

# **An overview of Scotland's criminal justice system**

## **Twelve month impact report**

Audit Scotland is a statutory body set up in April 2000 under the Public Finance and Accountability (Scotland) Act 2000. It provides services to the Auditor General for Scotland and the Accounts Commission. Together they ensure that the Scottish Government and public sector bodies in Scotland are held to account for the proper, efficient and effective use of public funds.

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## Purpose

1. This report provides the Audit Scotland Management Team and the Performance Audit Committee with details of the impact made by the joint Accounts Commission / Auditor General for Scotland performance audit report, *An overview of Scotland's criminal justice system*, which was published on 6 September 2012.

## Background

2. The report provided, for the first time, an overview of how much public money is spent on Scotland's criminal justice system, what that money delivers and where there is potential to improve efficiency and effectiveness.
3. The key messages from the report were:
  - There have been significant changes to the criminal justice system since devolution, which have delivered major reform but have also contributed to its complexity. It is difficult to manage criminal justice processes as a whole system; however, joint working has improved in recent years.
  - Scotland's criminal justice system cost an estimated £857 million in 2009/10. The revenue budget for the six main criminal justice bodies (excluding police) reduced by seven per cent in real terms in 2011/12 and the capital budget by 64 per cent. There are risks to the long-term sustainability of services.
  - There are significant inefficiencies in the criminal justice system. Many cases repeat stages in the court process; we estimated this cost criminal justice system around £10 million in 2009/10. Repeated delays can also have a negative effect on people's confidence in the system.
  - Reoffending is a continuing problem. There had been little progress towards the Scottish Government's national indicator to reduce reconviction rates. We estimated that in 2009/10, around £81 million was spent by criminal justice bodies (excluding the police) directly on services to reduce reoffending. The availability of services varies across the country and information on the effectiveness of services is limited and inconsistent.
4. This was an overview report so did not look in sufficient detail at any individual part of the system to allow us to make evidence-based recommendations. However, it did highlight four areas where there was potential to improve the efficiency and effectiveness of the system. These were how victims and witnesses were treated, the availability of cost and performance information, how summary cases are processed through court and efforts to tackle reoffending.
5. Our report emphasised that significant improvement was required in all these areas and recommended that, as a matter of urgency, the Scottish Government and criminal justice bodies work together to identify, agree and implement action to deliver the necessary improvements.

- We piloted a different approach to using graphics in the report, working with the Communications team earlier in the audit to develop exhibits to convey some of the complex processes and messages. The main exhibits were reproduced in a separate A2 poster, included as an insert in the report.

## Raising awareness and communication of key messages

- The report had extensive media coverage. The Auditor General did broadcast interviews with the BBC and STV. The report was also the lead story in Newsnight and Good Morning Scotland, where both the Auditor General and the Cabinet Secretary for Justice were interviewed.
- Most media coverage focused on our key message that inefficiency in processing cases through court was causing delays and costing money (33 articles). Our message on reoffending was only the lead message four times. It is expected that this was partly due to the strong 'money wasted' angle.
- Downloads of our report, key messages and podcast have been well above average, the main report has been downloaded more than twice as much as the Audit Scotland average. The report continues to feature as one of our most downloaded publications.
- A breakdown of media items and downloads is provided in the table below.

Media items/downloads	Number of items 12 months after publication
National press	14
Local press	1
Television	7
Radio	23
Specialist press	2
<b>TOTAL MEDIA ITEMS</b>	<b>55</b>
Report downloads	7130
Key message downloads	786
Podcast downloads	434
<b>TOTAL DOWNLOADS</b>	<b>8350</b>

- A smaller version of the poster was also available as a separate download. Although we don't have figures for the number of downloads for this document, the popularity of the poster was demonstrated by the number of requests we received for additional copies, resulting in a further 100 copies being printed (which have now all been distributed).

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## Parliamentary scrutiny

12. The Auditor General briefed the Scottish Parliament's Public Audit Committee (PAC) on 21 September 2011. The Committee took evidence on the report on 23 November. The evidence was split into three sessions; firstly the Crown Office and Procurator Service and Scottish Court Service on the processing of cases through the court, secondly the Scottish Prison Service and representatives of Community Justice Authorities on efforts to reduce reoffending and the final evidence session was with the Scottish Government and covered both these issues.
13. Following the evidence session, the Committee published its own report on 8 February 2012. This focused on the efficient management of cases through the court and reoffending. The PAC report requested the Scottish Government to provide further information on how issues raised in the report and further explored in the evidence session were progressing. The report also identified a number of areas it wished Audit Scotland to review in the planned performance audit report on reducing reoffending.<sup>1</sup>
14. The Justice Committee's report to the Finance Committee's *Scrutiny of the draft budget 2012-13 and spending review 2011* referred to the inefficiencies in court processes highlighted in our overview report and welcomed our work to identify these costs.

## Impact on Scottish Government policy

15. The report has had an impact on national policy. At the Justice Leaders Network in January 2012, the Director of the Scottish Government's Justice Directorate said that our report was one of the drivers for developing an overarching justice strategy. The Justice Leaders Network comprises chief executives and senior managers from organisations with an interest in criminal and civil justice and community safety more generally.
16. Prior to our audit, the costs involved in processing cases through the courts were unknown. Using a number of different data sources, the report estimated these costs for summary cases and applied them to activity. This allowed us to estimate the cost of inefficient processing of cases.
17. The Scottish Government's *Strategy for justice in Scotland* was published in September 2012. Our report is cited as one of the three key sources of evidence used in the development of the strategy (along with the Christie Commission report and the Government's Economic Strategy). In particular, our estimates of the inefficiencies in the court system are cited as the main source of evidence and driver for the strategy's high-level priority to enhance efficiency.
18. Our estimates have also been used by the Scottish Government to calculate the expected savings from its Making Justice Work programme and by independent researchers to evaluate legal aid reforms for the Scottish Legal Aid Board. The Cabinet Secretary for Justice also

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<sup>1</sup> These were covered in the Auditor General / Accounts Commission report *Reducing reoffending in Scotland*, published on 7 November 2012

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referred to them when he launched an IT system designed to reduce processing errors in the courts.

19. A further key message from the overview was that reoffending is a continuing problem. In particular, we found that there was no national information on the services available for offenders and that the funding arrangements for community justice were complex and based on historical activity rather than successful interventions. As a result of these findings, the Scottish Government:
- announced that £1.7m of the Change Fund (set up in response to the Christie Commission's recommendations) would be used to tackle reoffending;
  - published a comprehensive directory of services in April 2012. This pulled together for the first time information on all the services provided for offenders both in prison and in the community across Scotland. We identified in our subsequent report on reducing reoffending that while this was a good first step, it needed further information on costs and capacity to make it of more use in planning and managing services for offenders;
  - set up a working group to review funding arrangements for community justice. This group reported in the summer of 2012 and significant changes to the funding formula are being introduced from April 2013.

## Other areas of impact

### External

20. The audit report included analysis and exhibits which are well regarded and frequently used by the Scottish Government and other criminal justice bodies. For example:
- The Scottish Government ran a justice statistics user day where our analysis was held up as an example of what could be done with national data.
  - Our exhibit of an offender's journey through the criminal justice system was reproduced (with our permission) in the Scottish Government's recent statistical publication on reconviction rates.
  - Scottish Government officials routinely use our exhibit on offenders needs in their presentations on the continuing work on reducing reoffending.
  - The Scottish Court Service 2011/12 annual report describes the publication of our report as the driver for improving efficiency in court processes, and has told external auditors that it uses the report whenever it is planning new developments or reviewing processes.
  - The Community Justice Authority chief officers used the report in induction programmes for new board members.
  - The Scottish Government reported that the Ministry of Justice in Westminster commented favourably on the report and poster during bilateral discussions on court innovation.
  - The Lord President, Scotland's most senior judge, referred to the findings from our report on the cost of court inefficiencies in new guidance he issued to judges in February 2013 on using court time effectively.

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21. The report estimated that £81 million was spent on reducing reoffending in 2009/10, less than 10% of criminal justice expenditure. This was the first time the costs of services specifically designed to reduce reoffending had been examined. Following publication of our report, the Scottish Government, Scottish Prison Service and Community Justice Authorities worked together to improve their understanding of what is spent on dealing with people who have been sentenced, in relation to the objectives of criminal justice system.<sup>2</sup> We used the results of this further analysis in our subsequent report on reducing reoffending.
  22. As a result of the high-profile coverage of our findings on the inefficiencies in the court system, the Inspectorate of Prosecution in Scotland carried out a thematic inspection of case marking and processing by the Crown Office and Procurator Fiscal Service. This was published in August 2012 and made a number of recommendations aimed at improving how cases are marked and processed through the courts.<sup>3</sup>
  23. The audit report also included several case studies, one of which was on the use of social impact bonds to fund services to reduce reoffending. There was a debate in Parliament in March 2012 on social impact bonds during which the criminal justice overview report was frequently referred to.
  24. The report used illustrations to a greater extent than was usual in PAG reports, and the final publication included a poster reproducing many of the graphics developed for the report. The poster proved very popular and was reprinted. The Scottish Government requested '*as many copies as we could spare*', it is displayed in the Justice Directorate in St Andrew's House and smaller versions are frequently used in Government briefing papers. We were told it had become '*unofficial currency in St Andrews House*'. The poster has been seen by Audit Scotland staff in locations across Scotland, for example in Community Justice Authorities and criminal justice social work offices.
  25. This was the first time that Audit Scotland had looked across the whole criminal justice system, and the impact of the report raised the profile of the Auditor General, the Accounts Commission and Audit Scotland within the justice sector. Criminal justice bodies report that it is often used to emphasise the importance of understanding costs as well as delivering effective justice.
  26. One of the reasons for undertaking the overview was to identify further areas where a performance audit could add value in the criminal justice sector. As a result of the findings on reoffending and PAC's interest in this area, it was agreed that Audit Scotland would carry out a performance audit on reducing reoffending in Scotland. That report was published in November 2012.
  27. The other area where we identified a more detailed performance audit could add value was court efficiency. We are keeping this topic under review as part of our rolling programme for

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<sup>2</sup> This allocated costs to the different elements of restricting liberty, community reparation, rehabilitation and reintegration.

<sup>3</sup> *A report on the Crown's preparation of Summary cases*. Inspectorate of Prosecution in Scotland, August 2012.



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performance audits and will consider doing further work in this area once the changes being introduced through the Making Justice Work programme have been implemented.

## Internal

28. The methodology used in the report to estimate the costs of inefficiencies in the court system has been used as a case study in the PAG guidance *Understanding costing: a guide to costing methods in performance audits*.
29. We have used the experience gained in developing more innovative exhibits, in particular through close working with the Communications team at an earlier stage in the audit process, to improve our use of graphics in subsequent PAG reports.

## Conclusion

30. The criminal justice overview report had a clear impact. It has been used to help formulate policies at a national level and the evidence in the report is being used to drive improvement across the criminal system. The report has been welcomed and praised by parliamentary committees, the Cabinet Secretary for Justice and people working in the field.