The Committee will meet at 2.00 pm in Committee Room 2.

1. **Item in private:** The Committee will consider whether to take item 5 in private.

2. **Subordinate legislation:** Hugh Henry MSP (Deputy Minister for Justice) to move the following motions—

   S2M-1399 Cathy Jamieson: The Draft Advice and Assistance (Assistance by Way of Representation) (Scotland) Amendment Regulations 2004—That the Justice 2 Committee recommends that the draft Advice and Assistance (Assistance by Way of Representation) (Scotland) Amendment Regulations 2004 be approved; and

   S2M-1400 Cathy Jamieson: The Draft Advice and Assistance (Financial Limit) (Scotland) Amendment Regulations 2004—That the Justice 2 Committee recommends that the draft Advice and Assistance (Financial Limit) (Scotland) Amendment Regulations 2004 be approved.

3. **Prisoner Escort and Court Custody Services Contract:** The Committee will take evidence from—

   Tom Riall, Managing Director; Geoff Cooper, Director of Operations for Reliance Custodial Services and Campbell O’Connell, Operations Director for Reliance Custodial Services in Scotland, Reliance Secure Task Management Ltd;

   Tony Cameron, Chief Executive, Willie Pretswell, Director of Finance and Bill McKinlay, Governor HM Prison Barlinnie Scottish Prison Service; and

   Cathy Jamieson, the Minister for Justice.
4. **Youth Justice Inquiry**: The Committee will consider a proposal for a series of fact finding visits.

5. **Youth Justice Inquiry**: The Committee will consider the appointment of an adviser.
The following papers are enclosed for this meeting:

**Agenda item 2 – Subordinate legislation**

Note by the Clerk (draft instrument attached)  
Note by the Clerk (draft instrument attached)

**Agenda item 4 – Youth Justice Inquiry**

Note by the Clerk

**Agenda item 5 – Youth Justice Inquiry**

Note by the Clerk on proposed advisers (PRIVATE PAPER)  
(To follow)

**Forthcoming Meetings:**

- Tuesday 15 June Justice 2 Committee Meeting (PM)
- Tuesday 22 June Justice 2 Committee Meeting (PM)

Gillian Baxendine / Lynn Tullis  
Clerks to the Committee  
Tel 0131 348 5054
I attach the following items:

Agenda item 3 – Prisoner Escort and Court Custody Services Contract

*Submission by the Scottish Prison Service* J2/S2/04/21/5

Agenda item 5 – Youth Justice Inquiry

*Note by the Clerk on proposed advisers* J2/S2/04/21/4

Justice And Home Affairs In Europe – For Information only

| Post Council Report on the Justice and Home Affairs Council of EU Ministers, 29 April 2004 |
| Pre Council Meeting Note - Justice and Home Affairs Council, Luxembourg, 8 June 04 |

4 June 2004

Tony Reilly
JUSTICE 2 COMMITTEE

21st Meeting 2004 (Session 2)

Tuesday 8 June 2004

The Advice and Assistance (Assistance by Way of Representation) (Scotland) Amendment Regulations 2004 (draft)

Note by the Clerk

Background

1. This instrument amends the Advice and Assistance (Assistance by Way of Representation) (Scotland) Regulations 2003 to allow assistance by way of representation to be made available in the Domestic Abuse Court. It is anticipated that the Domestic Abuse Court will be piloted in Glasgow from August.

Procedure

2. The Justice 2 Committee has been designated lead Committee and is required to report to Parliament by 14 June 2004.

3. The Subordinate Legislation Committee considered the instrument at its meeting on 25 May 2004 and had no comment to make.

4. The instrument was laid on 14 May 2004. Under Rule 10.6, the draft Order being subject to affirmative resolution, it is for the Justice 2 committee to recommend to the Parliament whether the instrument should come into force. The Minister for Justice has, by motion S2M-1399 (set out in the Agenda), proposed that the Committee recommends the approval of the Order. The Minister will attend to speak to and move the motion. The debate may last for up to 90 minutes.

5. At the end of the debate, the Committee must decide whether or not to agree to the motion, and then report to the Parliament accordingly. Such a report need only be a short statement of the Committee’s recommendation.

3 June 2004

Clerk to the Committee
JUSTICE 2 COMMITTEE
21st Meeting 2004 (Session 2)
Tuesday 8 June 2004

The Advice and Assistance (Financial Limit) (Scotland)
Amendment Regulations 2004 (draft)
Note by the Clerk

Background

1. This instrument amends the Advice and Assistance (Financial Limit) (Scotland) Regulations 1993. This instrument provides a 5% interim increase in fees payable to solicitors who provide civil advice and assistance.

Procedure

2. The Justice 2 Committee has been designated lead Committee and is required to report to Parliament by 21 June 2004.

3. The Subordinate Legislation Committee considered the instrument at its meeting on 25 May 2004 and had no comment to make.

4. The instrument was laid on 18 May 2004. Under Rule 10.6, the draft Order being subject to affirmative resolution, it is for the Justice 2 committee to recommend to the Parliament whether the instrument should come into force. The Minister for Justice has, by motion S2M-1400 (set out in the Agenda), proposed that the Committee recommends the approval of the Order. The Minister will attend to speak to and move the motion. The debate may last for up to 90 minutes.

5. At the end of the debate, the Committee must decide whether or not to agree to the motion, and then report to the Parliament accordingly. Such a report need only be a short statement of the Committee’s recommendation.

3 June 2004

Clerk to the Committee
JUSTICE 2 COMMITTEE

21st Meeting, 2004 (Session 2)

Tuesday 8 June 2004

Youth Justice Inquiry: Proposal for Visits

Introduction

1. During previous discussions, the Committee indicated that it would be interested in undertaking a series of fact finding visits for the purposes of gathering informal evidence as part of this inquiry.

2. This paper asks the Committee to agree the basis for a bid to the Conveners Group’s meeting in June. We suggest that the exact locations for the visits should not be finalised until the adviser is in post and the bid would therefore leave a bit of flexibility within an overall budget. A fully costed bid will be worked up following the Committee’s discussion.

Outline of Visits

3. It is suggested that the proposal to the Conveners Group should cover 10 visits in total, each of which would be attended by two members and a clerk. This would mean a maximum of 3 visits per Member. Visits would be undertaken during September/October.

4. Some suggestions have already been made by Members as to projects or areas that should be visited. The aim would be to identify a project or activity around which a day’s programme could be built so that Members could see the way in which the various agencies fit together. The precise programmes will be developed with the adviser and Members will have an opportunity to express preferences about the visits they attend. It is expected that in a geographical area visited it will advantageous for members to see as many of the local links in the youth justice chain as possible, for example visiting a couple of projects and a children’s hearing and that the Committee will want to gain both an urban and a rural perspective.

5. Based on the Committee’s earlier steer, the basis for the bid might be visits to:

   - a fast track children’s hearing
   - a non-pilot children’s hearing
   - 2 local authority youth justice projects
   - 2 voluntary sector projects
   - Hamilton Youth Court
   - a police diversionary project
   - a secure unit
   - a special school
6. For the purposes of the bid, location is more significant than the type of project and we suggest the following assumptions (which are intended to allow a realistic range of costings rather than commit the Committee to any particular location.

   4 x visits to Glasgow/west coast central belt (given the number of young offenders and range of projects in this area and including Hamilton Youth Court

   Edinburgh

   Dundee

   Aberdeen

   Borders

   2 x visits in Highlands and Islands (overnight stays would be required for Aberdeen and Highland visits)

For Decision

7. Does the Committee agree that Conveners Group approval should be sought for a series of 10 visits on the basis outlined above?

Clerk to the Committee

June 2004
MEETING OF THE JUSTICE 2 COMMITTEE: 8 JUNE 2004
PRISONER ESCORT AND COURT CUSTODY SERVICES CONTRACT

Further to my letter providing the names of those who will appear for SPS at the Committee’s meeting on Tuesday 8 June, I now write to provide the Committee with a Memorandum from SPS which Members may find helpful ahead of the 8 June memorandum.

SPS would be happy for the Memorandum to be made publicly available.

The Memorandum refers to the SPS Framework Document. Members may wish to refer to the Framework Document itself. It is available from the SPS website, at www.sps.gov.uk/keydocs/framework.

I am copying this letter direct to Members of the Committee in order to ensure that they have the maximum possible time to consider the Memorandum before 8 June.

GAIL McHUGH
Executive Assistant
to the Chief Executive
Introduction

1. This memorandum sets out information on areas likely to be of interest to the Committee as it prepares to take evidence on 8 June 2004 from Reliance Secure Task Management Ltd (“Reliance”), the Scottish Prison Service (SPS) and the Minister for Justice.¹

2. In particular, it covers SPS’s relationships with the Minister and with Reliance; the background to SPS’s decision to contract out escort and court custody services; SPS’s negotiation and award of the contract; Ministers’ involvement in the contract process; how the contract compares with other relevant contracts; SPS’s approach to Freedom of Information; and progress with implementation since the Minister’s statement to the Parliament on 21 April 2004.

3. The memorandum should be read alongside the Minister’s statement and the contract between SPS and Reliance as published on SPS’s website on 20 May 2004.

SPS’s relationships with the Minister and with Reliance

4. SPS is Scotland’s only national law enforcement agency and an Agency of the Scottish Executive. Though legally part of the Executive, it operates at arm’s length from it. Its relationship with the Scottish Ministers, and in particular with the Minister for Justice, is set out in its Framework Document.² The Chief Executive is responsible and accountable for operational and contractual matters involving the Agency and for its performance. He or she is answerable to the Scottish Ministers.³ The Scottish Ministers determine the policy and financial framework within which SPS operates. They set the public expenditure provision for the SPS and the key targets for the delivery of SPS aims and objectives.⁴ The Scottish Ministers are accountable to the Scottish Parliament for the functions and policy of SPS.⁵

5. The Framework Document sets out the matters delegated to the Chief Executive for decision, and constitutes the main authority for the Chief Executive to conduct SPS operations.⁶ This includes unlimited delegated authority to incur expenditure and enter contracts on behalf of Scottish Ministers within the resources available to SPS. The Chief Executive is also the Agency Accountable Officer.

6. In 2003-4, the year during which SPS entered its contract with Reliance, the resources available to the Chief Executive amounted to around £300m. SPS estimates that, during that year, it was a party to around 330 live contracts.

⁴ Framework Document, paragraph 4.2.
⁵ Framework Document, paragraph 4.1.
⁶ Framework Document, paragraph 1.3.
7. SPS’s relationship with Reliance is governed by the contract entered into by them on
3 November 2004. Because SPS is legally part of the Executive, the contract is between
Reliance and the Scottish Ministers. As for all SPS contracts, however, SPS negotiated and
entered into this contract independently under the powers delegated to the Chief Executive
within the Framework Document.

SPS’s decision to contract out escort and court custody services

8. Prisoner escort and court custody services have been fully contracted out in England
and Wales for the past seven years. A review by independent consultants noted that “the
operational delivery of the service by contractors is a complex, specialised ‘logistical’
business with particular security and prisoner welfare considerations, complicated by the
demands of multiple stakeholders in the Criminal Justice System.” The review concluded
that “the contracts worked [and] costs were reduced below that of the previous in-house
service”; that “the performance of the services on security and prisoner welfare was good”
but there was “scope for improvement in relation to timeliness of delivery to court and of
returns to prison”.7

decided that it would contract out prisoner escorts. SPS regards this service as not part of,
and impairing its ability to deliver, its primary purpose as set out in its Vision and Mission
Statement.8 HM Chief Inspector of Constabulary had come to a similar conclusion for the
police in his Annual Report for 2000-2001.9 It was clear to SPS that the best value for
taxpayers’ money would be obtained from a contract covering not only SPS escorts but also
police escorts and court custody services involving a number of other law enforcement and
criminal justice agencies. SPS therefore sought the views of other agencies and of the then
Minister for Justice and Deputy First Minister.

10. The Deputy First Minister announced on 21 January 2002 that SPS would lead a
multi-agency team to put in place a central contract for prisoner escort and court custody
services in Scotland.10

Negotiation and award of the contract

11. As the present Minister for Justice told Parliament on 21 April 2004,

“The SPS-led team put the work out to tender in September 2002 and received responses from bidders
in December of that year. The timetable was extended to allow a more detailed and thorough
comparison of bidders' responses with the costs of providing the then current system. Reliance Secure
Task Management Ltd became the preferred bidder based on its proposals, which complied with the
operational and commercial requirements, and its track record in providing escort services in the south-
west of England.”11

This procurement exercise was conducted by SPS in line with EU procurement rules,
HM Treasury and Office of Government Commerce guidance and using the PRINCE project

7 “Better Quality Services” review of the Prisoner Escort and Custody Services, PA Consulting Group,
summary.
8 Available at www.sps.gov.uk/vision.
methodology. It involved SPS’s in-house procurement service. Following a separate tender exercise, SPS appointed PA Consulting to provide project management, financial and legal advice and services for the procurement. PA in turn contracted Semple Fraser to provide the legal advice. The multi-agency project team involved staff seconded from SPS Operations, Strathclyde and Lothian & Borders Police and the Scottish Courts Service. The Project Board was chaired by SPS and included representation from the Association of Chief Police Officers, the Crown Office, the Scottish Courts Service, the District Courts Association and the Scottish Executive Justice Department. The Project Sponsor was the Chief Executive of SPS, to whom the Project Board reported on progress.

12. Good practice in government procurement is to specify outputs and outcomes rather than inputs and processes. This allows the purchasing authority to concentrate on what is required and the service provider to concentrate on how it is provided. The Office of Government Commerce (OGC) describes “a clear and consistent vision of desired outcomes” as one of the critical factors for successful procurement. In line with this guidance, SPS’s approach to negotiating this contract was to provide information on the current system and opportunities for bidders to become familiar with it; specify the outputs required in future from the Service Provider (Reliance, following contract award); assess the latter’s response and negotiate improvements wherever possible; and to capture the resulting agreement in the contract. SPS therefore did not specify inputs such as the numbers of staff and vehicles or the type of training required.

13. The implementation plan embodied in the contract was proposed by Reliance and reviewed by the operations project team consisting of representatives of SPS, the Scottish Courts Service and the Police. Consistent with good procurement practice, this review was to ensure that what Reliance proposed to deliver would meet the requirements set out in the Invitation to Tender. The review team assessed that Reliance’s proposal covered the required outputs and provided a number of other benefits for SPS and its partner agencies. These included the fact that West Central Scotland has the largest numbers of police and prison officers including dedicated teams where other areas rely on multi-functional officers. SPS and the police are therefore best placed in this area to support the implementation of the contract, as was always planned and as proved to be necessary. The number and type of escorts in this area also ensure a comprehensive test of policies and procedures to be applied across Scotland as a whole in later phases.

14. Members of the Committee have also indicated an interest in the training of Reliance staff. Again, Reliance’s proposals were assessed by the operations project team to ensure that what Reliance proposed met the requirements and, after negotiation, were incorporated in the contract. The latter provides for Prisoner Custody Officers (PCOs) to undergo a six-week training programme (including a week’s shadowing), which is longer than Prison Officers’ initial training for a wider range of duties. The structure and topics of the training are set out in the contract and the training topics are validated by SPS before delivery. Early experience in Phase 1 identified some necessary changes in the training package, and Reliance is acting on these. Training is based on the relevant National Training Organisation standards. Prospective PCOs have to pass the training course before being certified, a requirement of the Criminal Justice and Public Order Act 1994. PCOs also have to obtain clearance from Disclosure Scotland. Checking is at enhanced level and SPS verifies that it has taken place.

Ministers’ involvement in the contract process

15. Scottish Ministers were not involved in the negotiation and award of the contract, nor have they been involved in the negotiation and award of any other of SPS’s contracts. All such contracts are entered into by SPS on Ministers’ behalf under the authority delegated to SPS within the Framework Agreement.

16. Ministers were involved in the decision to contract out prisoner escort services at only two points. In each case the relevant issues went beyond the scope of the delegation in SPS’s Framework Document.

17. First, as noted above, Ministers approved and announced in January 2002 SPS’s proposal that the contract should cover the escort and court custody services provided by other agencies as well as those provided by SPS. This involvement came before the procurement process and contract negotiations started.

18. Second, SPS sought confirmation from Ministers during the procurement process that the Executive would make available to SPS the additional resources necessary to fund that part of the cost of the contract relating to services previously provided by the Police. These resources fell outside those then covered by the Framework Document. It would not have been proper for SPS to enter the contract without assurance that the necessary additional resources would be available to pay for it. Ministers provided that assurance and a statement was made to Parliament in September 2003.14 Contract negotiations were suspended while this point was put to Ministers. This was necessary to ensure that SPS only negotiated in good faith and while in a position to enter the contract.

Other relevant contracts

19. Two groups of other contracts are relevant: those entered into by the Scottish Executive on behalf of the Scottish Ministers for other services; and those entered into by UK Ministers for prisoner escort services.

20. SPS follows the same procurement and financial guidance as the Scottish Executive and its approach to this procurement was consistent with that guidance and with practice across government.

21. As noted above, the Home Office contracted out escort services in England & Wales in the early 1990s, awarding eight regional contracts of which Reliance holds one. Compared to SPS’s contract with Reliance, these contracts cover broadly the same services, were negotiated and entered in broadly the same way and are managed in broadly the same way. Among the differences are the approach to publication of the contracts (see below) and to the performance management regime. The Home Office is modernising its contracts, consolidating eight existing regions to four. Reliance has been awarded one of these contracts since it began implementation of its contract with SPS. Its new contract extends the previous area to include South Wales, the West of England and the major Midlands conurbations.

Freedom of Information

22. SPS’s contract with Reliance provides for publication of the contract in accordance with the Code of Practice on Access to Scottish Executive Information. The contract was published by SPS on Thursday 20 May. Information which is operationally and commercially sensitive was excised by SPS from the contract before publication, as required by the contract and specifically provided for in the Code of Practice. The latter exempts information from publication where to do so would cause prejudice or harm to, among other things, law enforcement and legal proceedings, the effective management and operations of the public service and a third party’s commercial confidences. The Code requires SPS to consider whether any harm or prejudice arising from disclosure is outweighed by the public interest in making information available. SPS applied this test in preparing the contract for publication and concluded that the public interest did not justify disclosure which would be in breach of its contract and which would cause harm or prejudice of the kinds which exemptions in the Code seek to prevent.

23. SPS is of course aware that information alleged to be that excised from the contract has now been published. SPS neither confirms nor denies the accuracy of this.

24. As far as SPS is aware, its contract with Reliance is the first contract for escort services to be published in the UK. Similarly, its contract in relation to HMP Kilmarnock is the first and so far only contract for prisoner places to have been published in the UK. SPS has also published its contract with MEDACS for medical services.

Progress with implementation

25. Phase 1 of the contract was implemented on 5 April 2004 and covered courts, police custody units, prisons and hospitals in Glasgow and West Central Scotland. Implementation of the contract has attracted much comment, much of it inaccurate. In particular, a number of the issues highlighted in recent weeks are arguments for reform of the existing system, not against the new service. As independent consultants commented of the position in England and Wales, "the whole system needs to be better joined up, to address accountability and performance issues at the boundaries between different stakeholders in the CJS [Criminal Justice System], that are difficult to resolve under the current arrangements.”

26. During the implementation of Phase 1 a prisoner serving a life sentence, James McCormick, escaped from custody. Reliance was at fault, and the company has accepted that.

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17 Code of Practice on Access to Scottish Executive information, Part II, preamble.
18 Daily Record, 22 May 2004.
19 SPS understands that redacted versions of the Home Office contracts have been lodged in the House of Commons Library but that they are not available on the Home Office website.
20 “Better Quality Services” review of the Prisoner Escort and Custody Services, PA Consulting Group, summary.
27. In addition, SPS is aware of a number of other liberations in error during Phase 1. Each such incident is the subject of a thorough investigation conducted by the contract monitors, who are employed by SPS and based in HMP Barlinnie. Each such incident is then subject to the performance management process by which SPS and Reliance agree the allocation of responsibility and the application of service credits. Those discussions are under way now for the first two monthly performance management periods. These are significant negotiations because they will establish a number of interpretations and other precedents which will remain in place for the duration of the seven-year contract. SPS’s concern in these negotiations is to get the best outcome for the public sector. Reaching final agreement will take time. Ultimately, if it is not possible to reach agreement, either side may take the issue to formal arbitration.

28. The scrutiny associated with Phase 1 of the contract has highlighted the need for wider action by other criminal justice agencies. The Minister has asked ACPOS to lead that work, which is separate from the performance management process. SPS will be part of the ACPOS-led group. Because of its experience over seven years of delivering escort services in England & Wales, Reliance is well placed to contribute to that work, as part of a partnership to improve the efficiency and effectiveness of the criminal justice service as a whole. As ACPOS itself has pointed out, the system which the Reliance contract replaces “did not have a 100% record”.

29. There were significant delays to court sittings at the start of Phase 1. Reliance took measures to address these problems immediately they came to light. These measures included extra staff, enhanced training and better scheduling. As the Minister reported to Parliament, these measures had begun to produce improvements by 21 April. In the period since the Minister’s statement, performance in the Phase 1 area has continued to improve, as Annex A illustrates for its busiest court. The police and SPS have and continue to give transitional assistance to Reliance. Well over 90% of deliveries are now achieved before 9.30 am. The earliest that prisoners are required in court is 10 am, and in many cases prisoners are not required until the afternoon.

30. SPS and the company have agreed that roll-out of the contract should be rephased. SPS is currently discussing a revised implementation programme with the company and SPS and the company expect to announce the outcome of those discussions shortly. As the Minister has made clear, SPS will take that decision on the evidence and in the best interests of public safety and the criminal justice service.

31. SPS and the company have also agreed that a performance summary will be agreed for each calendar month of the contract. The Performance Summary will be available for either party to publish as appropriate without further approval. It will only be available for publication following agreement of all of the elements included in the Performance Summary. Subject to that, it will normally be agreed in the month following the performance period. These will include the total number of prisoner movements in the period, the percentage of deliveries to court achieved on time, the numbers of incidents of prisoners being unlawfully at large and the payment made to the service provider for the period.

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32. SPS and its Criminal Justice partners remains committed to delivering the benefits of its contract with Reliance. SPS agrees with the assessment made by ACPOS:

"Once established, the new arrangements will provide, for the first time, a tailor-made, co-ordinated service for all prisoner movements across Scotland, reducing duplication and providing savings for the police and prison service to utilise in their core functions."²⁵

Scottish Prison Service
June 2004

ARRIVALS AT COURT

1. The contract with Reliance requires that “Prisoners must be delivered to court in sufficient time before the court sits to enable the formal procedures to be complied with”\textsuperscript{26}. For Sheriff and District Court proceedings, prisoners must be delivered 30 minutes before the day’s proceedings are scheduled to commence;\textsuperscript{27} that is, by 9.30 am on normal sitting days.

2. The contract specifies a performance measure for this requirement.\textsuperscript{28} Data is collected from the Global Positioning System (GPS) equipment fitted to every Reliance vehicle. These data record the time each vehicle passes the GPS waypoint marking each of the relevant premises.

3. As the Minister for Justice made clear in her statement to Parliament on 21 April, courts covered by the first phase were affected on the first morning by the late arrival of vans. Glasgow sheriff court was particularly badly affected.\textsuperscript{29} The Minister’s statement set out the actions which had been taken to improve delivery times, and noted that these measures had begun to produce improvements.\textsuperscript{30} This Annex updates that assessment of delivery times at Glasgow sheriff court.

4. The chart attached shows daily data on arrivals at Glasgow sheriff court, which is the busiest court in Scotland as well as in Phase 1 and which experienced the most significant difficulties at the start of Phase 1. These data are from the GPS system and are the starting point for SPS’s performance management of the contract. The chart shows:

- the problems and volatility experienced at the start of Phase 1
- the impact of high volumes on Mondays and on Tuesdays following a Monday holiday
- improvements by 21 April, as the Minister reported to Parliament
- stable performance and continued improvements in the period since then, with an average of 93\% of arrivals on time since 10 May (97\% excluding Mondays)
- progress in reducing the impact of Monday peaks: Monday performance has improved week on week in three out of the five weeks since 21 April.

5. These figures do not show a comparison with delivery times being achieved before implementation of the contract. No comparable data were then collected, though those familiar with the Glasgow courts know that delays occurred. One of the advantages of the contract is the collection of robust performance data.

\textsuperscript{26} Contract, Schedule 1, paragraph 5.1.3.
\textsuperscript{27} Contract, Schedule 1, paragraph 5.1.3.2.
\textsuperscript{28} Contract, Schedule 2, Appendix A, Section 4, Performance Measure 1(b).
\textsuperscript{29} Official Report, 21 April 2004, column 7528.
\textsuperscript{30} Official Report, 21 April 2004, column 7530.
Arrivals at Glasgow Sheriff Court by 9.30am

Produced by Escort Monitor Team, Barlinnie Prison