, which
4 I'll come on to -- including the visits to -- if
5 somebody particularly would like a visit to prison, then
6 we'll arrange that. There have been occasions, though,
7 where we -- and we do get people who are in the first
8 week of service, two or three days in, and say: this
9 isn't for me.

10 It doesn't always suit everybody, but there are
11 limitations to what we can expose people to in terms of
12 experience, just because of the nature of the work that
13 we do.

14 Q. I was thinking more before you give them the job, that
15 you say: well, let's just take you there. First of all,
16 to see the environment, because you may never have had
17 a similar experience of this type of environment;
18 secondly, we'll take you to meet some of the people that
19 you will work with, if you get the job and see how that
20 all -- how you get on and how the people that you see,
21 what they think of you.

22 That's not just a probationary period or giving you
23 a chance to say that you can decide it's not for you and
24 leave. This is before you even get taken on. That's
25 what I'm asking.

1 A. I think because of the range of jobs that people are
2 asked to do, the type of environment that we operate in,
3 on a visit, you get very limited exposure to what the
4 job really entails. It's only by actually experiencing
5 it on the ground, if you like, that you get that
6 appreciation of what it's going to be like. There are
7 some elements of the roles that people like better than
8 others.

9 In general terms, we don't find that we lose a huge
10 amount of people and that it's -- there are some people
11 who are -- who do fail during the probationary period,
12 but it's not in significant numbers.

13 Q. You don't have a high dropout rate?

14 A. We don't. It's usually within the first week.

15 Q. Also, if it's a probationary period now of one year,
16 from the point of view of the service assessing the
17 suitability of the person for the role they've been
18 given; how many people, in your experience, get rejected
19 at the end of that period? Anyone?

20 A. Yes.

21 Q. They do?

22 A. Yes. No, they do.

23 Q. Is it common?

24 A. It's not common. It will be small percentages. But, on
25 every -- on probably the most courses, either because

1 people fail to meet the -- there are four elements of
2 the training, where they need to meet SQA standards. If
3 they don't meet those standards, they can't pass their
4 probation. So, for those reasons, they would be -- the
5 probation would be terminated, or the employment would
6 be terminated.

7 In addition, there are occasions when people's
8 behaviours, even during that initial period of a year,
9 are found to be unacceptable and, again, their probation
10 would be terminated.

11 Q. Who is it that's monitoring their behaviour in the
12 halls, for example, as a probationer officer? Who does
13 the assessments and who makes these reports of
14 unsuitability that then may lead to the job not being
15 continued after the probationary period? Who is it
16 that's doing that?

17 A. They're assigned to a first-line manager, who will
18 provide the probationary reports and the assessment of
19 their suitability to role. If there are issues and
20 concerns during that period, we might involve the
21 training manager and the HR manager as well. But it
22 would certainly be the first-line manager and there is
23 an opportunity for the individual to appeal prior to
24 that decision being finalised.

25 Could I include one other element?

1 Q. Yes. You wanted to add something about assessment.
2 Please do.

3 A. Thank you. What I should have said as well is: as part
4 of the overall assessment process prior to employment,
5 we would also undergo an integrity interview. So that's
6 a one-to-one interview with anybody who gets through
7 that initial assessment process, just to have
8 a conversation with them to identify whether there are
9 any other areas of concern, and that may also involve
10 linking in with our public protection unit around any
11 information that they may have as well.

12 LADY SMITH: Teresa, a couple of other things occurred to
13 me. I don't think you have expressly touched on them.
14 Are you looking for empathy as a fundamental skill or
15 not?

16 A. Yes.

17 LADY SMITH: How do you do that?

18 A. It's very difficult. It is through the values element
19 of the questions and trying to understand whether or
20 not, in the responses that we're being provided with,
21 you can see where -- for example, if somebody has been
22 dealing with a complaint from somebody else; how have
23 they responded to that complaint? What drove them to
24 respond in the way that they did? Actually, did they
25 see the complaint from the individual's perspective or

1 just from their own? There are various ways the panel
2 can test that out.

3 LADY SMITH: That's absolutely fundamental, isn't it?

4 A. Yes.

5 LADY SMITH: Do they have the ability to stand in the shoes
6 of the prisoner, the young person?

7 A. Yes.

8 LADY SMITH: The other matter that occurred to me is to find
9 out whether you have systems for practising
10 trauma-informed working? Applying the fundamental five
11 principles of trauma-informed working, choice,
12 collaboration, trust, respect, safety and so on, or not?

13 A. Can you ask that question again?

14 LADY SMITH: Does this mean anything to you: trauma-informed
15 work?

16 A. Yes, it does, absolutely.

17 LADY SMITH: Fundamental to trauma-informed working is to
18 help people learn how to work with others who are likely
19 to have trauma in their background, in a way that gives
20 as much choice as possible. I know that's difficult in
21 a secure setting, but it's not impossible. Collaborate
22 where it's possible, so engage with the prisoner to try
23 to achieve a mutually agreed outcome. Build trust and
24 keep the trust. Always show respect, because you might
25 have a chance of getting their respect, hard as it might

1 be, but you might have a chance of teaching them how to
2 respect people who are doing a job that they have to do.
3 And an overall, overarching environment that's a safe
4 environment that makes people feel they're safe.

5 Is that done specifically or are you hoping somehow
6 these principles and practises will find their way
7 through the teaching that you are doing?

8 A. From a trauma-informed perspective, we are at the early
9 stages of our journey. I think my colleague,
10 Sue Brookes, touched on our overarching approach to
11 that.

12 With regards to specific elements of at the trauma
13 that you've described around collaboration, trust,
14 et cetera, those have formed part of our values, if you
15 like, and our approach. Probably since -- explicitly
16 since the organisational review, which was published
17 around 2013, that was when it became much more explicit
18 in the values and we were much more aligned to the
19 trauma-informed approach.

20 As an organisation, we have been developing policy
21 and practice to reflect those, but not in that coherent,
22 overarching umbrella around trauma -- being
23 a trauma-informed organisation. That's something that
24 we're embarking on now.

25 LADY SMITH: Okay. Thank you.

1 MR RENNICK: My Lady, if I can come in?

2 LADY SMITH: Yes.

3 MR RENNICK: Obviously, trauma-informed practice is
4 something the Scottish Ministers are aiming to promote
5 more widely across the public sector workforce as
6 a whole.

7 We published the Trauma-informed Practice Tool Kit,
8 or NHS Education Scotland published that in 2021. We
9 have obviously been working within the justice system in
10 terms of developing a specific toolkit for people
11 working within the justice system, starting with the
12 toolkit for victims and witnesses. But, when we
13 launched that earlier this year, Sue and colleagues from
14 the Prison Service were there and emphasising links with
15 the wider work that the Prison Service --

16 LADY SMITH: Can I take from your answers that you both
17 recognise the value such an approach may well have for
18 SPS and the work it has to do?

19 MS MEDHURST: I think it's critical to the work we're doing.
20 Thank you.

21 MR RENNICK: My understanding is it's embedded, for example,
22 in the work of the new female custodial estate, but is
23 not exclusive to that in terms of the potential.

24 LADY SMITH: Thank you.

25 MR PEOPLES: I think in fact the former Deputy First

1 Minister, when he gave evidence to this Inquiry in
2 person during the Scottish Government case study,
3 explained that he was getting involved in a wider
4 trauma-informed scheme because there had been some
5 issues in relation to some civil servants and their
6 dealings with survivors in the context of a campaign for
7 an inquiry. So I do remember that being said, and
8 I think he felt there was a need there, because I think
9 that obviously on the face of it -- and I don't want to
10 get into the detail -- that there is always a danger if
11 you are dealing with people who have had traumatic
12 experiences that you don't understand their background
13 or the reason for their behaviour and you simply look at
14 the behaviour and don't have the understanding of why
15 that behaviour is being exhibited.

16 MR RENNICK: Yes. I've certainly undertaken the
17 trauma-informed leadership training. Ministers have
18 undertaken -- or the Cabinet Secretary for Justice, and
19 previous Cabinet Secretary for Justice undertook it, and
20 staff within my directorate, who engage directly with
21 victims, which is relatively rare, but when they are
22 possibly meeting Ministers for example, they've had
23 training as well.

24 Q. I think in terms of the -- well, you have mentioned the
25 development of the management of women and that was

1 preceded by quite a bit of research into the underlying
2 reasons why women offend and why they find themselves in
3 custodial environments and perhaps their needs and the
4 responses to their needs have to be considered to be
5 different from adult males who are in the prison system?

6 MS MEDHURST: Yes, absolutely. Although, I do think some of
7 the approaches that we will take with women will be also
8 applicable to the adult male population and we'll learn
9 from that.

10 MR PEOPLES: Yes, because I think we'll discover that rather
11 than taking a one-size-fits-all approach to management,
12 in more recent times there has been a more bespoke
13 approach to management and indeed to introduce bespoke
14 policies for particular groups, like the young in
15 custody, women in custody, as two examples.

16 A. Yes, that is correct.

17 Q. Although there is still a lot of work to be done for
18 young males in custody and indeed adult males in
19 custody. By that I don't just mean young people under
20 18. I think Sue Brookes said it applied to people who
21 are perhaps between the ages of 18 and 25 even, or 26?
22 I think that was her evidence, if I remember.

23 A. Yes. I think a lot of the research and evidence around
24 brain trauma and experience of people when they are
25 younger is certainly helping us better understand the

1 needs of adult males and young people between the ages
2 of 18 to 25/26 -- are areas we need to focus on.

3 LADY SMITH: As I understand it, even without trauma,
4 up-to-date studies are showing, particularly in the
5 young male, you cannot expect full brain maturity until
6 around age 25. That is why some of them make dreadful
7 decisions before then and don't behave the way they
8 would ten years later.

9 Mr Peoples.

10 MR PEOPLES: If I can move back to part B, we were looking
11 at paragraph 6, on page 6.

12 If I can move on to page 7, and this really starts
13 to look at another part of the report, part D, because
14 this is an attempt to put some kind of -- find some sort
15 of -- make some sort of assessment of scale and extent
16 of abuse having occurred in the four establishments
17 within what is said to be the relevant period, which I
18 think in this case was 1995 to 2014, for the purposes of
19 this exercise.

20 Can I just say, because I probably didn't help you
21 this morning about the cohort group of 8,000, but I can
22 now confirm that there were people who were selected on
23 the basis of their age on admission and, therefore, they
24 fell within the group of young people under 18, as
25 opposed to young people between the ages of 16 and 21.

1 So perhaps I should have noted that earlier. So you
2 don't need to worry about answering that question. It
3 does appear the purpose was to find people that fitted
4 into that age range when this exercise was done.

5 If we go to part B, at page 7, what is said is that
6 the Scottish Ministers have made an assessment about
7 scale, certainly for this period, based on various
8 records relating to the relevant periods, supplemented
9 by what is termed an analytical report prepared by the
10 Scottish Government's Justice Analytical Services, which
11 is referred to in short as the JAS Report.

12 Then it goes on to summarise the key findings.
13 I'm not planning to take you to the report just now and
14 I may not do at all, but I'll give the reference of the
15 report itself, just in case there's need. The report
16 reference is SGV-000085431 and that's -- if I can call
17 it the sampling analysis report, if I could, for short.

18 I'm not going to get into all the detail or the
19 methodology, but I think we find in part B, do we not,
20 some summary of the key findings? Perhaps we can just
21 look at that just now.

22 LADY SMITH: Part B or D?

23 MR PEOPLES: B. Page 7. It is also dealt with at more
24 depth in part D, but I'll not go there just at the
25 moment.

1 If I can start with B.

2 LADY SMITH: You mean part B of the overall Section 21
3 responses?

4 MR PEOPLES: Yes. So we are back at SGV-000085423, at
5 page 7. We're at paragraph 9, on page 7, which is to
6 look at the generalised findings as to the prevalence of
7 abuse across the four establishments in the period 1995
8 to 2014.

9 I think the headline finding is that the result of
10 the analysis exercise was a finding that between
11 16.8 per cent and 21.3 per cent of the 8,178 children in
12 custody in the four establishments, over the period 1995
13 to 2014, experience one or more incidence of abuse.
14 That translated into between 1,370 and 1,750 children.

15 Putting that crudely, that's basically one in five
16 or one in six of the children who were in custody in
17 that period, so it's quite a significant percentage or
18 number.

19 MS MEDHURST: Yes.

20 Q. It says that of these children most experienced one
21 recorded incident of abuse, but some experienced two or
22 more than two, and it can be further estimated, it says
23 in the report, that these children are likely to have
24 experienced between 1,940 and 2,700 incidents of abuse.
25 That is abuse in a variety of ways, and I think there is

1 greater breakdown in part D of that analysis.

2 This exercise did involve a sample of the 8,478
3 children; I think that that sample was a random sample
4 taken from the records?

5 A. That's correct.

6 Q. Of the random sample, those that seem to have been
7 involved in one or more incidents of abuse were
8 identified from the sample and then there were various
9 extrapolations about what one would conclude?

10 A. Yes.

11 Q. That is the basic idea behind this exercise?

12 A. Yes, it is.

13 LADY SMITH: Mr Peoples, it's just after three. I will take
14 a short break at this time and we'll carry on the
15 subject after that.

16 (3.01 pm)

17 (A short break)

18 (3.14 pm)

19 LADY SMITH: Neil, Teresa, are you ready for us to carry on?

20 MS MEDHURST: Yes, thank you.

21 LADY SMITH: Thank you very much. Mr Peoples.

22 MR PEOPLES: My Lady.

23 Before the break, we were looking at part B, at
24 SGV-000085423, at page 7, the analytical sampling
25 analysis report. We had looked at section 9 and the key

1 finding of how many children in the cohort, or the
2 sample group, had experienced one or more incidents of
3 abuse. Just to be clear, the total number of children
4 were 8,178 or thereabouts.

5 MS MEDHURST: Yes.

6 Q. From that group, there was a random sample taken of
7 1,533 children. I think there was some selection, in
8 terms of the sample, about the length of time they had
9 been in, so they could get a reliable form of analysis,
10 but otherwise it was random.

11 I think what happened, if I understand the very
12 brief outline, of the 1,533 children in the sample, 427
13 incidents of abuse were identified, that were suffered
14 by 263 children within the sample group.

15 A. Yes.

16 Q. I think that is the way it was?

17 A. Yes.

18 Q. From that they were able to -- by the ways explained in
19 detail in the report, they came to the findings that are
20 set out or summarised here. I'm not planning to go
21 through the detail, but no doubt for those that are
22 interested in statistics and methodology, it's all there
23 to be read, if they wish to do so.

24 I think I'm right in saying that none of the
25 children or the specific incidents led to a complaint

1 being made through the formal complaints procedure.

2 I think that was what the report said, if I recall. So
3 whatever the -- this goes back to a point we made
4 earlier about use of the procedure?

5 A. Yes.

6 Q. It doesn't appear all those the incidents found their
7 way into the records, often because someone observed
8 something, that they didn't necessarily emerge through
9 the complaints procedure as such, which might say
10 something about, at least, an apparent reluctance to use
11 the procedure, the formal procedures, even in recent
12 times for whatever reason.

13 I know some were complaints of assaults by other
14 persons, young persons in custody, so that is one
15 explanation, if we apply these prisoner norms, if you
16 like. But it does suggest that the complaints process
17 wasn't heavily utilised, if the sample is anything to go
18 by?

19 A. I think probably a couple of things. One is it's
20 certainly not being used, the complaints process, for
21 these types of incidents that we're looking at in
22 relation to abuse, and there is evidence, clearly,
23 historically that the complaints process has not been
24 used to its full effect. There have been improvements
25 made over more recent times.

1 I think as well, though, that our understanding of
2 what constitutes abuse has probably changed over that
3 time period as well. And certainly for those
4 individuals who may have been affected, again, that may
5 also have equally applied to the degree with which they
6 were prepared to raise a complaint.

7 LADY SMITH: We have to recognise also that some of the
8 examples identified in the analysis are 21st century
9 incidents, but the complaints procedure hasn't been
10 used.

11 A. Yes.

12 LADY SMITH: Mr Peoples.

13 MR PEOPLES: I might come back to that. Probably not today,
14 but I might come back to the report, if we look at part
15 D again.

16 In relation to the general findings, the other main
17 point that came out of this exercise for that period, at
18 paragraph 10, page 7, in part B, is that it's estimated
19 in the report that 83 to 91 per cent of the recorded
20 abuse incidents in the period from 1995 to 2014 related
21 to physical abuse.

22 The incidents that have been recorded and identified
23 in the sample files are predominantly involving physical
24 abuse and predominantly by young people and other young
25 people --

1 A. Yes.

2 Q. -- as it turns out. They maybe take the form of either
3 they're described in the reports, perhaps without
4 sufficient elaboration at times, as assaults or
5 fighting. There is some degree of specification, but
6 not necessarily perhaps as much as one would hope if you
7 wanted to get a fuller picture of the background?

8 A. Yes.

9 Q. I think in particular where it's assaults, alleged
10 assaults between young people, in many cases there
11 doesn't seem to have been much attempt to record the
12 underlying reasons for the assault.

13 There are sometimes, like, say, a long-standing feud
14 or some other intelligence, as you mentioned it, but we
15 don't get a lot of that in the samples shown. It
16 doesn't tell you a lot about the background to it.

17 A. No. Unfortunately, there are still occasions where we
18 don't necessarily -- or will know unless the individuals
19 concerned, or the individual concerned chooses to
20 disclose that information to us. Sometimes it will
21 still be unknown.

22 Q. I think obviously something else that was either picked
23 up there, or in your specific incidents point, is that
24 incidents that on the face of it should have been
25 reported to the police, they're either -- there is

1 evidence that they weren't reported in some cases or
2 there is a lack of evidence that they were?

3 A. Yes. I would accept that. Absolutely.

4 Q. Which may have triggered the direction of the GMA or the
5 policy to say: all these incidents of this type should
6 be reported to the police without exception?

7 A. Absolutely. A recognition that we needed consistency
8 and clarity across the estate.

9 Q. If we go on to page 8, continuing on section 11 or
10 paragraph 11, there is also something about the pre-1990
11 period in the last six or eight lines of paragraph 10.
12 I will just say this: it says that evidence of
13 prisoner-on-prisoner physical abuse in the records that
14 were reviewed -- and this is the whole records we are
15 talking about here -- in the period prior to 1990 is
16 very limited.

17 This is nothing to do with the sampling analysis
18 exercise, but there are references to such abuse and
19 some examples are given in part B.

20 For example, minutes from 1963 referred to prisoners
21 assaulting each other at Polmont and an annual report
22 from 1981 recorded:

23 "39 instances of peer-on-peer violence."

24 That year across the custodial system:

25 "Albeit it's not clear whether these incidents are

1 all children or young offenders."

2 Pausing there, that is the problem to some extent
3 here, because what we discussed earlier is young
4 offenders, who are treated to detention that didn't
5 involve adult prison were ages, normally, between 16 and
6 21?

7 A. That's correct, yes.

8 Q. Some of these cases that refer to peer on peer or young
9 people in custody, they could have been 16, 17 or 19 or
10 20; so we don't know?

11 A. Yes, that is correct.

12 Q. Although we do know that people of all these ages were
13 in the system at that time?

14 A. Yes.

15 Q. It's quite difficult to maybe take it very far, other
16 than to say that clearly this type of behaviour was
17 going on and on a reasonable scale, I suppose, at least
18 in 1963?

19 A. Yes.

20 Q. I suppose we have to remember the prison norm, that
21 prisoners don't grass on each other, generally speaking.
22 So that's another factor that might have led to
23 an absence of numbers or references in the records that
24 have been looked at.

25 It's also said there is evidence -- also historical

1 evidence of staff-on-child physical abuse, for
2 example -- and I think this is what I would term
3 a notable example -- a complaint from as far back as
4 1935 about staff physically assaulting children at
5 Barlinnie.

6 Perhaps I can go to part D briefly, just to look at
7 that one shortly, if I may. Part D is SGV-000085433.
8 The page numbers are really pages 8 to 9 of part D.

9 I'm looking towards the foot of page 8. It's
10 looking at historical evidence in relation to Barlinnie
11 and it deals with a file that contains material about
12 visiting committees in relation to Barlinnie and it
13 says, at the foot of page 8, last three lines:

14 "The file contains a number of documents regarding
15 a complaint from a Roman Catholic visiting committee,
16 dated 18 January 1935, stating:

17 "This morning while visiting D Hall I saw three
18 prisoners and one borstal boy being assaulted by the
19 officers of the said hall. As each of these men entered
20 the hall, he was met by at least five officers, three of
21 whom rushed the prisoners with punches and kicks towards
22 their cells."

23 Then going on:

24 "It was further noted in the file that in response
25 to this incident, the governor stated he 'did not

1 believe any of the prison officers would strike
2 prisoners and said that he had not received any
3 complaints from prisoners'."

4 It's not a very auspicious start, that one, because
5 someone who is an official visitor says he saw this
6 happening and the governor basically said he doesn't
7 believe what he's saying he saw, and he takes refuge in
8 the fact he had received any complaints from the boys
9 concerned.

10 It's not keeping a very open mind on the matter and
11 it seems to be an early example of what appears to be
12 a clear case of something being done that shouldn't have
13 been done?

14 A. Clearly, it evidences that there was not very much in
15 the way of investigation or follow-up to determine
16 whether or not -- because clearly there was more than
17 one individual young person as well as a number of
18 staff. So, in present day, that would require to be
19 investigated. But, from the extract, it would appear
20 that there was an assumption, given there were no
21 complaints, that this had not taken place, which is
22 clearly not what I would expect to happen today.

23 Q. The visiting committee were one of the official ways of
24 monitoring --

25 A. Exactly.

1 Q. -- the prisons. A member of that says in terms they
2 saw something, and says it directly to the governor, and
3 that seems to be the governor's immediate response.
4 It's not even saying, "Well, it's, it's a boy that has
5 come to me and I just don't accept that could have
6 happened. My officers would never do such a thing",
7 which might have been an attitude in the 1930s and
8 indeed in later decades, but that seems quite a striking
9 example?

10 A. I would agree.

11 LADY SMITH: I then wonder whether had one of the boys
12 complained to the governor; would he have believed them
13 or would the answer still have been the same?

14 MS MEDHURST: I think that's a very good question, my Lady.

15 LADY SMITH: You don't need to answer it. He maybe assessed
16 himself a hostage to fortune, which according to the
17 records he got away with.

18 MR PEOPLES: That is just one example.

19 Going back to part D, SGV-000085423, at
20 paragraph 11, there is a reference there to part D
21 describing control and restraint, which is obviously
22 another area that we have heard some evidence about in
23 this enquiry. It records by way of example that the HMI
24 of Prisons for Scotland notes in 1993 -- so we have
25 moved on some distance from 1935 -- that its

1 application, that is control and restraint, has not been
2 always been consistent. Some staff have been "too keen"
3 to use control and restraint when it should have been
4 deployed as "a last resort".

5 But it does say in relation to the JAS Report
6 exercise, in respect of the period from 1995 to 2014, it
7 was estimated that the vast majority of children had
8 experienced no instances of control and restraint and
9 that between 1 per cent and 3 per cent of children had
10 been restrained using control and restraint techniques
11 at least once. So I suppose the final part of that
12 really depends on what has been recorded.

13 If restraints weren't recorded for any reason that
14 occurred, then this estimate might be a bit out. It
15 seems quite a low number, but maybe -- even for 1995 to
16 2014, it seems they're doing a pretty good job if they
17 didn't have to restrain very often at that time.

18 You are reliant on the records at the end of the
19 day, and if that's what the records say about these
20 particular individuals, then that's what the records say
21 and that's all you can work with. But I think your
22 report already says we have to be careful?

23 A. That is correct.

24 Q. That is the message as well. So let's not say that this
25 is cast iron evidence that there wasn't more restraint

1 or indeed there wasn't more inappropriate restraint,
2 perhaps?

3 A. Certainly, in the introduction of control and restraint
4 in the mid-1980s, record keeping would have improved as
5 time went along and much more stringent checks would
6 have been applied, but that would have been an iterative
7 process over a period of time. So I think it would be
8 fair to say that the sample size may not be reflective
9 of the true picture.

10 Q. I suppose since time in memorial, restraint will have
11 been used in one shape or form in prisons, because
12 people will have kicked off, to use the expression, or
13 there would have been some sort of incident that may
14 have led to officers taking matters -- or to deal with
15 a matter, to either separate people or to take them to
16 some form of isolation. It didn't happen that control
17 and restraint came in because people started to restrain
18 prisoners; it's not that way round?

19 A. No, no, no.

20 The manner in which people would have been separated
21 or restrained when violence was being perpetrated in one
22 form or another, to be honest, I don't have the --
23 either the records or the knowledge to be able to
24 explain what that might have been, other than people
25 trying to apply common sense to a situation, but I've no

1 doubt that it was not as safe as the practice is now and
2 could have resulted in injuries to any one of a number
3 of the parties involved.

4 Q. What I can say to you is -- and maybe you're aware of
5 this -- Dr Mitchell told us, yesterday, that when he was
6 working in prisons in the mid-1990s, he did talk of
7 an expression then that someone was three-man teamed,
8 what seemed -- I don't know if it's an expression you
9 have come across before?

10 He explained what that meant was one officer
11 controlling the head, another -- two officers
12 controlling each arm, and the prisoner's head was bent
13 forward. His arms were hyper-extended either at his
14 back or his side. That was a method he recalls, and on
15 rare occasions, I think he said, there was also use of a
16 "body belt", I think was the description he used, which
17 sounded a bit like some sort of belt that would allow
18 the hands to be attached to belt, so the prisoner
19 couldn't effectively use his arms?

20 LADY SMITH: They were handcuffed on either side.

21 MS MEDHURST: Handcuffed to a belt, yes.

22 MR PEOPLES: That was a method he recalled. It didn't
23 happen a lot, but certainly three-man teamed seemed to
24 be a method of dealing with it, where three officers
25 would react at that time. That was in the 1990s.

1 What they were doing in the 1930s, 1940s, 1950s,
2 1960s, 1970s, well, who knows? Maybe -- I think some of
3 the applicants may well tell us some the things that
4 happened, but that seems to be what was going on, at
5 least in that particular place at the time, and may have
6 reflected some degree of training that was given then.

7 A. The three-man team, as Dr Mitchell has described, does
8 form the basis of control and restraint, so that policy
9 and practice and training, and that was introduced in
10 the mid-1980s and has evolved and developed over
11 a period of time.

12 The body belt, or body restraint, is something which
13 the doctor has to sign off and apply, and I am not sure
14 how many occasions, but I certainly don't recall.

15 Q. In fairness, he did say it was very infrequent, but he
16 did explain that he had to be involved as soon as
17 practicable to go and see the person. But, obviously,
18 there might be situations -- this is before -- he was
19 describing a situation where the body belt was applied
20 before he saw them and not on his authorisation.

21 He could decide whether the body belt remained or
22 was taken off, but the officers themselves had taken the
23 decision, and if it was at a time when the doctor could
24 be called, he would then be called as soon as possible
25 to assess the situation and what action should follow.

1 But sometimes, if it happened perhaps at night or if
2 someone wasn't available, then the first occasion he
3 would see the person with or without the belt would be,
4 perhaps, the next day.

5 A. Right.

6 Q. That was broadly how he described matters to us,
7 yesterday. He was very much at pains to say it wasn't
8 something that he routinely saw, that happening.

9 A. I certainly, in my time in the service, have not seen
10 that applied. That would be the exception rather than
11 the norm.

12 Q. Going back to part B, if I may, paragraph 12, on page 8.
13 This deals with evidence of sexual abuse. It says
14 there, there were no identified incidents of sexual
15 abuse within the sampling analysis report from the cases
16 that were identified and looked at. But -- and we'll
17 come back to this, maybe I think, probably, tomorrow,
18 but I'll just mention there is, it says, a recent
19 substantiated peer-on-peer incident of sexual abuse that
20 occurred in 2008 and resulted in the conviction of
21 a young person aged 20 years old for raping a young
22 person under 18.

23 I think that's one of the cases that's in the
24 appendices and we can perhaps look at that. I think the
25 older person was convicted in the High Court and

1 received a sentence of nine years for that offence.

2 I suppose the concerning feature of it, if I can
3 recall, is that the child, the boy under 18, and the boy
4 aged 20, were sharing a cell at the time, in 2008.

5 A. Yes.

6 Q. I suppose one question might be: had there been
7 a cell-sharing assessment? That would be one question.

8 I don't think that the information we have can help
9 us with that. I don't know if you are able to --
10 I don't think it was said if that had been -- would
11 cell-sharing assessments have been done in 2008?

12 A. I don't think they would have been, but I can check when
13 that --

14 Q. If you are able to check the introduction of the
15 cell-sharing -- just to see how and whether, perhaps,
16 this assessment process was a reactive response to this
17 case, or possibly a reactive response to this case, or
18 perhaps whether it pre-dated that and what its
19 background was. That is the sort of thing we might --

20 A. Yes, yes.

21 Q. It would be helpful to know how this fits in with the
22 developments that were to improve safety.

23 I suppose the other thing might be that while the
24 courts might send children to a young offenders
25 institution in 2008 for boys aged 16 to 21, there is

1 still the question why a boy under 18 was put in a cell
2 with a boy -- a young man aged 20, if there was an age
3 gap between them.

4 That still seems a legitimate question to ask,
5 particularly given what did happen. They're not the
6 same age.

7 A. No, no. I suppose although the cell-sharing risk
8 assessment would look at a number of factors, it may not
9 particularly focus on age, necessarily.

10 Q. It could be that the assessment would still say: well,
11 he's 20, but he's 17, but it's not a bad idea putting
12 them together?

13 A. Not necessarily.

14 Q. Some might question that, if you're dealing with people
15 who are regarded as children and others who are regarded
16 as young adults?

17 A. It would depend -- I'm trying to think of the
18 circumstances at the time. Cell-sharing risk assessment
19 would be one factor. Another factor may well have been
20 whether or not the prison was overcrowded at the time
21 and, therefore, whether decisions had to be made fairly
22 quickly, assessments made, et cetera.

23 There was a separation of those under 18 from the
24 over 18s when Blair Hall in Polmont was opened.

25 Q. That was after this; 2010?

1 A. 2010, yes. It was only at that point that the
2 separation was created.

3 Q. Was that influenced by this case?

4 A. I honestly couldn't answer. I think it was
5 a recognition of the fact that people under 18 were
6 deemed to be more vulnerable, and 18 to 21-year-olds,
7 obviously generally speaking, could be more mature.
8 That doesn't always -- it's not always the case.

9 But, actually, in terms of age and stage, treating
10 16 and 17-year-olds differently by exposing them to,
11 I suppose, a different range of -- more education,
12 et cetera. So separating them out was probably as much
13 driven by our understanding of what we knew about young
14 people, more than what we had learned about young
15 people, but that may well have been one factor in it.

16 Q. Another factor in terms of at least the development of
17 Blair House, as I understand it from the report, is the
18 UNCMC, albeit that was 1989, but I think it was said to
19 make Scotland more aligned to what the Convention was
20 saying about children who were then defined as under 18;
21 that this situation wasn't one that the Convention would
22 have really approved of, a child was sharing a cell with
23 a young adult.

24 I think that is what Blair House, to some extent,
25 was an attempt to -- this was at Polmont, wasn't it?

1 A. Yes.

2 Q. It was an attempt to create a separate facility within
3 Polmont for 16 and 17-year-olds, separate from where
4 those who were between 18 and 21 were housed?

5 A. Correct.

6 Q. Is that right?

7 A. Yes, absolutely.

8 Q. If we go on to page 9, which is still dealing with the
9 part B, there is an acknowledgement there is a range of
10 verbal abuse and bullying, which is further referred to
11 in part D. But examples are given in part B, at
12 paragraph 13, one being a report from 1985 in Glenochil,
13 and you can take it we're quite familiar on this one and
14 Dr Chiswick has given evidence to this Inquiry. It
15 says:

16 "It is noted that common forms of peer-on-peer
17 victimisation included tobacco being extorted, physical
18 and verbal harassment, implied threats, taunts and
19 incitement of suicide."

20 I think that's all confirmed by Dr Chiswick's own
21 evidence and the report that was produced at that time.

22 A. Yes.

23 Q. It says:

24 "The records referred to in part D show there was
25 a culture of bullying from the mid-1980s to early 2000s

1 in Polmont."

2 I think that is acknowledged by staff in Polmont and
3 recorded in reports by Her Majesty's Inspector of
4 Prisons at the time?

5 A. Yes.

6 Q. Then it goes on:

7 "Staff acknowledged indeed that bullying was
8 a feature of young offenders institutions and Polmont
9 was no exception."

10 I think that was also recorded in these inspection
11 reports. It says:

12 "Part D also identifies evidence of staff and
13 peer-on-peer verbal abuse involving children. For
14 example, HMIPS reported in 1993 that some staff in
15 Barlinnie displayed a bad attitude and indulged in
16 verbal, including occasionally racist, abuse."

17 In paragraph 14, it does go on to say:

18 "On the basis of the recorded incidence of abuse the
19 JAS estimated that between 1.7 per cent and 6.5 per cent
20 of incidents in the periods from 1995 to 2014 across the
21 four establishments were verbal."

22 But I think the caveat comes in the next sentence:

23 "However, the Scottish Ministers accept on the basis
24 of institutional knowledge that most incidents of verbal
25 abuse have not been recorded."

1 I think the other point that is made about incidents
2 is it's often the predominant form of alleged abuse
3 that's recorded, rather than -- although sometimes there
4 is a combination. But often, if it involves multiple
5 forms of abuse, you might identify that it was
6 a physical abuse, even if there was verbal abuse thrown
7 in?

8 A. Yes.

9 Q. Is that the way it tended to be done?

10 A. It tended to be done that way, yes.

11 Q. Can I just say there, going back to -- if I can pause
12 from part B, to just say at this stage that we did have
13 evidence from Dr Mitchell about Longriggend in the
14 mid-1990s, 1996 to 1998, where he commented on the
15 language used by staff and prisoners at that time, when
16 he gave his evidence yesterday, saying there was often,
17 as he described it:

18 "Disrespectful language, frequent use of swear
19 words, some young people goading older officers, remarks
20 about wives, girlfriends and mothers."

21 But, as he put it, I think there was an exchange of
22 similar language, and he said -- and I suppose this is
23 the point -- that it's not conducive, this type of
24 exchange of language, to the development of a positive
25 relationship between the prisoners and the staff. It's

1 pretty obvious, I would have thought, if that's the way
2 things are done, whatever provocation there might have
3 been to the staff, if you are wanting to foster the sort
4 of relationship you have described, or the ones you are
5 trying to achieve, then certainly the way to go about it
6 is not simply to hear something said about a relative, a
7 wife, a partner, whatever, and then return it in kind?

8 A. No, absolutely not.

9 Q. Yet that was happening in the mid-1990s?

10 A. Yes, absolutely.

11 LADY SMITH: There is another factor. I've heard time and
12 again from people who were abused in various forms of
13 care as children through verbal abuse, name calling,
14 belittling them, belittling their families, telling them
15 lies, making them feel, as we would say, knee high to
16 a grass hopper, and some have said, "That has been the
17 worst thing to live with all my life, I've never got
18 over it. That feeling of worthlessness that was
19 instilled in me when I was a child". Some have even
20 said, "Actually, looking back, it wasn't the sexual
21 abuse that was worse, it was the emotional abuse".

22 A. I completely accept that, Lady Smith. And it sounds
23 from Dr Mitchell's evidence that that was very evident
24 in Longriggend at that time, and clearly where we are
25 now and recognising the journeys that young people have

1 had prior to coming into custody, the experience that we
2 need to foster is about building hope and building
3 self-esteem, and that's absolutely critical to helping
4 people move on and outwith custody into more positive
5 arrangements.

6 MR PEOPLES: I think the report does identify -- and I don't
7 think it's just in the report, but I think it's well
8 known -- that a high proportion of the prison
9 population, a disproportionate number, have had a care
10 experience.

11 A. That's right.

12 Q. I think, again, if I go back to the applicant evidence
13 that you have perhaps -- we have talked about this
14 morning, quite a large proportion of the people who end
15 up in an establishment, an SPS establishment, aged
16 usually 16 or over, have had a prior history of abuse,
17 not only in the community, but also in previous care
18 settings. That's what they're telling us.

19 I suppose it's bad enough if you are sent to a place
20 of safety for care and protection and you get the same
21 treatment you had that led to you being there and then
22 eventually you go to another institution and you get
23 more of the same.

24 How is that going to -- it's understandable,
25 perhaps, that they have the problems they do?

1 A. That's exactly why staff need to be role models. But
2 I think there is something in that emotional abuse and
3 the impact of that that's also about parents and
4 parenting. And having worked with the women in
5 Cornton Vale, helping them to understand some of the
6 language they were exposed to actually is abuse and they
7 were so distraught at the fact that they had been using
8 the similar type of language and similar type of
9 approach with their children, but hadn't appreciated
10 that.

11 I think there is something about helping people to
12 understand, particularly in the role as parents, the
13 impact they have and the changes that they can make for
14 their children.

15 Q. I think Sue Brookes told us that some of the programmes
16 that were introduced are not just about parenting
17 skills, but also about, perhaps, trying to remove the
18 macho type of behaviour and use of language and the
19 acceptance that "this is the way I was brought up in my
20 community", and that she says that to some extent that
21 has to be addressed both in the prison setting, because
22 they all go back to the community, but also in the
23 community and perhaps in the schools in the community at
24 an appropriate age. That was her -- she thought that
25 was necessary.

1 It's not just what happens in prison and what's done
2 to try to address that behaviour, but also what happens
3 when they get out, or even before they get in, if they
4 have to?

5 A. I think as a society it's incumbent on us all,
6 I suppose, to ensure that we nurture and support our
7 children and improve the way that they experience
8 life -- positions them in society, both as young people
9 and then as adults, and prison has to play a part in
10 that.

11 Q. I think the point was made that in most cases people who
12 go to prison serve relatively short sentences and get
13 back out again, so it's not as if they're in that
14 environment forever and they're going to go back to
15 something. But, at the same time, the last thing you
16 want is to replicate their community environment if it's
17 a bad one, by saying: well, it's the same in prison.

18 A. Mm hmm. Absolutely. It is about creating a positive
19 culture, which supports, which encourages, which
20 motivates individuals to engage positively with the
21 support and services available to them, so that they can
22 make the difference and the changes to their lives, but
23 they have to have that sense of hope. They have to be
24 able to see that it's possible and believe in that. And
25 I suppose that's not just where staff come into play,

1 because they can obviously nurture that, but I think the
2 peer support and peer monitoring is a critical element
3 of that.

4 Q. Dr Mitchell, frankly told us that he didn't attempt to
5 challenge that when he was the doctor, who went there.
6 He said he would do it now. I suppose it does reflect
7 a change. He saw it, but he didn't react then and who
8 knows whether other people had exactly the same reaction
9 to things they saw? But he said, at the time, it was
10 part of the culture and seen as the norm and, in a way,
11 he accepted what he saw. He didn't necessarily like it.
12 He may not -- I don't think he liked it at the time, but
13 it's something that a lot of people would look back at
14 and say: may I should have said something. I saw it
15 when I was there and I regret not saying something -- or
16 feeling I should have stood up. Maybe that is the same
17 for prison officers who saw their colleagues do
18 something?

19 A. Yes, I'm sure it would be.

20 Q. Some may have found it difficult, whether through their
21 particular place in the hierarchy or just because: well,
22 I'm not really wanting to put my head above the parapet
23 and say this is wrong or this is something --

24 LADY SMITH: Dr Mitchell allowed for that, some sense of
25 mutual support amongst colleagues operating to prevent

1 people from speaking up.

2 It takes a particular level of sophistication,
3 I suppose, to get to the stage, actually, you are
4 helping your colleague if the colleague then learns that
5 that's not the way to behave.

6 MS MEDHURST: Yes.

7 MR PEOPLES: I suppose if the person that's in charge of the
8 hall has a certain attitude, approach and mentality
9 towards the people in the hall in the good, old days,
10 then if you were a junior colleague, it would be quite
11 difficult to stand up and challenge that or report it in
12 those days.

13 A. Certainly, much more of a hierarchical arrangement
14 than -- compared to what exists at the moment, and much
15 more based around discipline and expectations that
16 people wouldn't challenge or question. Whereas today,
17 I think we're quite markedly different from that.

18 Q. Going back to part B, at section 14, it says that given
19 the acronym NPPE abuse, incidents of neglect,
20 psychological and/or emotional abuse are evidenced in
21 part D. It's estimated of the recorded incidents
22 between 1995 and 2014 this type of abuse accounted for
23 between 1.9 per cent and 6.5 per cent, so it's
24 a relatively low percentage in relation to the analysis.

25 One example, which is given, which is perhaps a bit

1 different from some of the other examples, but it's one
2 of a deaf-mute child in Polmont in the early part of
3 this century, who stated he feels as though the
4 government have a complete disregard for those who are
5 deaf in custody. That was perhaps inappropriate,
6 insensitive, not taking account of the particular needs
7 of that particular person and reflecting the care that's
8 required for his particular situation.

9 Then it says that this type of abuse might not be
10 recorded. It goes back to her Ladyship's point, perhaps
11 there was a feeling in those days that sticks and stones
12 will break your bones, but names can't do any harm.
13 Whereas we know, perhaps, that's not entirely true?

14 A. Yes.

15 Q. It may be that's evidence, perhaps, that there was --
16 and also evidence of a lack of appreciation of the
17 differences between individuals. Maybe this is the
18 one-size-fits-all, sometimes they are all there and they
19 have to be treated in broadly similar ways,
20 historically.

21 A. Yes, yes. It's still very disappointing to read that
22 from 2002.

23 Q. Yes, it's quite late in the day for this.

24 A. Yes. That isn't acceptable.

25 Q. No. In section 15, paragraph 15, on page 10, this is

1 dealing with incidents that involve multiple --
2 different types of abuse. It says that the sampling
3 analysis report found that the incidents with multiple
4 types of abuse accounted for an estimated 2.5 per cent
5 to 7.5 per cent of recorded abuse incidents and that the
6 most common combination was physical and verbal abuse.

7 I suppose that might seem quite an obvious
8 connection for these situations, but there were
9 instances of other forms of combinations.

10 So there was some evidence that there could be
11 different forms, but I think we have already explored
12 that often it was one form that was singled out and
13 recorded, although you can interpret there may have been
14 other things involved in the incident itself?

15 A. Yes.

16 MR PEOPLES: I'm conscious it's nearly 4 o'clock and
17 I'm about to move on to slopping out, so maybe it's
18 a good time to call it a day. We can perhaps resume
19 tomorrow at 10 o'clock and continue this evidence.

20 LADY SMITH: Allow me to give you a break overnight from now
21 and then look forward to seeing you at 10 o'clock
22 tomorrow morning.

23 Thank you very much for your contributions today.

24 It's been so helpful.

25 (4.00 pm)

1 (The Inquiry adjourned until 10.00 am
2 on Thursday, 2 November 2023)

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Neil Rennick (sworn)2

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Teresa Medhurst (sworn)2

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Questions from Mr Peoples3

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