



# Justice for All





# Justice for All

Presented to Parliament  
by the Secretary of State for the Home Department,  
the Lord Chancellor and the Attorney General  
by Command of Her Majesty  
July 2002

© Crown Copyright 2002

The text in this document (excluding the Royal Arms and departmental logos) may be reproduced free of charge in any format or medium providing that it is reproduced accurately and not used in a misleading context. The material must be acknowledged as Crown copyright and the title of the document specified.

Any enquiries relating to the copyright in this document should be addressed to The Licensing Division, HMSO, St Clements House, 2-16 Colegate, Norwich, NR3 1BQ.  
Fax: 01603 723000 or e-mail: [licensing@cabinet-office.x.gsi.gov.uk](mailto:licensing@cabinet-office.x.gsi.gov.uk)

# Foreword

The people of this country want a criminal justice system that works in the interests of justice. They rightly expect that the victims of crime should be at the heart of the system. This White Paper aims to rebalance the system in favour of victims, witnesses and communities and to deliver justice for all, by building greater trust and credibility.

Lessons learnt through joint working, including the Street Crime Initiative, have already made a difference in bringing together the Crown Prosecution Service, the police and courts. This has assisted us in speeding up and increasing the efficiency of the system. But root and branch reform is still required.

In this country, we have a tradition of criminal justice of which we can be rightly proud. Whilst we need to ensure that there is a fair balance of rights between the defence and prosecution, we are determined to ensure that justice is done and is seen to be done. Too few criminals are caught or convicted or prevented from reoffending. Justice denied is justice derided. This White Paper is designed to send the strongest possible message to those who commit crimes that the system will be effective in detecting, convicting and properly punishing them.

This statement of policy therefore encompasses not only the work of those responsible to the Home Office, to the Lord Chancellor and the Attorney General, but also those partners at local as well as at national level who have a critical part to play in both improvement and delivery.

This White Paper represents the Government's view as to what should be done to modernise and improve the criminal justice system so its aims can be achieved more effectively. There are some parts of this White Paper where we have specifically asked for views on these points. We welcome the views of all those in the community as well as participants and interest groups related to the criminal justice system.

Finally, we are indebted to Sir Robin Auld and to John Halliday for their extensive and thorough reviews of the criminal courts and sentencing policy, and to all those who contributed to the public consultations that followed.



*Irvine McKing*



*David Blunkett*



*Ius Gaden*

In December 1999 Sir Robin Auld was commissioned by the Lord Chancellor, the Home Secretary and the Attorney General to inquire into:

‘the practices and procedures of, and the rules of evidence applied by, the criminal courts at every level, with a view to ensuring that they deliver justice fairly, by streamlining all their processes, increasing their efficiency and strengthening the effectiveness of their relationships with others across the CJS, and having regard to the interest of parties including victims and witnesses thereby promoting public confidence in the rule of law.’

Sir Robin was assisted by consultants and he received over 1,000 submissions from organisations and members of the public. His report, *Review of the Criminal Courts of England and Wales*, was published on 8 October 2001.

The period for comment following publication of the review ended on 31 January 2002. Nearly 500 responses were received from stakeholders and members of the public. In addition, a series of meetings was held with stakeholders, and fourteen regional discussion events were attended by interested parties, with Ministers and officials listening to views.

John Halliday’s report of a review of the sentencing framework for England and Wales, *Making Punishment Work* examined whether the sentencing framework for England and Wales could be changed to improve results, especially by reducing crime, at justifiable expense. The review looked at:

- judicial discretion in sentencing and the guidelines governing its use;
- the framework of statute law;
- the types of sentence that should be available to the courts, with the aim of designing more flexible sentences that work effectively, whether the offender is in prison or in the community;
- the ways in which sentences are enforced;
- the systems that govern release from prison; and
- the role of the courts in decision making while the sentence is in force.

The review was published on 5 July 2001 with a consultation phase through to 31 October 2001. Nearly 200 responses to the report were received from those connected with the CJS and members of the public.

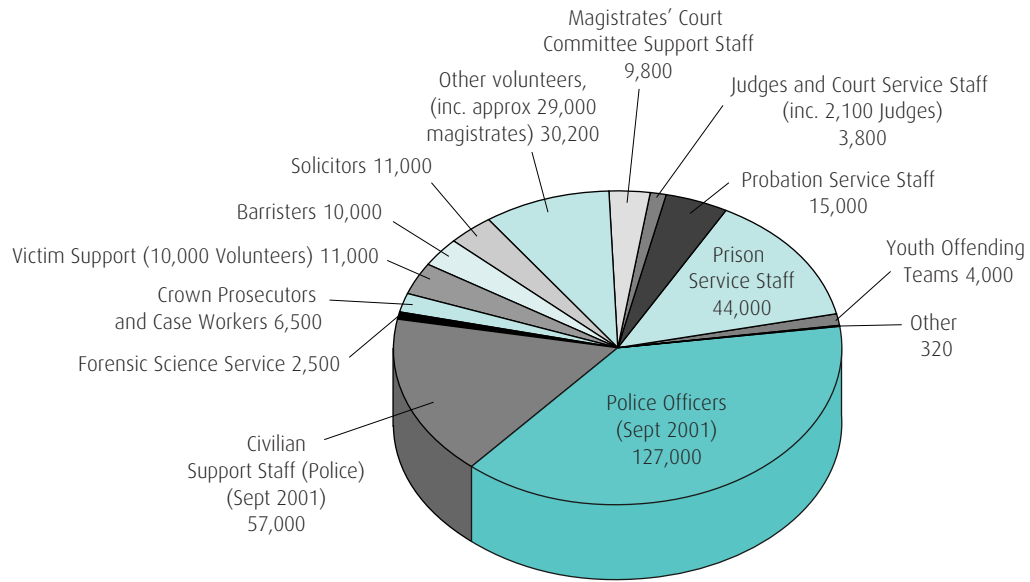
## Roles of the Criminal Justice System Agencies and Partners

Service	CJS Role
Home Office	The Home Office is the government department responsible for internal affairs and leading on criminal policy in England and Wales. It has a specific aim of working closely with the LCD and CPS to deliver justice through effective and efficient investigation, prosecution, trial and sentencing and support for victims. The Home Office also oversees the police, the Youth Justice Board, Prison and Probation services and supports the work of the charity Victim Support.
Lord Chancellor's Department (LCD)	The Lord Chancellor's Department aims to secure the efficient administration of justice in England and Wales through the effective management of the courts and the appointment of judges, magistrates and other judicial office holders. The LCD is also responsible for the administration of legal aid and also has the oversight of a wide programme of Government civil legislation and reform.
Police	Prevent and reduce crime, and deal with all aspects when a crime does occur – investigate, arrest, detain, appear as expert witnesses in court and provide a high quality of care to victims and witnesses.
Crown Prosecution Service (CPS)	Independent prosecution service. Currently receives cases charged or summonsed by the police and decides whether to continue with, or discontinue the prosecution. Prepares cases for prosecution and presents them at court. Liaises with victims and witnesses. The Director of Public Prosecutions is head of the CPS and is accountable to the Attorney General.
Serious Fraud Office (SFO)	A non-ministerial department that investigates and prosecutes serious or complex fraud in England, Wales and Northern Ireland. The SFO Director is accountable to the Attorney General.
Forensic Science Service	Provides scientific support in the investigation of crime, and expert evidence to the courts. The work undertaken includes the laboratory examination of exhibits, the evaluation of forensic evidence, expert witness testimony at court and awareness training. Also helps coroners to investigate the causes of sudden, unexpected and unnatural deaths.
HM Coroner	Responsible for the investigation of suspicious and untoward deaths in England and Wales.
Criminal Defence Service	Set up in April 2001, to fund criminal defence services through a flexible system of contracts with private sector lawyers and salaried defenders. Run by the Legal Services Commission, the successor to the Legal Aid Board.
Court Service	Responsible for the running of the majority of the courts and tribunals in England & Wales, other than magistrates' courts i.e. Crown, County, Appeals, and provides the necessary services to the judiciary and court users to ensure its impartial and efficient operation. It also advises the Lord Chancellor on his responsibilities in relation to magistrates' courts.
Victim Support	An independent charity which provides information and support to victims and runs the Court Witness Service, which provides support for any witness who needs it in both the Crown Court and magistrates' courts.
Magistrates' Courts	Lay magistrates and District Judges deal directly with summary or either-way offences (95% of all cases) or refer cases to Crown Court. Youth Courts, with specially trained magistrates, deal with defendants aged 17 and under, based in or near the magistrates' court.
Crown Court	Deals with all trials on indictment and with persons committed for sentence, and hears appeals from lower courts, including youth cases. Types of offences are directed to certain court tiers e.g. homicide, and the most serious offences can only be tried by a High Court judge.

## Roles of the Criminal Justice System Agencies and Partners

Service	CJS Role
HM Prison Service	Protects the public and reduces reoffending by detaining suspects on remand pending court appearance and by detaining convicted criminals post sentencing. Provides healthcare and education for offenders and works to rehabilitate them.
Parole Board	This independent executive Non-Departmental Public Body makes risk assessments to inform decisions on the release and recall of prisoners. Its aim is both to protect the public and successfully reintegrate prisoners into the community.
National Probation Service	An enforcement service that protects the public and reduces reoffending by ensuring proper supervision and punishment of offenders in the community. It also ensures that offenders are aware of the effects of crime, rehabilitates offenders and advises the courts on suitable sentences for offenders.
HM Inspectorate of Constabulary	This Inspectorate is responsible for carrying out inspections of provincial police forces under the Police Act 1964. It promotes collaboration between forces. It also encourages the application of up-to-date techniques and the results of central police research. It provides advice to the Home Secretary and the Home Office on professional police matters.
HM Crown Prosecution Service Inspectorate	The CPS Inspectorate aims to promote the efficiency and effectiveness of the CPS through a process of inspection and evaluation. It provides advice and identifies and promotes good practice and reports to the Attorney General.
HM Magistrates' Court Service Inspectorate	This HM Inspectorate aims to promote continuous improvement in the magistrates' court service and the Children and Family Court Advisory and Support Service and to promote joint inspection of the CJS. It reports to the Lord Chancellor.
HM Inspectorate of Prisons	Provides independent inspections of the treatment of prisoners, regime quality in prisons (including access to work and educational opportunities), the morale of prisoners and staff, the quality of healthcare, how the establishment is managed and the physical condition of buildings. The Chief Inspector reports directly to the Home Secretary.
HM Inspectorate of Probation	Reports to the Home Secretary on whether probation services are providing high quality advice to criminal and civil courts and contributing to public protection by the effective supervision of offenders. It also works to promote and develop effective probation management and practice.
Youth Justice Board (YJB)	Monitors the operation and performance of the youth justice system. The YJB collects and publishes relevant information, advises on delivery of the aim of preventing offending, helps draw up standards for the delivery of youth justice services and custodial regimes. It also identifies and spreads good practice in working with young offenders and those at risk of offending and offers grants to enable the development of successful schemes.
Youth Offending Teams (YOTs)	Multi-agency teams established by Local Authorities comprising members of police, probation, social services, education services, health services and other local agencies. YOTs coordinate local youth justice services including reporting to courts, administering community sentences, supervising those released from custody and carrying out some probation work.

## The CJS Workforce (March 2001 figures)







# Contents

Executive Summary	11
<b>Chapter 1</b> The need for reform	23
<b>Chapter 2</b> A better deal for victims and witnesses	36
<b>Chapter 3</b> Getting the process right at the start	51
<b>Chapter 4</b> Delivering justice – fairer, more effective trials	67
<b>Chapter 5</b> Putting the sense back into sentencing	85
<b>Chapter 6</b> Punishment and rehabilitation	102
<b>Chapter 7</b> Enhancing the public’s engagement	116
<b>Chapter 8</b> Focusing the CJS on fighting and reducing crime and delivering justice	128
<b>Chapter 9</b> Joining up the CJS	144
The way forward	160
Annex 1: How to respond to the proposals on which we are consulting	161
Annex 2: Building on <i>Criminal Justice: The Way Ahead</i>	164
Glossary	165



# Executive Summary

Our goal is strong, safe communities. That means:

- tough action on anti-social behaviour, hard drugs and violent crime;
- rebalancing the criminal justice system in favour of the victim; and
- giving the police and prosecution the tools to bring more criminals to justice.

The majority of crime is committed by a relatively small number of persistent offenders. Despite all the changes of recent years, the signals sent out are ones of weakness in critical areas: too few criminals brought to justice; too many defendants who offend on bail; too slow to bring them to trial; too many guilty go unconvicted; too many without the sentence they and society need.

We have done a lot, but there is a lot more to do. We need to send the clearest possible signal that the criminal justice system will be effective in detecting crime, in bringing offenders to court, in convicting those who are guilty and in sentencing them properly.

To ensure better detection, we have embarked on a radical programme of police reform.

To reduce offending on bail we will give the police new powers to impose conditions on bail before charge and extend the prosecution's right to appeal bail decisions.

To get more defendants to court, there will be the closest possible working between the police and the Crown Prosecution Service to make sure that cases do not slip between the cracks because of poor case preparation or inadequate charging.

To convict more of the guilty, we will ensure that the case focuses on the relevant issues, and does not have any surprises, because the prosecution and defence will disclose their cases more fully pre-trial.

At the trial we will ensure magistrates, judges and juries are able to hear all the relevant evidence that fairly bears on defendants' guilt or innocence.

Where a defendant is convicted, we will ensure that if they are a danger to the public or a serious or persistent offender they will be put into custody. For other offenders there will be a range of penalties that are effective in punishing them and in tackling reoffending.

**The purpose of this White Paper is to send the clearest possible signal to those committing offences that the criminal justice system is united in ensuring their detection, conviction and punishment.**

**To detect more crime we will:**

- increase police numbers to 130,000 by Spring 2003;
- increase spending on the police by around £1.5 billion by 2005-06 compared to 2002-03;
- encourage more specialist detective skills;

- set a clear target for increasing the proportion of police time spent on frontline work; and
- better harness science and technology to find the evidence to detect offenders.

**To get more defendants to court more quickly we will:**

- continue to co-locate the police and Crown Prosecution Service in joint Criminal Justice Units;
- allow Crown Prosecution Service to take more responsibility for determining charges so that the right cases go to court on the right charges;
- invest over £600 million in CJS IT to manage cases more efficiently through the system;
- give sentence indication to encourage early guilty pleas; and
- give magistrates greater sentencing powers of up to 12 months so that they can hear and sentence more cases appropriate to them.

**To prevent offending on bail we will:**

- give the police power to impose conditions on a suspect's bail during the period before charge;
- weight the court's discretion against granting bail to a defendant who has been charged with an imprisonable offence committed whilst already on bail for another offence;
- extend the prosecution's right to appeal against bail to cover all imprisonable offences; and
- pilot in high crime areas a presumption of remand into custody if a suspect tests positive for Class A drugs at arrest but refuses treatment.

**To convict more of the guilty we will:**

- improve defence and prosecution disclosure by increasing incentives and sanctions to ensure compliance;
- allow the use of reported evidence ("hearsay") where there is a good reason, such as where a witness cannot appear personally;
- allow for trial by judge alone in serious and complex fraud trials, some other complex and lengthy trials or where the jury is at risk of intimidation; and
- extend the availability of preparatory hearings to ensure that serious cases such as drug trafficking as well as complex ones can be properly prepared.

**At the trial we will:**

- allow the court to be informed of a defendant's previous convictions where appropriate;

- remove the double jeopardy rule for serious cases if compelling new evidence comes to light;
- give witnesses greater access to their original statements at trial;
- give the prosecution the right of appeal against rulings which terminate the prosecution case before the jury decides; and
- increase the proportion of the population eligible for jury service.

**Where a defendant is convicted we will:**

- focus custody on dangerous, serious and seriously persistent offenders and those who consistently breach community sentences;
- ensure that dangerous violent and sexual offenders can be kept in custody for as long as they present a risk to the public;
- ensure tough, more intensive community sentences with multiple conditions like tagging, reparation and drug treatment and testing to deny liberty, rehabilitate the offender and protect the public;
- ensure more uniformity in sentencing through a new Sentencing Guidelines Council;
- enable courts to offer drug treatment as part of a community sentence for juveniles;
- introduce a new sentence of Custody Minus – community supervision backed by automatic return to custody if the offender fails to comply with the conditions of their sentence;
- introduce a new sentence of Custody Plus to ensure that short sentence prisoners are properly supervised and supported after release; and
- introduce intermittent custody to enable use of weekend or night-time custody for low risk offenders.

**0.1** This White Paper sets out a wide-ranging programme of reform for the criminal justice system (CJS) in England and Wales. We have an absolute determination to create a system that meets the needs of society and wins the trust of citizens, by convicting the guilty, acquitting the innocent and reducing offending and reoffending. We will ensure that there is a fair balance between the rights of the prosecution and the defence. The proposals in this White Paper form a coherent strategy, from the detection of offences to the rehabilitation of offenders, designed to focus the CJS on its purpose – fighting and reducing crime and delivering justice on behalf of victims, defendants and the community.

**0.2** We will ensure that from the moment a crime is committed, everything consistent with justice will be done to rightly convict the offender. The process will be geared towards getting to the truth, convicting the offender as early as we possibly can, and minimising opportunities for anyone to impede efforts to achieve that. We will put the victims, who suffer most from crime, at the heart of the system and do everything we can to support and inform them, and we will respect and protect the witnesses without whom the CJS would not function.

**0.3** We welcome the views of all those in the community, as well as participants and interest groups related to the CJS, on this blueprint for lasting reform. Annex 1 summarises details on the specific areas of consultation we are seeking views on, each of which are discussed in more detail in the following chapters.

#### Our programme of reform is guided by a single clear priority:

- to rebalance the criminal justice system in favour of the victim and the community so as to reduce crime and bring more offenders to justice.

#### To achieve this we will focus on five practical steps:

- reducing offending whilst on bail;
- building strong cases to put before the court;
- new procedures which get the case to trial quickly, with reduced chances of the accused 'playing the system' and escaping justice if guilty;
- simplifying and modernising our approach to evidence; and
- effective sentencing and punishment that works.

## The need for reform

**0.4** We have a tradition of criminal justice of which we can be rightly proud. But to remain responsive to the communities it serves, the system needs to move with changes in society. Crime impacts hardest on the poorest members of our society, many of whom are repeatedly victimised throughout their lives. Reducing it is a social justice priority. Far too many offenders escape justice, creating the 'justice gap' between the number of crimes recorded by the police and the number where an offender is brought to justice.

**0.5** Rectifying these problems requires reform across the CJS, including the police, the Prison Service, the National Probation Service, the Crown Prosecution Service (CPS), magistrates' courts, the Crown Court and various agencies and Inspectorates. Around 300,000 people work in the system, which also depends on active community involvement which includes almost 29,000 magistrates, 12,000 Special Constables and 12,500 victim support volunteers. Each part of the system has developed largely independently, and the agencies do not always form a coherent whole. While we are committed to safeguarding the independence of the judiciary and the prosecution, we are determined to introduce reforms to improve coherence of the system as a whole.

## 0.6 We have already:

- commenced reform of the police;
- begun integrating long-term crime prevention into the work of all government departments;
- taken a new approach to drug related crime by tackling the problem at its roots – primarily by a partnership approach such as that supported by the Communities Against Drugs programme;
- launched the Street Crime Initiative in 10 police force areas;
- more than met our pledge to halve the period between arrest and sentence for persistent young offenders, reducing it from 142 to 63 days;
- reduced delay in the disposal of magistrates’ courts cases;
- introduced closer working between the police and CPS in new Criminal Justice Units;
- established the National Probation Service; and
- made policing subject to race discrimination law following the Stephen Lawrence Inquiry.

## Getting the process right at the start

**0.7** Getting the criminal justice process right at the start is essential. The treatment victims and witnesses receive at this early stage will shape their whole view of the CJS, and could determine their willingness to give evidence and appear in court later. The charge that is brought needs to be the right one for the offence that has been committed, backed by sufficient evidence.

## 0.8 We have already:

- delivered record numbers of police;
- introduced the Police Reform Bill to drive up the performance of the police and make more effective use of support staff;
- invested in police detection, including a major expansion of the national DNA database, a national automated fingerprint ID system, and an upgraded Police National Computer; and
- established 42 Criminal Justice Units leading to better working between the CPS and the police (via co-location) and cost savings, and we are rolling out more.



## 0.9 We propose to:

- give the police power to improve conditions on a suspect's bail during the period before charge;
- weight the court's discretion against granting bail to a defendant who has been charged with an imprisonable offence committed whilst already on bail for another offence;
- extend the prosecution's right to appeal against bail decisions, to cover all imprisonable offences
- as soon as practicable, give the CPS responsibility for determining the charge in cases other than for routine offences or where the police need to make a holding charge, and provide pre-charge advice to the police;
- pilot in high crime areas a presumption of remand to custody if a suspect tests positive for Class A drugs at arrest but refuses treatment;
- improve defence disclosure by increasing incentives and sanctions to ensure compliance;
- provide appropriate incentives and sanctions to promote effective and focused case preparation in criminal courts; and
- remove restrictions on the jury being invited to draw inferences from discrepancies between the pre-trial defence statement and the defence case at trial.

## Delivering justice – fairer, more effective trials

**0.10** We want cases tried in the most appropriate court, and when they come to trial we want the process to convict the guilty and acquit the innocent, promptly and transparently. An individual is innocent until proven guilty and the prosecution must prove their case against the defendant beyond reasonable doubt. But the system should not become a game where delay and obstruction can be used as a tactic to avoid a rightful conviction.

**0.11** We want more evidence to be made available to magistrates, judges and juries. Relevant evidence, including criminal convictions, should be admissible unless there are good reasons to the contrary, such as jeopardising the right to a fair trial. Under our proposals, the guilty will have nothing to gain by delaying their plea, saving victims and witnesses from an unnecessary ordeal and the accused who wants to contest a charge will know that the trial and its preparation will focus on the search for truth.

## 0.12 We propose to:

- overhaul the rules of evidence so that the widest possible range of material, including relevant previous convictions, is available to the court;
- extend sentencing powers of magistrates from 6 to 12 months and require them to sentence all those they have found guilty, rather than committing some to be sentenced in the Crown Court;

- allow defendants to have the right to ask for trial by judge alone in the Crown Court;
- allow trial by judge alone in serious and complex fraud trials, some other complex and lengthy trials, or where the jury is at risk of intimidation;
- strengthen youth courts to deal with more young offenders accused of serious crimes;
- introduce a criminal evidence code and a criminal procedure code, advised by a new Criminal Procedures Rules Committee amongst others;
- allow witnesses to refer to their previous and original statements and change the laws on reported evidence ('hearsay');
- introduce an exception to the double jeopardy rule in serious cases where there is compelling new evidence;
- allow prosecution a right of appeal where the judge makes a ruling that effectively terminates the prosecution case; and
- integrate the management of the courts within a single courts administration and allow Crown Court judges to conduct trials in magistrates' courts.

## Putting the sense back into sentencing

**0.13** Sentencing must protect the public, punish offenders, and encourage them to make amends for their crime and contribute to crime reduction. Technological advances, however, such as tagging and voice recognition technology, give innovative ways to deny liberty, reduce reoffending and ensure community sentences are not a soft option.

**0.14** The punishment must be appropriate to the offence and the offender, ensure the safety of the community and help rehabilitate offenders to prevent them reoffending once and for all. Sentences must be consistent across the country and prison must be reserved for serious, dangerous and seriously persistent offenders and those who have failed to respond to community punishment, with effective alternative sentences for other offenders.

**0.15** We have already:

- overhauled sentences for young offenders, replacing the old failed system of repeated cautions with a single police reprimand and Final Warning, and introducing Detention and Training Orders for those who require custody; and
- introduced a range of innovative new punishments such as Drug Treatment and Testing Orders.

## 0.16 We propose to:

- set up a new Sentencing Guidelines Council to end the unacceptable variations in sentencing;
- introduce a new sentence to ensure that dangerous violent and sexual offenders stay in custody for as long as they present a risk to society;
- enable the courts to request drug treatment as part of a range of community sentences for young offenders as well as adults;
- make the release of all juveniles sentenced for serious crimes subject to decision by the Parole Board and require them to be supervised until the end of their sentence, as is the case for adults;
- introduce a fine enforcement scheme under which the fine will increase if the offender fails to pay;
- publish a paper in the Autumn on the law reform of sexual offences and proposals to overhaul the Sex Offenders Act; and
- look at ways to develop and pilot further intensive fostering to include more young people on remand and as part of a sentence.

## Punishment and rehabilitation

**0.17** Our sentencing policy will ensure that the punishment is appropriate for the offender and the offence. Community sentences will be rigorous and robust enough so as to protect the public and effectively punish the offender by denying liberty and requiring reparation. A key part of sentencing must be rehabilitation to reduce reoffending and contribute to safer communities.

**0.18** Radical reform of sentencing policy should mean community punishment is a tough and credible alternative to custody with more time to rehabilitate those that remain in prison. But that reform will only achieve its goals if correctional policy works too. That means more support and supervision for those leaving prison, and better joint working between the Prison and Probation Services.

**0.19** We have already:

- increased prison capacity by 18% and improved conditions inside prisons;
- invested £20 million in boosting prisoners' learning facilities; and
- begun investing £42 million over three years for the improvement of prison healthcare facilities.

## 0.20 We propose to:

- give greater flexibility to probation officers to drug test offenders on release from custody;
- put 30,000 offenders through the National Probation Service accredited Community Punishment Scheme in 2003-4;
- develop a comprehensive system and programme of aftercare for substance misuse;
- pilot the 'Going Straight Contract' for 18-20s, which could include offenders making financial reparation to victims through contributions from their prison pay;
- expand the testing and treatment of drug misusing offenders;
- modernise the prison estate through new-builds and closure of those establishments which no longer meet our needs; and
- benchmark prisons and clarify the responsibility for setting standards and performance monitoring from operational management.

## A better deal for victims, witnesses and communities

**0.21** Every time a case collapses, or the verdict is perceived to be unjust, a victim's suffering is made worse. Support for victims in the UK remains consistently high by international standards and we have the most generous Criminal Injuries Compensation Scheme in Europe. The voluntary organisation, Victim Support, advises more than one and a half million victims a year and their support remains highly regarded. However, victim satisfaction with the police has gone down from 67% in 1994 to 58% in 2000. Many victims feel that the rights of those accused of a crime take precedence over theirs and have said that they have felt 'left in the dark', vulnerable, intimidated and frustrated.

**0.22** We will put victims and witnesses at the heart of the CJS and ensure they see justice done more often and more quickly. We will support and inform them, and empower both victims and witnesses to give their best evidence in the most secure environment possible.

**0.23** A modern CJS must also engage the wider public. We benefit from a strong civic tradition in this respect, with nearly 29,000 magistrates trying the vast majority of cases, and nearly 200,000 people serving on juries each year. There is also an enormous resource of members of the community able and willing to help in the fight against crime in their neighbourhoods. For instance there are 160,000 local neighbourhood watch schemes and thousands of people involved in community projects to reduce crime.

## 0.24 We have already:

- more than doubled funding for Victim Support since 1997;
- banned defendants without legal representation cross-examining rape victims personally;
- invested £11 million in the CPS to communicate prosecution decisions directly to victims; and
- established the Community Legal Service which is now available to over 99% of the people of England and Wales.

## 0.25 We propose to:

- legislate to entitle victims of mentally disordered offenders to the same information about release and management of these offenders as victims of other crime;
- establish a Victims' Commissioner, supported by a new National Victims Advisory Panel;
- appoint victim liaison officers to join Youth Offending Teams (YOTs), as resources become available;
- introduce more measures for vulnerable and intimidated witnesses, such as screens, pre-recorded video evidence and TV links;
- extend specialised support for victims of road traffic incidents and their families;
- reduce exemptions from jury service so that more people serve; and
- codify the criminal law to make it accessible to everyone.

## Joining up the CJS

**0.26** We must bring the component parts of the CJS together to form a coherent whole. When things are not sufficiently joined up case management is less efficient than it ought to be; information is not up to date and accessible, performance is not measured in a meaningful fashion; and structures of accountability are blurred. At worst, offenders get away with their crimes or are given inappropriate sentences, which fail to stop reoffending.

**0.27** More work remains to be done to join up criminal justice agencies. It requires linking up the targets, delivery objectives, strategic plans, IT systems and the daily work of every individual working in each criminal justice agency. We have greatly strengthened measures for managing the performance of the CJS in order to improve service delivery. We are cutting out duplication, rationalising administrative and decision making processes and replacing complicated reporting structures with clean lines of accountability.

## 0.28 We have already:

- established a Cabinet Committee chaired by the Home Secretary, including the Lord Chancellor and Attorney General to ensure a coherent approach to CJS reform;
- appointed a Minister for Justice Systems Information Technology, who will chair a new ministerial sub-committee with oversight of the delivery of IT across the CJS and its effective coordination; and
- established a new Criminal Justice IT organisation.

## 0.29 We propose to:

- invest over £600 million over the next 3 years in case management IT across the CJS;
- establish a new National Criminal Justice Board (to replace the existing Strategic Board) chaired by the Permanent Secretary of the Home Office, including the Permanent Secretary of the Lord Chancellor's Department, Director of Public Prosecutions, the Chief Executives of CJS agencies, the President of ACPO and a senior judge. It will support the new Cabinet Committee and be responsible for overall CJS delivery;
- establish a Criminal Justice Council that will improve on current consultative mechanisms;
- set up 42 local Criminal Justice Boards in 2002-3, accountable to the new National Criminal Justice Board, with accompanying advisory and consultative machinery;
- ensure all CJS professionals will be able to securely email each other by 2003;
- ensure all CJS organisations will be able to exchange case file information electronically by 2005; and
- ensure victims will begin to be able to track the progress of their case online by 2005.



# Chapter 1

## THE NEED FOR REFORM

### WHAT IS WORKING

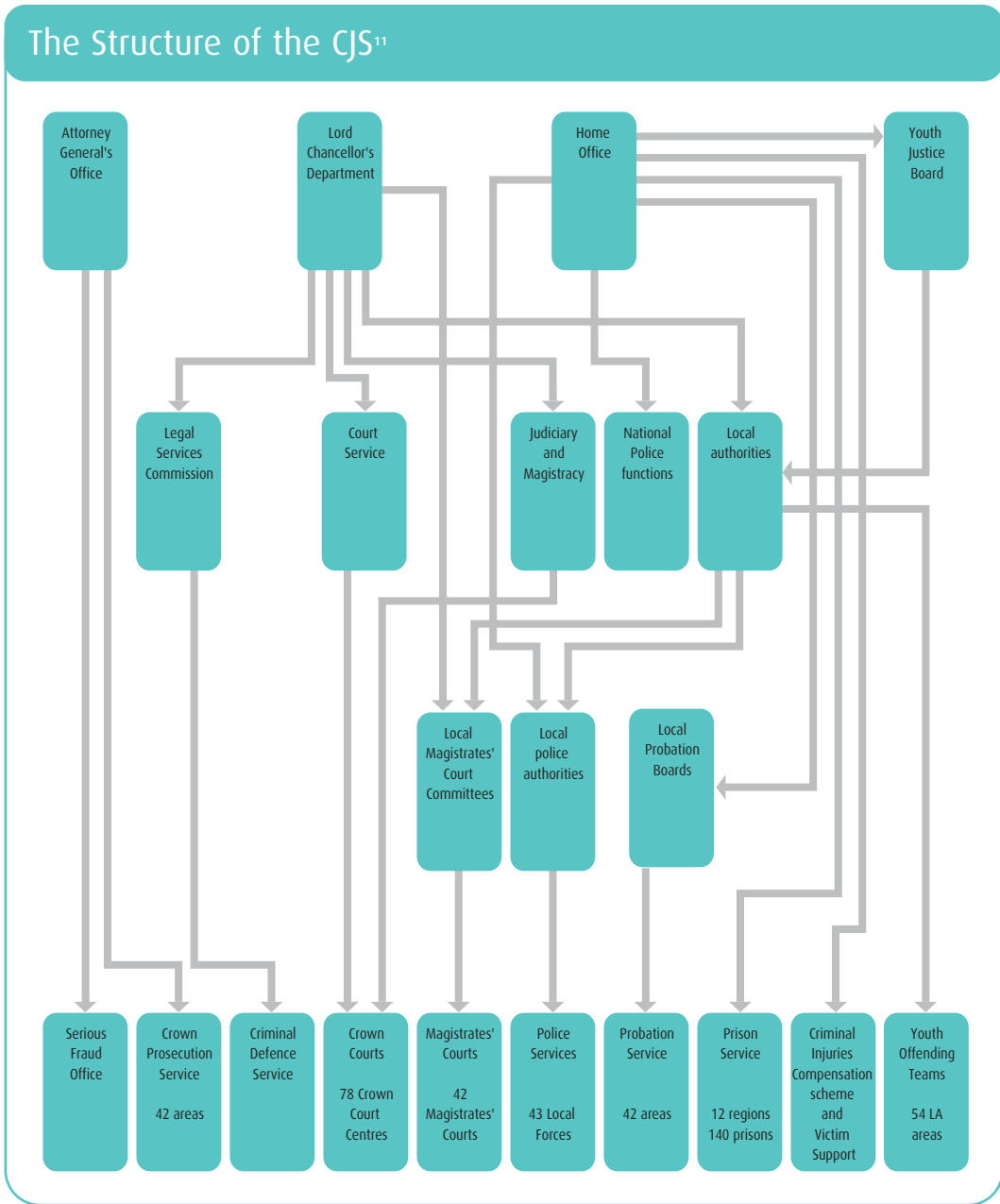
- Overall crime is stable following a period of decline<sup>1</sup> – the chance of being a victim of crime is the lowest it has been since the early 1980s.<sup>2</sup>
- We are on track to bring police numbers to an all time high of 130,000 by Spring 2003. The most extensive police reform for decades has been negotiated and is passing through Parliament.
- A cross-government initiative is bringing together criminal justice agencies in new ways to reduce the opportunities for street crime and to quickly bring offenders to justice.
- Communities Against Drugs forms a new approach to drug-related crime, tackling the problem at its roots.
- We have exceeded our pledge to halve the average time from arrest to sentencing of persistent young offenders from 142 to 71 days. The average time is now 63 days.<sup>3</sup>
- We have reduced juvenile reconvictions by over 14% in the first year of operating our youth justice reforms.<sup>4</sup>
- Closer working between the police and the Crown Prosecution Service is already taking place in 42 new Criminal Justice Units.
- Measures introduced since 1999 have reduced delays in magistrates' courts by streamlining the preparation of cases.
- Greater use of tagging means that offenders can be better monitored while on bail.
- Since May 1997, over 11,000 extra prison places have been provided (an increase of over 18%). The April Budget 2002 also provided an additional 2,300 places.
- Overall security has radically improved within prisons.
- We have improved the rehabilitation of offenders with training and employment programmes such as Custody to Work and better drugs treatment services, and through increased joint working between the Prison Service and the new National Probation Service.



## WHAT IS NOT WORKING

- Some types of crime have risen and overall crime and the fear of crime remains unacceptably high, especially in poorer neighbourhoods.
- The police successfully detect only 23% of recorded crime, and victim satisfaction with the police has decreased.<sup>5</sup> Under-reporting of racist crimes and domestic violence remains a concern.
- No one has overall responsibility for making sure that the prosecution and the defence are ready to proceed and present their cases properly.
- The CPS has to discontinue 13% of cases passed to it by the police and only 55% of contested cases are properly compiled by the police.<sup>6,7</sup>
- 12% of those bailed to appear at court fail to do so and nearly a quarter of defendants commit at least one offence whilst on bail.<sup>8,9</sup>
- Each criminal justice agency still has its own methods of recording details of defendants, offenders, charges and cases. This makes cross-referencing, case management and tracking virtually impossible and may lead to inappropriate decisions.
- There are extreme cases of variation in sentencing for similar crimes across England and Wales.
- Half of all prisoners discharged in 1997 were reconvicted within 2 years.<sup>10</sup>

## The Structure of the CJ<sup>11</sup>



Our goal is strong, safe communities. That means:

- tough action on anti-social behaviour, hard drugs and violent crime;
- rebalancing the criminal justice system in favour of the victim; and
- giving the police and prosecution the tools to bring more criminals to justice.

The majority of crime is committed by a relatively small number of persistent offenders. Despite all the changes of recent years, the signals sent out are ones of weakness in critical areas: too few criminals brought to justice; too many defendants who offend on bail; too slow to bring them to trial; too many guilty go unconvicted; too many without the sentence they and society need.

We have done a lot, but there is a lot more to do. We need to send the clearest possible signal that the criminal justice system will be effective in detecting crime, in bringing offenders to court, in convicting those who are guilty and in sentencing them properly.

To ensure better detection, we have embarked on a radical programme of police reform.

To get more defendants to court, there will be the closest possible working between the police and the Crown Prosecution Service to make sure that cases do not slip between the cracks because of poor case preparation or inadequate charging.

To convict more of the guilty, we will ensure that the case focuses on the relevant issues, and does not have any surprises, because the prosecution and defence will disclose their cases more fully pre-trial.

At the trial we will ensure magistrates, judges and juries are able to hear all the relevant evidence that fairly bears on defendants' guilt.

Where a defendant is convicted, we will ensure that if they are a danger to the public or a serious or persistent offender they will be put into custody. For other offenders there will be a range of penalties that are effective in punishing them and in tackling reoffending.

**The purpose of this White Paper is to send the clearest possible signal to those committing offences that the criminal justice system is united in ensuring their detection, conviction and punishment.**

**1.1** The criminal justice system (CJS) exists to fight and reduce crime and to deliver fair, efficient and effective justice on behalf of victims, defendants and the community. It must convict the guilty, acquit the innocent, and in the penalties it imposes, punish offenders and reduce reoffending. Better practical support for victims and witnesses is crucial and all the CJS agencies – from the police to the Crown Prosecution Service (CPS), to the courts, the Prison and National Probation Services and the Youth Justice Board (YJB) – need to make victims and witnesses a higher priority. The CJS must retain the confidence of the public that it is effective in the fight against crime and in the delivery of justice.

**1.2** Tackling crime is a social justice priority. Crime impacts hardest on the poorest members of our society, thousands of whom are repeatedly victimised throughout their lives. Sustained regeneration of our most disadvantaged communities is simply not possible without tackling crime. Criminal activity, drug abuse and social disorder prevent businesses investing with confidence, and deprive local people of much of the benefit of increased public expenditure.

**1.3** We have a tradition of criminal justice of which we can be rightly proud. The Government has built on that tradition in a number of ways – for example, through police reform, speeding up the time it takes to deal with persistent young offenders, overhauling the Probation Service and through a coherent approach to drug crime. We have focused the efforts of the CJS on those crimes and offenders who most damage their victims’ lives and the communities they live in – street robbers, persistent young offenders, violent and sexual offenders. And we have results to show for it – you are now less likely to be a victim of crime than at any time since the early 1980s. But although we have achieved a lot, more needs to be done.

**1.4** The gap between recorded crime and the number of offenders brought before the courts needs to be reduced. Our priority must be bringing more criminals to justice. We recognise that public confidence in the job done by some parts of the CJS has declined since the mid-nineties.<sup>12</sup> Less than half the public believe that the CJS is effective in bringing people who commit crimes to justice<sup>13</sup>. While crime overall has fallen since 1997, the fear of crime is still too high: according to the British Crime Survey, over 22% of people have a high level of concern about violent crime and many also worry about other less serious types of crime.<sup>14</sup>

**1.5** When the CJS works badly, entire communities suffer. Many people are afraid to report crime and to testify in court, particularly if the accused are known to them or to the community they live in. Unfortunately, too many people *do* escape justice. This is the ‘justice gap’, namely the gap between the number of offences recorded by the police and the number of offences where an offender is brought to justice. During 2001-02 recorded crime totalled 5.5 million. The police only successfully detected 23% of these offences, that is 1.29 million. Of these detected cases there were the following outcomes:

- Charge/summons 0.78 million.
- Cautions 0.21 million.
- Taken into consideration 0.11 million.
- No further action 0.2 million.<sup>15</sup>

**1.6** In relation to those who do enter the CJS:

- 12% of those bailed to appear at court fail to do so;<sup>16</sup>
- nearly a quarter of defendants commit at least one offence whilst on bail – rising to 38% of offenders under 18;<sup>17</sup>
- only 55% of contested case files are properly compiled;<sup>18</sup> and
- the CPS has to discontinue 13% of cases passed to it by the police.<sup>19</sup>

**1.7** Cases drop out at every stage of the process for different reasons. Some are to do with laws that need reforming and court practices that need modernising and some to do with rules of evidence. Far too many cases are abandoned because witnesses and victims refuse or fail to give evidence in court. Cases are delayed for a number of reasons:

- whilst convenient trial dates for all are agreed;
- there can be postponements on the day because defendants fail to turn up; and
- the system allows for repeated adjournments because of failures, for example, to deliver the prisoner to court at the right time;
- good information is often unavailable when decisions about granting bail are being made;
- all too often there is a failure to communicate to the CPS information which could have effectively dealt with the defendant's new defence and there is a failure to require the defence to disclose their defence until it is too late to properly challenge it and to ensure that the accused attends court.

**1.8** While the fundamental principle remains that the prosecution must prove its case, this does not mean that the system should enable a defendant to obstruct justice by inaction or by abuse of the process. Defence lawyers have a duty to test the prosecution case, but also have obligations to the court as well as to their clients. Witnesses have a right to be treated respectfully by the court and by all involved in it. It is not acceptable that the system allows the defence to demand the attendance of numerous, and often vulnerable, witnesses whose evidence is not disputed and who have no other evidence helpful to the defence case, at inconvenience to civilian witnesses and enormous cost to the police. Of course these problems do not occur routinely, nor in every case. However they should not be tolerated as they prevent proper consideration of the issues and offenders are left unpunished, victims distressed and the police and public frustrated.

**1.9** Some tactical manoeuvres are designed to secure acquittals by disrupting the justice process, for example unnecessarily forcing disclosure of documents which could identify informers, thereby forcing the CPS to drop the case. So, antiquated rules with arbitrary effects and unpredictable consequences need to be reformed. Such rules frustrate those working within the system and tend to skew the trial towards tactical and procedural matters instead of focusing it on the issue that matters – the search for the truth and convicting the guilty. As Sir Robin Auld rightly pointed out in his report: 'a criminal trial is not a game under which a guilty defendant should be provided with a sporting chance. It is a search for truth in accordance with the twin principles that the prosecution must prove its case and that a defendant is not obliged to inculpate themselves, the object being to convict the guilty and acquit the innocent.'<sup>20</sup>

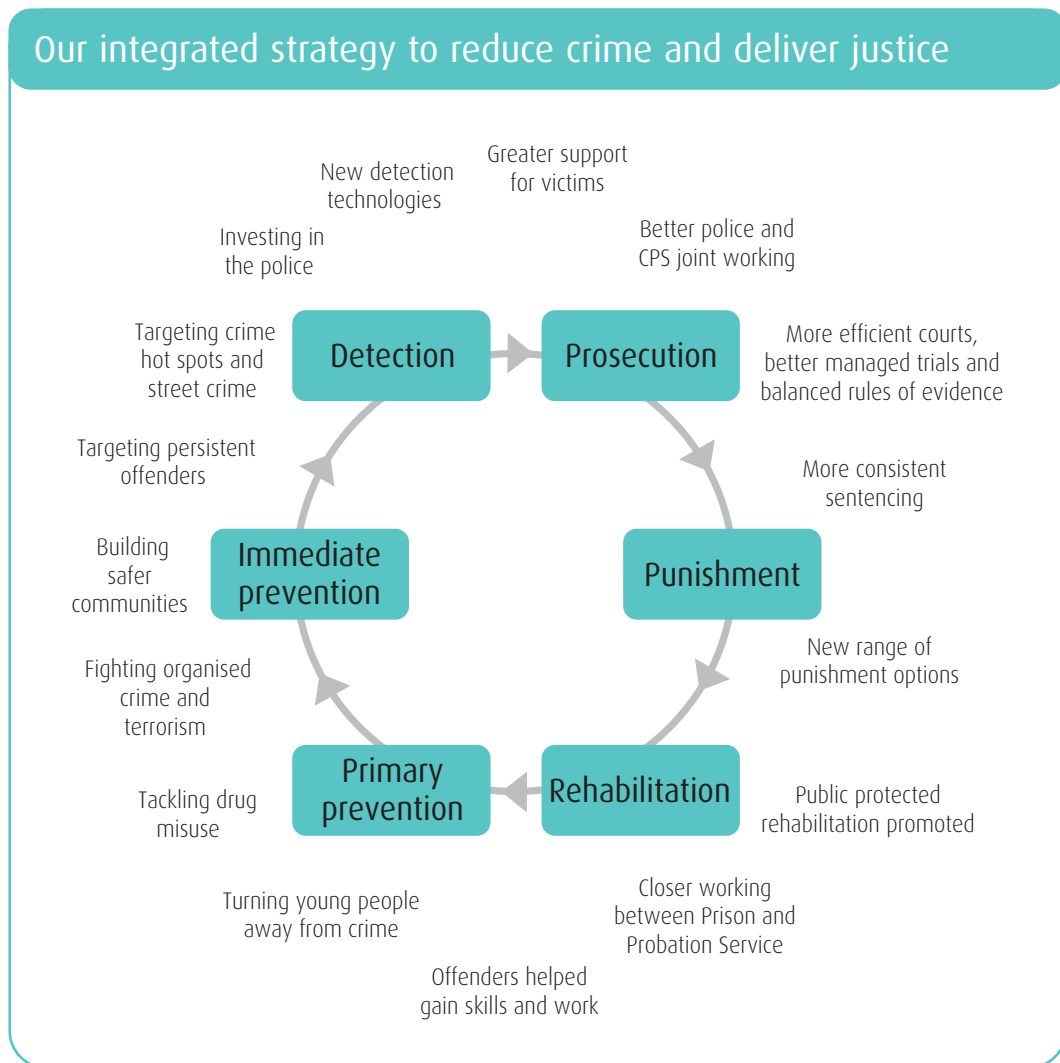
**1.10** The complex nature of the CJS means that the public often see it as slow, inefficient, and difficult to understand and access. There are sound constitutional reasons why the police, the CPS and the courts must be independent of the other; but they must and do cooperate closely together. We are determined to ensure that the existing tri-partite arrangements are maintained and strengthened whilst respecting the constitutional independence of each.

## Building on existing reforms

**1.11** The Government is already building on the measures we set out in our Command Paper in 2001 *Criminal Justice: The Way Ahead*, and we have now put in place the first planks of major reform of law enforcement and the CJS.<sup>22</sup>

- Police reform is modernising the police service and strengthening the front line with record numbers of police, more support staff, and new technology and standards to bring up the standard of all police forces.
- Long-term crime prevention is being integrated into the work of other, non-CJS departments, with measures on child poverty, employment, educational standards and neighbourhood renewal, all seeking to rebuild the confidence and social capital of individuals and communities.
- A radical approach to young offenders is emphasising the twin goals of prevention and a swift, effective response to break the cycle of persistent offending. For persistent young offenders, the Government's pledge of halving the average period between arrest and sentence has been more than met, reducing it from 142 to 63 days. And in the first year of operation our new national and local youth justice arrangements have reduced reconvictions by over 14%.<sup>22</sup>
- A new approach to drug-related crime is tackling the problem at its roots. One example is the Communities Against Drugs programme which links police activity on reducing the supply of drugs to a much broader range of activity in the local community to tackle drug related crime, criminality, demand for drugs and prevent drug abuse in the first place.
- Changes have been made to reduce delay in the hearing of magistrates' courts' cases. These have resulted in a fall in the time from arrest to completion for the more serious offences dealt with in magistrates' courts, from 127 days to 111 days, since 1998.
- The Probation Service has been radically restructured to become a national service with a clear direction to improve enforcement of community sentences.
- The Stephen Lawrence Inquiry brought home to many in Britain for the first time what it can be like to be on the receiving end of prejudiced or poor service simply by virtue of being black. Following the Inquiry, we have made policing subject to race discrimination law.

**1.12** The CJS must be more responsive to the needs of communities. This can be achieved through creating a virtuous circle of prevention, detection, prosecution, punishment and rehabilitation. As we develop this strategy, it is an absolute priority that the whole of the CJS delivers equal service to individuals and promotes equality of opportunity and good relations between people of different racial groups.



**1.13** Overall levels of crime are stable, following a period of consistent decline but street crime has been rising, particularly in our metropolitan cities. Street crime includes primarily robbery, often called mugging, as well as thefts from victims in the street where property is snatched but the victim is not assaulted. It has proved a particularly intractable problem, rising sharply in recent years in contrast to the fall in crime overall. Street crime is a serious offence, often leaving its victims injured or traumatised, but under previous arrangements it could often be difficult to identify perpetrators, or to bring them to swift and effective justice. In part this is because it involves a significant proportion of young people, both as victims and offenders.

**1.14** The Street Crime Initiative, launched in March this year, covers the 10 police force areas in England and Wales that together account for over 80% of street crime. The 10 are: Avon and Somerset, Greater Manchester, Lancashire, Metropolitan police area, Merseyside, Nottinghamshire, South Yorkshire, Thames Valley, West Midlands and West Yorkshire. The Initiative has involved concerted action by all the criminal justice partners in bringing street crime down, not simply by speeding up existing processes but by breaking down barriers between the agencies to improve their combined effectiveness and addressing the needs of victims and society as a whole. With changes in legislation and court practices, offenders can no longer expect to be repeatedly released on bail to reoffend while awaiting trials which disintegrate for lack of evidence or witnesses. Inventive use of technology is securing faster identification. Dedicated teams of prosecutors are building strong cases, which in turn are being fast tracked through the courts. Magistrates and judges are looking at tougher and meaningful sanctions for those found guilty. With this backing, police are redoubling their targeted efforts against street criminals. The Street Crime Initiative is one model of how we can tackle and reduce crime at all levels.

**1.15** This year a new system on the Police National Computer (PNC) will improve the way we target the most prolific offenders, particularly those who commit theft, burglary, crimes of violence including robbery, and criminal damage. They will be automatically identified on the PNC and local police commanders will receive regular lists of the persistent offenders in their area. When these offenders are caught, the criminal justice agencies will give priority to their cases to ensure that they are brought to justice for as many of their offences, as effectively and speedily as possible. However, the main task will be to use all of the resources at the disposal of the partner agencies to avoid reoffending, rather than only to catch those who have already offended.

**1.16** We need to prevent people getting into a life of crime in the first place. This involves tackling the social causes of crime and the factors that disempower and exclude. Families, schools, and communities have a crucial role to play in preventing anti-social and offending behaviour. We need to build on what is working already to ensure that we support children and young people and their families from the earliest stages.

**1.17** The CJS exists to fight and reduce crime and deliver justice on behalf of victims, defendants and the community. To deliver on its purpose, the system must be able to effectively detect, punish and rehabilitate the guilty, and acquit the innocent. It must be able to convince those who are victims or witnesses of crime that it understands their needs during the justice process and after sentence is passed, so that their vital role in delivering justice is possible. We need to reform the CJS for the 21st century. Our programme of reform is based on one key priority: to rebalance the CJS in favour of the victim and the community to reduce crime and bring more offenders to justice. To achieve this, we will focus on five practical steps:

**Our programme of reform is guided by a single clear priority:**

- to rebalance the criminal justice system in favour of the victim and the community so as to reduce crime and bring more offenders to justice.



## Reducing offending whilst on bail

Once a defendant becomes the responsibility of the CJS, there must be total commitment to preventing him or her from offending prior to trial. In the case of every defendant the CJS must be focused on ensuring he or she won't offend or intimidate witnesses whilst on bail, if necessary by remanding them into custody or restricting their liberty in other ways.

## Building strong cases to put before the court

Our aim is that cases should reach court in the best possible shape. A properly conducted investigation and well prepared prosecution case is the cornerstone of an efficient and fair trial process. Building robust cases at the outset, rather than finding holes and trying to repair them once the case has begun, gives the best chance of convicting the guilty. A proper investigation ensures that the experience for victims and witnesses of helping with investigations and waiting for trial is neither intimidating for them nor undermining of the CJS. A proper investigation also ensures that the innocent people are taken out of the CJS at the earliest possible stage. Ensuring disclosure of the prosecution and defence case at an early stage avoids time-wasting adjournments and promotes justice; and accurate charging encourages guilty defendants to plead guilty and sets contested cases on the right course. All of this is to be supported by forensic, technological and IT developments including video ID parades, and evidence from CCTV cameras.

## New procedures which get the case to trial quickly, with reduced chances of the accused 'playing the system', and escaping justice

Prompt case processing brings home to offenders the consequences of their actions as rapidly as possible and reduces stress for victims, witnesses and innocent defendants. We aim for speedier, simpler and quality justice, where the guilty defendant can see no advantage or real disadvantage in playing the system in the hope something will turn up. The right court should be identified as quickly as possible. Without restricting the defendant's right to elect for trial by jury, cases which should not be in the Crown Court should be retained by the magistrates' courts, so they are dealt with more quickly. The system should make it clear that early guilty pleas will be matched with appropriate sentence discounts. Youth courts should have greater sentencing power, and where necessary more experienced judges to deal with more serious crimes. The process should be as free from technicality as possible. The prosecution should have the right to appeal where the judge stops the case before the jury decides.

## Simplifying and modernising our approach to evidence

Trials should be a search for the truth in accordance with the twin principles that the prosecution must prove its case and that defendants are not obliged to incriminate themselves. The object must be to convict the guilty and acquit the innocent. There are too many restrictions on the evidence which courts may hear, for example relevant previous convictions or reported evidence. There are also too many technical rules preventing the effective testimony of witnesses.

## Effective punishment that works

The essential purpose of sentencing is to punish the guilty, to protect the public – particularly from dangerous, sexual and violent offenders – and to reduce reoffending. The punishment must fit the offender and the offence. This requires a sentencing policy that ensures a consistent approach with tough, effective community sentences. Our aim is not to increase the prison population but to make sure that people receive the right punishment and focus prison on dangerous, serious and seriously persistent offenders, and those who consistently breach community sentences. The Prison and Probation Services will focus on what works, in punishment and reducing reoffending and ensure that sentences passed by the courts are rigorously enforced.

## Making change happen

**1.18** All parts of the system need to work seamlessly together focused on common aims and objectives. Cases need to be managed efficiently, with absolute clarity about who is accountable at every stage. All the agencies need mutually to support the role of each contributor, so as to handle as many cases as possible, as effectively as possible. The CJS does not belong to the professionals who work within it, but to the wider community. An effective CJS contributes to building cohesive communities through, among other measures, tackling racist crime; ensuring justice is dispensed fairly and proportionately, and through the rehabilitation of offenders.

**1.19** To make change happen on the ground will require a partnership with the people who work in criminal justice, with their trade unions and professional organisations and other stakeholders. No-one has a greater contribution to make in delivering these changes. They understand the shortcomings of the present system and they, too, would like to see change that will help them to do their job better. In addition, we want a workforce that is motivated to change and improve service with career prospects and fair rewards. Our reforms are designed to make the system better for all who are served by it and to recognise those who work in it and support it, such as volunteers for Victim Support, special constables and magistrates.

**1.20** This chapter makes the case for a radical reform to ensure the system delivers for those who it is designed to serve, namely victims, defendants, witnesses and their communities. The chapters that follow set out how we will implement a series of reforms to improve the CJS for the 21st century. The CJS needs root and branch reform. We need to build on its strengths. We need to preserve the independence of its judges and prosecutors. But we also need to ensure that it can effectively fight and reduce crime by convicting and punishing the criminals who ruin the lives of their victims and their communities.

## Route to Justice

The Audit Commission report, *Route to Justice*, published in June, recognised the work already in hand to improve and modernise the CJS but highlighted difficulties in bringing more offenders to justice. The changes we propose will tackle the issues raised:

- **Delays and inefficiencies throughout the process:** we will tackle delay through better case preparation and will introduce a range of measures so all criminal justice agencies are focused on timely and prompt case management through the CJS. Adequate case preparation and management of the listing systems will avoid over-booking in courts and will ensure more cases can be heard when scheduled. Preparatory hearings and adequate disclosure before the trial, will ensure that the trial is efficient and focused on the issues rather than procedures and technicalities. Better enforcement and extension of fixed penalty notices should deal with minor offences and free up court time to deal with more serious issues.
- **Cases dropping out of the system unnecessarily allowing offenders to evade justice:** the CPS will over time, assume responsibility for determining the charge in all but the most routine cases or where, because of the circumstances, such as the need to ask the court to remand the defendant into custody, the police have to make a holding charge before obtaining legal advice. Reforms to the police and technological advances will ensure that detection and forensic work can better support cases. And our reforms will put victims and witnesses at the heart of the system, from the moment they come forward, to ensure they are confident enough to testify and help bring the guilty to justice.
- **£80 million wasted each year when trials are cancelled or adjourned:** the proposals to tighten the efficiency and prevent cases dropping out of the system outlined above should prevent trials being unnecessarily cancelled or adjourned. We will allow the prosecution to have a right of appeal where the judge makes a ruling that effectively terminates the prosecution case, this means if the court of appeal concludes the judge's ruling was wrong the case can be determined by the jury rather than lost altogether.
- **Weaknesses in planning and performance management at national and local level:** we will substantially strengthen the CJS management framework with local Criminal Justice Boards accountable to a new National Criminal Justice Board. This new framework will allow us monitor performance standards, through joint targets and inspections, and take action in local areas where there is failure to deliver. We have established a new CJS Analytical Unit to give local areas practical assistance in improving their performance.
- **Lack of modern IT:** all CJS IT systems will be joined together in a staged development, moving towards an 'information walkway' linking individual systems. Our goal is that all CJS professionals will be able to securely email each other by 2003, all CJS organisations will be able to exchange case file information electronically by 2005 and victims will begin to be able to track the progress of their case online by 2005.

## ENDNOTES

- <sup>1</sup> Simmons, J. et.al. (2002) *Crime in England and Wales 2001/2002*, Home Office Statistical Bulletin 7/02, London: Home Office.
- <sup>2</sup> See 1.
- <sup>3</sup> Lowe, W and O'Brien, J. (June 2002) *Average time from arrest to sentence for persistent young offenders: January-March 2002*. London: Lord Chancellor's Department.
- <sup>4</sup> *One Year reconviction rates for July 2000 cohort of Young Offenders* (June 2002), RDS web-site, <http://www.homeoffice.gov.uk/rds/pdfs2/reconrates.pdf>
- <sup>5</sup> See 1.
- <sup>6</sup> *Criminal Statistics England and Wales 2000* (2001), London: Home Office.
- <sup>7</sup> *HMIC JPM Data on the timeliness and quality of police files* (January - December 2001), London: HMIC.
- <sup>8</sup> See 6.
- <sup>9</sup> Brown, D. (1998) *Offending on Bail and Police Use of Conditional Bail*. Research Findings No.72, London: Home Office.
- <sup>10</sup> *Prison Statistics England and Wales, 2000* (2001), London: Home Office.
- <sup>11</sup> See 6.
- <sup>12</sup> See 1.
- <sup>13</sup> Mirrlees-Black, C. (2001) *Confidence in the Criminal Justice System: findings from the 2000 British Crime Survey*, Research Findings No. 137. London: Home Office.
- <sup>14</sup> See 1.
- <sup>15</sup> See 1. This figure has been rounded. The methods of detection are estimates due to the non-provision of figures from Durham police.
- <sup>16</sup> See 6.
- <sup>17</sup> See 9.
- <sup>18</sup> See 7.
- <sup>19</sup> See 6.
- <sup>20</sup> Auld, Sir R. (2001) *Review of the Criminal Courts*, London: The Stationery Office.
- <sup>21</sup> *Criminal Justice: The Way Ahead* (2001), London (2001), London: The Home Office.
- <sup>22</sup> See 4.

# Chapter 2

## A BETTER DEAL FOR VICTIMS AND WITNESSES

### WHAT IS WORKING

- We have doubled funding for Victim Support since 1997. The help it provides to more than one million victims a year is highly regarded.
- We have banned defendants without legal representation from personally cross-examining rape victims.
- We have introduced guidance and training for the police and the CPS on using risk assessments to identify vulnerable witnesses early.
- We have extended to magistrates' courts the Witness Service provided in the Crown Court.
- Support for victims remains consistently high by international standards.

### WHAT IS NOT WORKING

- Over 30,000 cases were abandoned in 2001 because witnesses and victims refused to give evidence in court or failed to turn up.
- According to the Witness Satisfaction Survey 2000, 40% of witnesses did not want to give evidence again because of intimidation or the experience of going to court and being cross examined.
- Victims and witnesses can sometimes be left feeling ill-informed and badly treated.
- People's time is being wasted by being called for hearings that never take place because the case is not ready or because defendants change their plea at the last minute.
- Victims and witnesses are not routinely kept up-to-date on the progress of cases or informed of significant events such as the release date of an offender, or the reasons why a case has not been continued.
- Responsibility for victims and witnesses is too spread out across the CJS agencies, causing confusion, inefficiency, and delay.
- Victim satisfaction with the police has gone down from 67% in 1994 to 58% in 2000.<sup>1</sup>

## We propose to:

- legislate to entitle victims of mentally disordered offenders to the same information about release and management of these offenders as victims of other crimes;
- appoint a new independent Commissioner for Victims and Witnesses, supported by a National Victims' Advisory Panel, to champion their interests;
- appoint victim liaison officers to join Youth Offending Teams (YOTS) as resources become available
- introduce more measures for vulnerable and intimidated witnesses, for example pre-recorded video evidence, and screens around the witness box;
- extend specialised support to the victims of road traffic incidents and their families.
- adopt some of the ideas being developed as part of the Street Crime Initiative such as special contact numbers for witnesses who feel intimidated and Victim Support volunteers accompanying victims when they are giving statements;
- legislate to produce a Victims' Code of Practice setting out what protection, practical support and information every victim of a crime has a right to expect from the criminal justice agencies;
- give every service that comes into contact with victims a responsibility under the new Code to provide that protection, support and information;
- publish a national strategy for victims and witnesses later this year, setting out how we propose to better meet their needs by changing the way the CJS works; and
- introduce a right of complaint to the Parliamentary Ombudsman for victims and witnesses who are not satisfied that the Code has been followed.

**2.1** Crime and anti-social behaviour destroy personal freedom, weaken the fabric of society and undermine our sense of community. This is made worse when offenders escape justice because of failures within the CJS. Being a victim of crime is a harrowing and often traumatic experience and the way in which the police and the CJS respond – from the initial reporting of the crime through to detection, prosecution, conviction, sentencing and beyond – has a profound effect on victims.

**2.2** Everyone has the right to justice, including those accused of a crime. But many victims feel that the rights of defendants take precedence over theirs. Public confidence in the CJS is dependent on how people perceive that they, or their family and friends, will be treated if they are a victim or a witness to a crime. Too often the perception is that victims and witnesses are the ones on trial, rather than the suspect.

**2.3** Our reforms are intended to ensure there is a fair balance between the defence and prosecution and to ensure that the needs and rights of victims and witnesses are considered at every stage. Our overall aim is to reduce crime, and so reduce the number of people

who are victims in the first place. This particularly applies to those who are subject to repeated crime who are often the most vulnerable people living in the most disadvantaged areas. Proposals throughout this White Paper will ensure a better deal for victims and witnesses:

**2.4** To ensure that victims and witnesses are at the heart of the system we are ensuring all CJS agencies are working towards a key joint PSA target to meet the needs of victims and witnesses (Chapter 9).

**2.5** To improve the experience of victims and witnesses when they come into contact with the CJS, we are:

- intending to give police the power to impose conditions on bail before charge, subject to judicial safeguards, if they think it necessary to protect victims and witnesses and to prevent offending (Chapter 3);
- so that they do not have to come to court only to be told they are no longer required, we are introducing a clearer tariff of sentence discount to encourage early guilty pleas, backed up by arrangements whereby defendants could seek advance indication of the sentence they would get if they pleaded guilty. This will also benefit victims who would see justice done more promptly (Chapter 4);
- intending to legislate to make it easier for witnesses to give their evidence by making their previous and original statements more widely admissible at trial and allowing witnesses to refer to them when they give evidence in court (Chapter 4);
- considering anonymity for victims of domestic violence, as is the case for victims of sexual offences, to encourage reporting and disclosure (Chapter 8); and
- exploring whether there are appropriate alternatives to the formal courtroom for hearing some cases, particularly those involving young and vulnerable defendants, victims and witnesses (Chapter 7).

**2.6** To improve justice outcomes for victims and witnesses we are:

- introducing a clear, coherent sentencing framework which will help victims to understand what sentence has been passed (Chapter 5);
- introducing new sentences for violent and sexual offenders, so those who have been victims of, or witnessed, the most harrowing crimes are confident that the offender will be punished and they will be protected (Chapter 5);
- introducing a formal conditional cautioning scheme for use by the CPS in borderline cases, where more than a simple caution is justified but the circumstances are not such that the public interest requires a prosecution. The CPS will take account of victims' interests and views when deciding whether a conditional caution is appropriate (Chapter 4);
- tightening up breach conditions so victims do not see offenders escaping justice, even after they have been found guilty and sentence has been passed (Chapter 5);

- reviewing the coroner service; improving the inquest system, procedures for death certification, the relationship with criminal investigations, and other enquiries; and how any new arrangements might best be organised and delivered, especially for the families of victims (Chapter 9); and
- reforming the system for enforcing compensation orders by appointing court officers to manage payments and introducing new sanctions and incentives (Chapter 5).

## 2.7 To expand the ways in which offenders can make reparation for the damage they have caused victims, we are:

- placing additional emphasis on reparation and rehabilitation in sentencing policy, so that reoffending is reduced and offenders can make amends for their crime (Chapter 5);
- piloting prisoners making contributions from their prison pay to make reparation to their victims (Chapter 6); and
- expanding the use of restorative justice schemes, where the offenders can meet with victims (should the victim wish to), community representatives and others to resolve how to deal with the aftermath of the offence and implications for the future. These can help the victim convey to the offender the consequences of their crime and influence the reparation which the offender makes for that crime (Chapter 7).

## 2.8 To improve the delivery of CJS services that impact on victims and witnesses, we are:

- piloting new, integrated criminal justice centres in Warwickshire to test new partnership arrangements and modernise the existing single agency approaches. Staff from the courts, CPS, police and Probation Service will be working together with the National Health Service and voluntary organisations to improve services for victims and witnesses, bring more offenders to justice and improve public safety (Chapter 9);
- intending to legislate to integrate the management of the courts within a single courts agency to replace existing Magistrates' Courts' Committees and the Court Service. The new agency will be supported by local management boards that will deliver an improved service to the community, victims and witnesses, amongst others (Chapter 9).

## 2.9 To improve the way the CJS communicates with victims and witnesses we are:

- looking at ways for the police and other CJS agencies to keep communities better informed about the progress of cases which are of particular importance to them (Chapter 7);
- requiring each of the new local Criminal Justice Boards to establish advisory and consultative mechanisms that will involve input from Local Authorities and representation from, for example, the judiciary, magistrates, voluntary groups and members of the community, including victims. The Boards will be responsible and accountable for: local delivery of CJS objectives; improvement in the delivery of justice; the service provided to victims and witnesses; securing public confidence (Chapter 9); and



- on target to enable victims to be able to track the progress of their case on line by 2005 (Chapter 9).

**2.10** In this chapter we set out other measures to put the interests of victims at the heart of the CJS. We will also offer better support to witnesses without whom the system could not function. By building trust, we want to encourage them to come forward, and having done so, not to withdraw because they are too worried or frightened to give evidence. We recognise the vulnerability of many victims and witnesses, and we will ensure that they can give that evidence in the most secure environment possible.

**2.11** Justice is not a matter of punishment for its own sake. Many victims, when asked, say that they simply want to ensure that no one else has to go through the kind of experience they themselves have. And the best way of ensuring that is to catch, convict and rehabilitate offenders and prevent further crime. Victims' own evidence is often crucial in bringing offenders to justice. They must be nurtured, and not subjected to a host of arbitrary delays, postponements and barriers.

**2.12** The criminal justice agencies have a particular responsibility to support victims and witnesses. This includes ensuring that they are protected, if vulnerable, from intimidation or further crime, and taking into account the impact of the offence on victims when sentencing offenders. Voluntary organisations also undertake a great deal of important work with victims and witnesses by providing support, guidance and practical help. This help is often given by volunteers from the local community who have themselves been victims or witnesses of crime.

**2.13** We have more than doubled our funding for Victim Support, the independent charity which provides practical help and emotional support to victims of crime. This has increased from £11.7 million in May 1997 to £28 million in April 2002. This has enabled more victims of crime to receive help directly from a volunteer from their local community who can assist them with practical and emotional support in the aftermath of the crime. Victim Support have also used the funding to establish a confidential helpline for those victims who prefer to receive advice and support over the phone. For the first time we are directly funding other victims' advisory and support groups, including the Rape Crisis Federation, and Support after Murder and Manslaughter.

**2.14** Last year we introduced victim personal statements. These allow victims to provide the police with a written personal statement of how the crime has affected them and their family so that this can inform the police, CPS and courts when making decisions about their case as it progresses through the CJS. The pilots which were undertaken showed that individual victims felt better for having the opportunity to tell their story because the courts could hear how the offender had affected them. Statements also let victims identify any special requirements they have, such as personal protection or additional support.

## SUPPORTING THE VICTIMS OF MENTALLY DISORDERED OFFENDERS

**2.15** Victims of mentally disordered offenders want to know that they will not be put at further risk if, for example, the offender is discharged into the community.

**2.16** Decisions to discharge mentally disordered offenders, or transfer them to lower security conditions, already consider whether the offender will pose any kind of risk, particularly to the victims of the original offence. Mentally disordered offenders who are discharged are subject to additional monitoring arrangements in the community, including, if necessary, through MAPPPs. We are currently looking at ways to strengthen these arrangements.

**2.17** Currently information cannot be given to the victims and families of victims in such cases because of the requirements of medical confidentiality. This has led to situations where, for example, a victim cannot even be told that the offender is not allowed to contact them. This is clearly wrong. We believe strongly that the victims of such offenders deserve the same consideration as the victims of any other serious offenders. It is also often in the interests of mentally disordered offenders themselves that their victims should understand how their offences resulted from their disorder and how medical treatment has addressed the risk of reoffending.

**2.18** We therefore intend to introduce legislation in the Mental Health Bill to extend to the victims of mentally disordered offenders the same rights to basic information about the management of these offenders that victims of other serious offenders are already entitled to under the Criminal Justice and Court Services Act 2000. This will not involve any breach of medical confidentiality, but the right to information will cover basic management issues such as the fact that an offender is no longer detained in hospital, and any restrictions that might relate to the victim.

## TACKLING REPEAT VICTIMISATION

**2.19** We need to tackle repeat victimisation. As the White Paper *Policing a New Century: A Blueprint for Reform* pointed out, the best way of preventing the next crime from happening is by concentrating on where the last one took place. The reason why offenders frequently target the same victims is clear. A burglar will often return to the same house, because it involves least risk to burgle a house you know you have got away with burgling before.<sup>2</sup> And in the case of domestic violence, the violence tends to be repeated against the same victim again and again as part of a highly abusive relationship.

**2.20** The fact that the most traumatic crimes are the ones where repeat victimisation tends to occur – such as robbery and domestic violence – means that we have a good idea who needs most protection. Concentrating particular attention on those who have been repeatedly victimised also helps tackle the hard core of persistent offenders responsible for 50% or more of all crime. Crime by the same person accounts for the bulk of detected crime against the same victim. Repeat victims also tend to be concentrated in disadvantaged communities. So tackling repeat victimisation helps reduce fear of crime in those particularly vulnerable areas as well. Recent research has shown that those expressing the most fear of crime do live in the highest crime areas.<sup>3</sup>

## Case Study – Reducing Repeat Burglary Victims in Huyton, Merseyside

Superintendents Stuart Kernohan and Dave Smith of Huyton Police Station in Knowsley, Merseyside have shown a high level of commitment to reducing repeat domestic and commercial burglaries. This is what they do:

- The police control room will try to establish for all incoming calls if the victim or the location is the subject of a repeat crime.
- Then, the first police officer to visit the scene will seek to establish the facts, confirming details of any previous offences and locations. The officer will tell the victim that there is now a possibility of the crime being repeated. Crucially, they will then conduct a new innovative Home Security Assessment: 'Homesafe' at the premises. The householder is given crime prevention advice based on this assessment (and a special crime prevention booklet).
- The officer will deliver Red Cards detailing the burglary to the three dwellings either side of the burglary to put them on their guard.
- A Bronze/Silver/Gold staged response is followed after each crime and is overseen and supervised by a Repeat Victimisation Co-ordinator.
- The Beat Officer makes a follow up visit to the burglary location one month after the offence. Progress on the case is given and a re-examination of the property's security is undertaken against the 'Homesafe' survey completed previously.
- The police use a slot on a twice-weekly local radio show to promote their repeat victimisation message.

During the first six weeks of operation of the 'Homesafe' security assessment initiative, the rate of domestic burglary fell by 50%. Officers feel they are able to offer something constructive to the victim at the time of reporting, and that there has been a good response by householders in improving security to prevent a repeat offence as a result. Other benefits have been neighbours also upgrading their home security. The Local Authority in Knowsley is very supportive of the scheme and provides an emergency repair and lock service.

**2.21** The case study above shows how concentrating police attention on burglary victims has been successful in reducing burglary in one area. The Police Standards Unit are developing models of good practice like this which can be adopted by all forces and Her Majesty's Inspectorate of Constabulary are committed to examining performance in all local inspections.

## IMPROVED SERVICES AND SUPPORT FOR WITNESSES

**2.22** The administration of justice depends on witnesses, and they need to be treated with dignity and respect at all times. It is vital that those who attend court as witnesses, or who are victims with an interest in a case, are protected from intimidation. Separate facilities help to ensure this.

**2.23** When witnesses were asked what could be done to make the experience better, they said: more information prior to arriving in court; more information and help from the police and CPS; keeping prosecution and defence parties separate; and less waiting time.<sup>4</sup>

**2.24** In April 2002 the Witness Service provided in the Crown Court was extended to all magistrates' courts. This means that all witnesses who are due to attend court and give evidence are now supported and helped through this difficult, and sometimes traumatic, experience by trained volunteers. The volunteers provide court familiarisation visits, ensure victims and witnesses have information about the progress of their case, and can provide emotional and moral support on the day.

**2.25** Witness Service volunteers also work closely with staff in the courts to ensure that the special needs of witnesses are identified and met, so far as is possible. Courts have already introduced many improvements. These have included:

- appointing in each Crown Court centre a Witness Liaison Officer (WLO) to liaise with the police, defence and other criminal justice agencies to ensure the smooth administration of services to witnesses in courts;
- issuing pagers to witnesses to allow them to leave the court building while they are waiting to give evidence. This has considerably reduced the risk of prosecution and defence witnesses meeting outside the courtroom. Justices' Chief Executives have been asked to look at providing a similar service in magistrates' courts;
- providing separate waiting rooms, lavatories, and catering facilities to prevent intimidation when using these facilities; and
- increasing flexibility, learning from the Extended Court Sitting Hours project currently being piloted in London and Manchester – see box below.

## Magistrates' courts extra hours

We are looking at ways to extend the hours that magistrates' courts are open. This should help deal with offenders quickly, and also has the advantage of making court sessions more accessible to witnesses and the public.

Two different pilot schemes were started in May 2002 which extended the hours of magistrates' courts in crime hotspots. The schemes look to ensure that the CJS is able to deal swiftly and effectively with offenders, including, where appropriate, having defendants appear in court on the same night that they are arrested and charged. This should help to deter criminals and where trials are held in the evening, make the courts more responsive to the needs of victims and witnesses. The schemes are also about reassuring local communities that it is the public rather than criminals who benefit from the CJS.

- Manchester magistrates' court is operating early morning courts each day (9.00 am to 10.00 am) to handle remand cases and help clear the 'overnighters'. In addition, cases there will be listed for twice weekly evening sessions from 4.00 pm to 8.00 pm to offer more convenient times to victims, witnesses and members of the public.
- Bow Street magistrates' court in London is operating a late night session from 6.00 pm to midnight on Fridays and Saturdays. This is designed to tackle some of the cases that build up over the weekend and will ease the Monday morning burden which can delay the day's planned caseload.

Both pilot schemes will run until September 2002 when they will be assessed to see whether they delivered significant benefits.

**2.26** Dedicated waiting rooms and special facilities for young or vulnerable witnesses are now available in most Crown Court centres. A recent survey of the facilities showed that approximately half have dedicated waiting rooms for prosecution and defence witnesses, and that between 60% and 70% have separate facilities for prosecution witnesses in either the police or CPS waiting rooms. In addition, 80% of centres have a special waiting room for young or vulnerable witnesses and there are usually a number of consultation rooms that can be made available for defence witnesses as required. Design plans for all new court buildings now include a requirement to make separate provision for victims and witnesses, and the situation will continue to improve.

## IMPROVING COURT SECURITY

**2.27** We are concerned about increasingly violent and threatening behaviour in and around courtrooms. This includes the intimidation of witnesses in criminal trials, attempted escapes by defendants, and attacks on judges, lawyers and other staff in the course of criminal, civil and family cases. We are considering providing security officers in our courts who have the powers to restrain, detain and arrest, and will continue to increase the provision of technical, electronic and other preventive security measures.

## SPECIAL MEASURES FOR VULNERABLE OR INTIMIDATED WITNESSES AND VICTIMS

**2.28** Witness and victim support is particularly important in the case of vulnerable people. In some cases witnesses are just too frightened to give evidence because they feel intimidated. In others, involving children or people with a disability, there have been too many instances in which their evidence has not been taken seriously by the CJS. Unfair assumptions may be made, for example, about the ability of the person to give evidence. This is despite the grief suffered by the victim and his or her family and the sometimes painstaking investigation by the police or others.

**2.29** Since September 2000 there has been a ban on defendants without legal representation cross-examining rape victims personally. This has put a stop to rape victims being put through the terrible ordeal of facing questioning from those accused of committing the offence. We have also introduced further restrictions to limit the questions that a rape victim can be asked under cross-examination about their previous sexual history. We intend to evaluate the impact these measures have had, and the views of victims will inform any further changes.

**2.30** We have also introduced legislation (the Youth Justice and Criminal Evidence Act 1999) to implement many of the recommendations in the 1998 'Speaking Up for Justice' report.<sup>5</sup> From the end of July 2002 we will start introducing special measures to help vulnerable or intimidated witnesses give their evidence. These will include the opportunity to:

- request that a screen be put around the witness box;
- ask for the public gallery to be cleared in sex offence and other intimidation cases;
- use aids to assist witnesses to communicate with the court;
- provide evidence by pre-recorded video or using a live TV link; and
- ask for the judge and barristers to remove their wigs and gowns.

Many of these options are already adopted in some courts.

**2.31** In order to ensure there are suitable facilities for this to happen, we have already provided additional video technology in most Crown Court centres and we are making available satellite centres with TV link facilities so that the most vulnerable witnesses can give their evidence from outside the court room. By September 2002, we will have installed video conferencing facilities in 155 magistrates' courts across the country. Fifty five prisons are also being equipped to ensure separation of defendants and vulnerable witnesses where this is appropriate and necessary.

**2.32** In addition, the police, the CPS and courts have received guidance and training so that risk assessments are done early in the process to identify those witnesses who may be vulnerable. From this month, police and prosecution will meet to identify any vulnerable or intimidated witnesses and agree on the measures needed to enable witnesses to attend court and give evidence. Judges have also received information and guidance so that they are aware of these measures.

**2.33** We are also planning to enable intermediaries to be used in criminal cases for the first time from the end of this year. The role of an intermediary is to help witnesses with severe communication difficulties to put across their evidence in a way that can easily be understood in court, including during cross-examination, but without interfering with the evidence itself. This is a radical measure because it puts a third party, who is not simply an interpreter, between the witness and those who are responsible for examining his or her evidence. It represents a significant step in extending access to justice for some of the most vulnerable people in society who will have a voice in the justice process for the first time. Registered intermediaries will be highly skilled in dealing with people who have communication difficulties and they will be largely drawn from existing professions such as speech and language therapy. This special measure will be introduced gradually so that its operation can be evaluated before national implementation. The first areas of operation will be selected soon.

**2.34** All of these measures – which will help to change the culture of the CJS – are intended to make a significant difference to how victims and witnesses feel when faced with the ordeal of giving evidence.

#### KEEPING VICTIMS INFORMED

**2.35** Keeping victims informed of progress in their case is one of the most important ways of building confidence. We want to see it work better. We have provided £11 million for the CPS to take responsibility for communicating prosecution decisions direct to victims. Under the scheme, the CPS provides victims with an explanation when the prosecution decision is to discontinue the case or to alter the charges substantially. In certain serious cases such as those involving a death, child abuse, sex offences or racially aggravated crime, the CPS offer to meet the victim or the victim's family to explain the basis of the decision. Victims have welcomed this development and their feedback has helped the CPS to improve the arrangements which will be implemented throughout England and Wales by October this year.

**2.36** Since April 2001, all local probation boards have had a statutory duty to consult and notify victims about release arrangements of offenders serving twelve months or more for a sexual or violent offence. The National Probation Service is required to contact victims to find out if they want to know what happens to the offender during sentence and in the period before and after release. We know that this development is welcomed by victims who in the past often suffered the trauma of finding out their attacker had been released only when they met them on the street.

## STRATEGY DOCUMENT FOR VICTIMS AND WITNESSES

**2.37** Supporting victims and witnesses better is not just about what happens in the courtroom. It is also about the impact that crime has on their lives. It is important therefore that the practical support and help offered covers all of these effects. In order to emphasise the importance we attach to this, we will later this year publish a strategy document for victims and witnesses. This will set out how the needs of victims and witnesses should be met not just by the criminal justice agencies but also by other government departments and Local Authorities, including health and housing.

**2.38** The strategy document will address the weaknesses in the system identified by victims and witnesses, such as: a lack of care and respect being shown; being kept waiting at court and not told why; not having the harm caused to them acknowledged; and fear of intimidation. It will also set out the steps we will take to reduce the harm crime causes to victims; ensure that victim and witness satisfaction with the CJS improves; and give more support to victims and witnesses when they give their evidence, so that more offenders are brought to justice.

**2.39** It will also indicate what practical support is available for victims and witnesses and help to make sure it is more accessible, provided in a coordinated way, and meets the needs of all members of the community. For example, we will make sure that specialist support is available for those who are victims of racist attacks, sexual assaults and other crimes that require a response to help those most at risk of repeat victimisation. This will fulfil the promises in our White Paper *Policing a New Century: A Blueprint for Reform* published last year.

**2.40** In addition to the measures already set out in this chapter, our proposals will draw on our experience in tackling street crime. As part of the Street Crime Initiative, a range of practical measures to provide better support for victims and witnesses of street crime have been developed. This includes: a Victim Support volunteer accompanying a victim when they are interviewed, attend an identity parade, or when they provide a statement; the Witness Service proactively offering court familiarisation visits and being available on the day of the court hearing or trial; the allocation of police Family Liaison Officers when appropriate; and the provision of a special contact number they can ring if the suspect or their associates are intimidating them. The police are increasingly able to use video technology in place of old fashioned identity parades, which makes the witnesses' task much less daunting. And all the courts dealing with street crimes have worked with the police and Victim Support to ensure that victims and witnesses can be supported and protected during court hearings, that information is provided about the progress of their case, and that if there is a plea or finding of guilt, the victim is informed of the sentence and about any release conditions eventually attached to the offender's release from prison.



## VICTIMS' CODE OF PRACTICE

**2.41** In order to ensure effective implementation of our strategy for victims and witnesses we will legislate to draw up a new Victim's Code of Practice. This will build on the commitments set out in the existing Victims' Charter. The new Code will be made binding on all criminal justice agencies and their partners, including Victim Support and others, but it will not affect the independence of the court or prosecutors in their judicial, or quasi-judicial, decision making.

**2.42** The Victims' Code of Practice will cover:

- protection, including from intimidation;
- personal support and advice; and
- information about the progress of the case.

**2.43** Under the new Code all the services that come into contact with victims, including the police, the CPS, the courts, the defence, the Probation and Prison Services, the Criminal Injuries Compensation Authority, the Criminal Cases Review Commission, and Victim Support will have new responsibilities to ensure that the needs of victims and witnesses are met (each of these groups' responsibilities will differ depending upon their role within the system). The police, for example will be responsible for providing information if a suspect is arrested, cautioned or charged; telling them whether the suspect is on bail; protecting them from intimidation; informing them promptly of the date of any court hearing; and ensuring a victim is put in touch with Victim Support services. The National Probation Service will be responsible for keeping victims informed about a prisoner's release and arrangements for their supervision and any licence conditions.

**2.44** Victims who believe that any agency has not fulfilled the obligations set out in the Code, and who have not received a satisfactory response, will have the opportunity to have their case investigated by the Parliamentary Commissioner for Administration (Ombudsman). The Ombudsman, who is completely independent, will assess the complaint and will be able to ensure redress such as an apology or explanation and, where appropriate, compensation. As now, the Ombudsman will not be able to question judicial decisions.

## VICTIMS' COMMISSIONER AND THE NATIONAL VICTIMS' ADVISORY PANEL

**2.45** We will appoint an independent Commissioner to champion the interests of victims and witnesses. The Commissioner will be supported by a National Victims' Advisory Panel. This will be representative of victims' groups and others affected by crime, and will include community representation.

## 2.46 The Commissioner, supported by the Panel, will:

- advise us on the implementation of the new National Strategy for Victims and Witnesses;
- review existing practice and procedures and make recommendations for change (including to the contents of the Victims' Code of Practice);
- draw on the views of the statutory and voluntary organisations which have direct contact with victims and witnesses; and
- have the power to examine and make recommendations on victim-related policy or proposed legislation relating to any government department or agencies.

### SPECIALISED SUPPORT FOR ROAD INCIDENT VICTIMS

**2.47** Every year 3,000 people are killed and around 40,000 are seriously injured in road traffic incidents. Currently these victims and their families do not get support routinely. We are looking at ways of developing a new specialised support service for victims of road traffic incidents and their families. In the first instance, we will evaluate a number of support schemes which already exist. We also propose to work towards including road traffic victims in the new Code of Practice. This will be developed in full consultation with the leading groups representing road traffic victims.

### ENGAGING RELUCTANT WITNESSES

**2.48** Last year the Institute of Public Policy Research report 'Reluctant Witness' made recommendations designed to encourage independent witnesses to report offences and give evidence.<sup>6</sup> We are considering these recommendations which include: more training for staff in criminal justice agencies on the services to be provided to witnesses; a publicity campaign to encourage witnesses to come forward; and making changes that will encourage witnesses to engage with the CJS.

### YOUTH OFFENDING TEAMS VICTIM LIAISON OFFICERS

**2.49** Youth Offending Teams have been provided with a further £2 million to increase their work with victims. As resources become available we will appoint Victim Liaison Officers to provide cover for all 154 Youth Offending Teams in England and Wales. This will mean more victims being contacted and encouraged and supported to get involved in restorative justice, if they wish, and reparation of young offenders.

## ONLINE SERVICES FOR VICTIMS AND WITNESSES

**2.50** We are also reviewing the victim and witness section of the Government's CJS Online website, which will provide a service to those victims and witnesses who would prefer to access the facilities via the net. A range of information about the CJS is currently provided online and this is being supplemented and developed through pilot initiatives.

### ENDNOTES

- <sup>1</sup> Sims, L. and Myhill, A. (2001) *Policing and the Public: Findings from the 2000 British Crime Survey*, Home Office Research Findings No. 136, London: Home Office.
- <sup>2</sup> Ericsson, U. *Straight from the horse's mouth*, Forensic Update, Vol 43, pp 23-25.
- <sup>3</sup> Kershaw, C., Budd, T., Kinshott, G., Mattinson, J., Mayhew, P. and Myhill, A. (2000) *The 2000 British Crime Survey*, Home Office Statistical Bulletin 18/00, London: Home Office.
- <sup>4</sup> Whitehead, E. (2001) *Witness Satisfaction: findings from the Witness Satisfaction Survey 2000*, Home Office Research Study No. 230, London: Home Office.
- <sup>5</sup> *Speaking Up for Justice: Report of the Interdepartmental Working Group on the Treatment of Vulnerable or Intimidated Witnesses in the Criminal Justice System* (1998), London: Home Office.
- <sup>6</sup> Spencer, S. and Stern, B. (2001) *Reluctant Witness*, London: Institute of Public Policy Research.

# Chapter 3

## GETTING THE PROCESS RIGHT AT THE START

### WHAT IS WORKING

- We are on track to bring police numbers to an all time high of 130,000 by Spring 2003.
- Increased co-ordination through the Street Crime Initiative has resulted in improved case preparation and charging for street crime cases and the Initiative has effected new ways of tackling offending on bail.
- We want to get closer working between the police and CPS in case preparation. By March 2002, 42 Criminal Justice Units (CJUs) had been established to bring the two services together in one location to prepare cases for magistrates' courts. A saving of almost 14% in the cost of preparing cases has been achieved and in at least one court served, there has been a 20% increase in the number of cases resolved at the first hearing.<sup>1</sup>
- Resources have been refocused towards the more serious Crown Court cases prepared in CPS Trial Units of which 54 have been established, and in providing a better service to victims and witnesses.
- In response to the needs highlighted in the 1998 Glidewell Review, substantial additional funding has been provided to the CPS leading to the recruitment of 256 extra lawyers and 545 more caseworkers.<sup>2</sup>

### WHAT IS NOT WORKING

- The police successfully detect only 23% of recorded crime.<sup>3</sup>
- The CPS has to discontinue 13% of all cases passed to it by the police, on grounds that include lack of evidence, and witnesses being unwilling or unable to give evidence.<sup>4</sup>
- The Audit Commission estimates that over £80 million is wasted every year through adjournments, delayed and 'cracked' trials at the magistrates' courts and the Crown Court. 40% of such cases are the results of inadequate preparation for trial.<sup>5</sup>
- 45% of evidence files in contested cases are not properly compiled by the police, which can lead to breakdown in trials and justice not being done.<sup>6</sup>
- Research indicates that nearly one quarter of all defendants commit at least one offence whilst on bail. The figure rises to 38% for offenders aged under 18. It is 18% for adults.<sup>7</sup>
- 12% of those bailed to appear at court fail to do so.<sup>8</sup>

- For a combination of reasons, justice is too often not done because we do not get the process right and there is too much scope for disruption by the defence. For instance, the defence may fail to give sufficient, or any, indication of the arguments it will rely on during the trial, or may seek avoidable adjournments which inconvenience victims and witnesses.

### We propose to:

- give the police power to impose conditions on a suspect's bail during the period before charge;
- weight the court's discretion against decisions to grant bail to a defendant who has been charged with an imprisonable offence committed whilst already on bail for another offence;
- extend the prosecution's right to appeal against decisions to grant bail to all imprisonable offences;
- as soon as practicable, give the CPS responsibility for determining the charge in cases other than for routine offences or where the police need to make a holding charge, and provide pre-charge advice to the police;
- work towards radically improving compliance by the prosecution and the defence with the whole process of disclosure to ensure the trial addresses the real issues;
- provide appropriate incentives and sanctions to promote effective and focused case preparation;
- remove restrictions on the jury being invited to draw inferences from discrepancies between the pre-trial defence statement and the defence case at trial.
- make better use of technology to enable police to get evidence to make an effective case;
- bring forward a comprehensive package of reforms to improve case preparation across the CJS;
- ensure closer working between the police and the CPS, including through co-location, which will mean better prepared cases with fewer discontinued and more delivering justice;
- review the cumbersome procedure of 'laying an information' and 'issuing a summons' so that cases will instead begin with a charge, administered either in person or by post; and
- pilot in high crime areas a presumption of remand to custody if a suspect tests positive for Class A drugs at arrest but refuses treatment.

**3.1** The criminal justice process begins with the first report of a crime to the police. The treatment victims receive at this early stage will shape their whole view of the process, and could determine their willingness to give evidence and appear in court later. When the crime has been reported, it is vital that relevant evidence is collected, analysed, impartially reviewed and presented. Suspects need to be clear about their rights and to understand what the legal process involves. If a charge is brought, it needs to be the right one for the offence that has been committed, and backed by sufficient evidence. If the suspect is charged and then released on bail, victims and communities need to feel secure in the knowledge that he or she will not commit offences whilst on bail.

**3.2** In this chapter, we set out a series of proposals designed to improve the initial stages of the justice process. This includes measures to support better police investigations; promote effective gathering of evidence to detect and prosecute crime; enhance case preparation and case management; ensure appropriate charging; reduce offending on bail; and improve the disclosure procedures.

## Improving police investigation

**3.3** Bringing more of the guilty to justice starts with the police. Police forces successfully detect only around one quarter of all recorded crime. A ‘detected’ crime means that a notifiable offence has been committed and recorded; a suspect has been identified; there is sufficient evidence to charge the suspect; and the victim has been informed that the offence has been ‘cleared up’. To increase police effectiveness, we have embarked on a radical and thorough process of police reform to ensure that police officers have the support they need to carry out their key job of tackling crime.

**3.4** We are continuing to increase police numbers to help reduce crime and the fear of crime, bring offenders to justice and to increase public confidence. Police numbers have been rising since April 2000 and had reached a new record of 127,000 by September 2001. The long-term decline in police numbers has been reversed and we are on track to bring them to a new all time high of 130,000 by Spring 2003.

**3.5** But increasing the numbers of police is not enough on its own. Our proposals for police reform were set out in the White Paper *Policing a New Century: A Blueprint for Reform*,<sup>9</sup> which was published in December 2001. Police reform will mean:

- high standards and performance across the country – through a new performance management framework to ensure that every force achieves the standards of the best;
- a new framework for police pay and conditions which will result in a better, fairer, more flexible system for deploying and rewarding police officers;
- reducing bureaucracy and making more effective use of the skills of support staff – both inside and outside the police station; and
- an Independent Police Complaints Commission to give greater reassurance that complaints will be investigated openly, fairly and effectively.

**3.6** To have a greater impact on reducing crime and bringing offenders to justice police time needs to be used effectively. Recent research has found that only 3%-17% of the time an officer spends attending court is used in giving evidence.<sup>10</sup> The police often find that many more officers are called to attend court than are actually required to give evidence.

**3.7** Measures in the Police Reform Bill, currently before Parliament, will help free up police time by providing the necessary powers for support staff to carry out additional functions, such as custody duties, which do not need the full training, skills and expertise of a police officer. There is also scope to increase the use of civilians in more specialist roles. For example, suitably trained and qualified civilians can help prepare cases – especially those requiring specialist knowledge, such as in cases of complex fraud or cyber crime, before they are passed on to the CPS. Many police forces are already innovating with such schemes.

**3.8** We also expect a more prominent role for the Police Authorities and a greater emphasis on working together. Joint working, as has been achieved through the Street Crime Initiative, brings those agencies operating within and alongside the CJS together in entirely new ways, enabling them to see each others' problems, iron out blockages and obstructions in the service, and understand the solution to particular aspects of the service with which they may not have been familiar.

**3.9** We are determined to do more to reduce the bureaucratic burden on police forces and further free up their time. The Home Secretary has established a Task Force under the leadership of Sir David O'Dowd, the retired Chief Inspector of Constabulary, to identify ways to achieve this. Sir David is due to report his findings later this Summer.

## MAKING BEST USE OF POLICE TIME

**3.10** The purpose of criminal investigation is to discover whether or not a crime was committed and who committed it. If we are to help the police to make best use of their time we must ensure that the legislation under which they work does not impose excessive or unnecessary burdens. In a further move to enable the police to gather evidence more efficiently, the Home Secretary has commissioned a review of the Police and Criminal Evidence Act (PACE) and the PACE Codes of Practice. While recognising the continuing need to ensure that those held in police detention are dealt with quickly and fairly, the purpose of the review is to identify possible changes to the rules which could simplify police procedures, reduce administrative burdens, save police resources and speed up the process of justice. Among the questions that the review will address are the following:

- is it essential that all arrested persons are taken to police stations for processing and interviewing? Could some of them be dealt with away from the police station, thus saving police time?
- are all the detailed requirements in PACE concerning authorising decisions, recording information and providing information to detained persons absolutely necessary in every case?

- are the current time limits on detention without charge realistic and sufficiently flexible, for example to allow for delays linked with provision of legal advice, or where people are not fit to be interviewed, for example because they are drunk?
- does the sheer detail in PACE and the Codes create too much potential for the police to be tied in legal and procedural knots?

**3.11** Legislation has already been changed to pave the way for certain key decisions at police stations to be taken by inspectors rather than superintendents. For example, decisions to authorise intimate searches, delay the notification of someone's arrest, take fingerprints and samples for DNA testing and other purposes. Inspectors are in a good position to deal with these decisions and the changes will help to free up superintendents' time for other duties.

## GATHERING EVIDENCE TO DETECT AND PROSECUTE CRIME

**3.12** Every member of the police contributes to securing the detection and conviction of offenders. The effective use of information and intelligence, the highest standards of detective work and the professional presentation of the case are all essential to achieving this. The police need to be effective against all criminal behaviour. This means finding ways of building on and supporting the professionalism of the police at all levels so that detection rates and conviction rates improve. One way the Government is addressing this is by creating a core of specialist detectives to improve investigative expertise, and civilian investigators will be used to increase capacity in specialist areas. Specialist detectives will become Senior Investigating Officers trained to a high standard and formally accredited. They will have the capacity to play a lead role in the development and execution of strategies for difficult and complex investigations, including those where the legal and evidential issues are such that close working with the CPS is required from an early stage. They will also enhance the performance of their colleagues by example, and constitute a reservoir of knowledge and experience. Specialist detectives would be drawn from serving officers or may opt for this career at the recruitment stage. New recruits will undergo the same induction as other police officers before moving on to intensive specialist training.

**3.13** We are investing in new technology for the police so that they can use its potential to detect crime and provide evidence to help convict the guilty. CCTV has played a key role in a number of high profile cases. Home Office research and other evaluations show CCTV can be effective in a range of situations in reducing crime and helping the police detect crime and convict offenders. For example, studies have shown a 41% overall decrease in vehicle crime in car parks where CCTV has been installed.<sup>11</sup> This contributes to the Government's national target of a 30% reduction in vehicle crime by 2004. The Home Office is investing £170 million in over 680 CCTV schemes across England and Wales to tackle crime and disorder and the fear of crime. CCTV is most effective when used as part of a wider local crime reduction strategy and the debate on effectiveness is now about ensuring maximum impact, sustainability and cost-effectiveness.



**3.14** Targeted police operations in the 10 Street Crime Initiative areas are designed both to disrupt criminal activity and detect more offenders. For example, in the past, charging those arrested for alleged offences has often stalled because of difficulties in formally identifying them. This could result from problems in assembling a suitable comparative group for the line up, along with the defendant and the witness all at a mutually convenient time (particularly if the accused deliberately dragged the process out by refusing to attend or objecting to the line up, or if the witness felt too intimidated to face the perpetrator). However, substantial strides have been made in overcoming these difficulties through making the most of new technology. Video identification facilities enable an image to be made of an alleged perpetrator almost immediately. A video line up is then prepared from a central national facility using a database of suitable subjects. The complete film can be ready within hours and shown to the victim at the earliest opportunity, sparing them the trauma of having to face an attacker again. In some instances this has reduced the average time taken to hold identification parades from around 10 weeks to within a week (and often faster). The cancellation rate for Video ID parades is around 5% compared to 52% for live ID parades.<sup>12</sup>

**3.15** Computerised forensic databases give police the opportunity to gain intelligence to identify a suspect rather than wait for other forms of investigation. We have developed a National Fingerprint Identification System and a national DNA database. Such initiatives produce savings in court time and reduce costs. All forces have been involved in a major programme of work, overseen by Her Majesty's Inspectorate of Constabulary, to improve the timeliness of inputting key data into the Police National Computer (PNC), and moving towards achieving standards set for forces by the Association of Chief Police Officers (ACPO). The PNC itself has been upgraded to identify persistent young offenders and more recently the police have introduced new technologies (Livescan and Palm Print) to capture prints electronically. Livescan involves placing the hands against a glass plate, rather than using ink and paper. Better images are obtained this way. Palm prints are being used because often the scene of a crime will have palm marks on it but no fingerprints.

**3.16** The national DNA database helps to achieve more effective detection and prosecution of cases. An additional £187 million is being invested in a major expansion of the database. The money allows police forces to take DNA samples from offenders for all recordable offences, whereas before, most forces concentrated resources on sampling offenders for burglary, sexual and violent offences. So far we have expanded the DNA database to 1.5 million offender profiles and by April 2004 are aiming for the database to contain 2.6 million profiles of the estimated 3 million active criminal population.

**3.17** The database has been established by the Forensic Science Service (FSS), which is an executive agency of the Home Office. The FSS is widely accepted as a world leader in forensic science. Additionally FSS scientists are often called to examine and advise at the scene of serious crimes. The services of the FSS are not confined to the laboratory examination of exhibits but include the evaluation of forensic evidence, expert witness testimony at court and awareness training to operational officers.

## BETTER CASE PREPARATION AND EFFECTIVE CASE MANAGEMENT

**3.18** All too often cases get delayed, for example because the charge is wrong or new evidence is brought to light late in the proceedings. The key to avoiding these pitfalls is good case preparation.

**3.19** Increased co-ordination across central government and local agencies through the Street Crime Initiative has resulted in improved case preparation and charging for street crime cases. In the 10 target street crime areas, which are listed in Chapter 1, the police, CPS, courts and Victim Support have signed a local protocol. This commits them to work together to: build the case and lay the correct charge; ensure the case is heard promptly; and give the victims the support and attention they need. These intentions are underpinned by practical and innovative ways of working. The CPS is dealing with all street crime cases by means of a Premium Service. This has involved the establishment of dedicated teams of experienced prosecutors and caseworkers, who have expertise in the area and ensure continuity of handling of the case from preparation through to court presentation. Working closely with the police they provide on-call assistance to ensure correct charging and to help build effective prosecutions. Charging guidance has also been produced to assist the police in selecting the right charge where it is not practical to obtain pre-charge advice, and to promote consistency. They also ensure that the victim is kept fully involved and informed and appropriately supported through the court process.

**3.20** We intend to bring forward a comprehensive package of reforms to improve preparation of cases in the CJS. These will cover the process from the time the suspect is identified through to trial and disposal in the courts. This process involves a complex interaction between a variety of organisations and individuals, including the police, the CPS, the courts, defendants and their lawyers.

**3.21** At present, there is no clear responsibility for managing the process to ensure the prosecution and defence are ready to proceed and present their cases efficiently and effectively. We will be making fundamental changes to ensure that the preparation of every case, from the point of charging to disposal in the courts, is conducted efficiently at every point in the system to achieve a fair and just outcome. We will do this by:

- giving the CPS responsibility for determining the charge in all other than minor, routine cases;
- putting a judge or magistrate in control of pre-trial case management once a charge is made;
- introducing a simplified and effective process for managing performance and delivering agreed targets, across all the agencies involved;
- putting incentives and measures in place which encourage and allow all parties to prepare cases adequately for an effective trial, on the day it is scheduled; and
- managing an effective listing system, which minimises over-booking and reduces uncertainty for victims so more hearings take place when they are scheduled.

**3.22** We will set up arrangements for judges or magistrates to agree with the prosecution and defence at the outset what the issues are in a case, what action is required, and a realistic timetable for this to be fulfilled. National and local procedures will be agreed, clearly establishing the requirements for handling cases and respective roles and responsibilities. All those involved will work towards a clear and timely outcome, supported by appropriate performance indicators, which will be monitored and reviewed locally. Judges and magistrates engaging in the process of driving the proper procedure of cases is a vital part of our reform.

**3.23** These new arrangements aim to deliver some radical improvements:

- there will be fewer cases which never get heard or break down because of inadequate preparation;
- judges will have the authority, powers and training to ensure cases are progressed properly at all points in the process;
- the defence will not be asking for more time to prepare because they do not know what the prosecution case is or because they have not received instructions;
- the prosecution will not be asking for more time to prepare because they have not received information from the police or defence;
- the Prison Service will only need to bring prisoners to court when needed, for a hearing which will take place when scheduled;
- the police will not be sending officers to spend hours waiting in court who are not then called;
- victims and witnesses will only be called as and when needed, without undue waiting time;
- courts will be able to conduct an effective trial on the scheduled day, without delay and produce just outcomes; and
- more guilty pleas will be entered at an early stage.

**3.24** We want to review the cumbersome procedure of ‘laying an information’ and ‘issuing a summons’ which are the starting point for large numbers of less serious cases to be heard in magistrates’ courts. Instead, all such cases will begin by way of a charge, either administered in person at a police station as now, or in writing and sent by post. In doing so, we will ensure that an effective process is devised for private prosecutions.

## Closer working between the police and the CPS

**3.25** One of the key recommendations we have taken forward from the 1998 Review of the CPS conducted by Sir Iain Glidewell, was the proposal to bring the police and CPS together in Criminal Justice Units (CJUs) and Trial Units (TUs).<sup>13</sup>

**3.26** Co-location enables police and CPS staff to work together to prepare cases for prosecution, reducing duplication and providing ready access to early legal advice for police investigators. Resources saved by fusing police and CPS administrations are being redirected towards the investigation and preparation of more serious cases dealt with in CPS TUs, and in providing a better service to victims and witnesses. By March 2002, 42 CJUs and 54 separate TUs had been established.

**3.27** Co-location also brings improvements in the quality and timeliness of file preparation. One court served by a co-located CJU has recorded a 26% reduction in the average number of hearings needed to bring each case to conclusion and a 20% increase in cases completed at the first court hearing.<sup>14</sup>

**3.28** Recent evaluation has shown that these co-located CJUs deliver significant financial benefits, with an average saving of almost 14% in the cost of preparing a magistrates' court case for prosecution.<sup>15</sup> If replicated across the country, this could represent a significant saving. We therefore plan to introduce co-located CJUs and TUs across those parts of England and Wales currently not covered by such arrangements.

## Getting the charge right

**3.29** At present, the police decide whether or not to charge a suspect. Once the person has been charged, the case is passed to the CPS for an independent review. This involves a two-stage test to decide whether to continue with the prosecution – first ascertaining that there is enough evidence for a realistic prospect of conviction, and second that the prosecution is in the public interest.

**3.30** In some cases passed to the CPS there may be insufficient evidence for a realistic prospect of a conviction. Where this cannot be rectified, the CPS rightly has no option but to discontinue the prosecution. The evidence may also be such that the suspect warrants a different, and often lesser, charge. Discontinuance of cases, changes to charges and gathering of further evidence cause uncertainty for the suspect, and unnecessary delay in bringing the case to court. They also result in dashed expectations for victims and witnesses who may be less willing to play any further part in the case, even refusing to give evidence at any subsequent trial. But involving the prosecutor early, to help shape the investigation and to get the charge right from the outset, produces better results and improves confidence.

**3.31** We have therefore decided, in principle and subject to agreement on practical detail, that the CPS will assume responsibility for determining the charge in cases other than for routine offences or where, because of the circumstances, such as the need to ask a court to remand the defendant into custody, the police have to prefer a holding charge before obtaining legal advice. The necessary legislative changes will be proposed to Parliament.

**3.32** Over the last few months we have been trying out these new charging arrangements on a pilot basis. Early results have shown that the new method of working is effective in identifying weak cases leading either to the obtaining of further evidence to ensure the case can properly proceed, or if a prosecution is not justified ensuring no further waste of time. Moreover, early advice from prosecutors enables police investigators to focus more clearly on productive lines of enquiry, improving the quality of the investigation, increasing the number of successful prosecutions and reducing the number of wrongly charged cases where previously the only course of action would be to discontinue the case. At the pilot sites, particularly those where discontinuance has been high, the number of charged cases not proceeding has substantially reduced. Up to 80% of cases are resulting in a guilty plea at first hearing in the pilot areas.<sup>16</sup>

**3.33** These arrangements will improve working relationships between the police and the CPS, and encourage more focused investigations. Ready access to legal advice and improved understanding means that cases which previously would not have resulted in a charge will now be taken to court.

## Offending on bail

**3.34** Making sound bail decisions is a critical part of the criminal justice process. It is estimated that nearly a quarter of all defendants commit at least one offence while on bail and for young offenders the figure is even higher. One survey found that males in prison for theft of a motor vehicle, who had previously been remanded on bail, claimed on average to committing one offence of stealing a motor vehicle every month whilst on bail.<sup>17</sup> Another problem is that some offenders who are bailed to appear at court fail to do so – 12% in 2000 and this is a major cause of trials breaking down.<sup>18</sup>

**3.35** In order to rectify these problems: there need to be the necessary legal powers to bail suspects and the capacity to deliver custodial and other remand options effectively; the police and courts need to have up to date information on which to base their decisions; we need to encourage sound decision taking that takes full account of the risk of offending and absconding; and enforcement needs to be robust.

### POLICE POWERS

**3.36** There is no power at present to attach conditions to bail before someone has been charged and more time may be needed in the interests of all parties in order to get the charge right first time. If the police need to bail someone to return to the station, the suspect must not be given free rein to commit offences during that time.

**3.37** We therefore intend to introduce legislation to allow the police, subject to judicial safeguards, the power to impose conditions on a suspect's bail during the period before charge, if they think it necessary to protect victims and witnesses and to prevent offending. The period on bail will enable the police investigation to be completed and the necessary evidence gathered before charge so that the right charge is laid. Where no prosecution is to follow, the

case can be stopped before charge, with minimum damage to the reputation of the defendant, without wasting court time and without raising victims' expectations. This is in the interests of an innocent, wrongly identified suspect, as well as in the interests of victims and witnesses.

## DEALING EFFECTIVELY WITH JUVENILES AWAITING TRIAL AND SENTENCING

**3.38** The Street Crime Initiative has effected ways of tackling offending whilst on bail. New guidance has been issued to courts on bail applications to encourage a more rigorous and consistent approach, and to ensure that where bail is granted proper consideration is given to any conditions that should be attached. The Government has made significant improvements. Many defendants can be managed on bail if conditions are imposed, and strictly enforced. We have therefore substantially extended the support for juveniles granted bail or remanded to Local Authority accommodation.

**3.39** First, we have introduced electronic monitoring, known as tagging, which allows the young person's curfew conditions on bail to be monitored. This is an effective means of enforcing compliance and breaking patterns of offending behaviour. Accordingly, powers have been extended so that young people between the ages of 12 and 16 may also be tagged. Additionally, we have made arrangements for courts to be able to tag 17 year olds in the 10 Street Crime Initiative areas. We are increasing the range of supervision and support schemes so that those young people who can live in the community with close supervision whilst on bail can do so. Such schemes include the Intensive Supervision and Surveillance Programme (ISSP) and Bail Information Schemes. When appropriate, tagging, voice recognition, curfews and contracts will be used to bolster supervision and provide clear and consistent rules and boundaries to minimise the chance of offending on bail. A 'doorstepping' condition, to enable the police to check the physical presence at an address of a bailed defendant during the curfew period, can be particularly useful. Powers can also be used to require defendants to report to a police station while on bail.

**3.40** Although courts previously had the power to remand into custody young people committing very serious violent offences, they often had no option but to bail those committing relatively low-level offences. With no apparent sanction, young offenders continued persistently to offend while awaiting a court appearance. The implementation of Section 130 of the Criminal Justice and Police Act 2001, has given new powers to the courts (initially in the 10 targeted street crime areas but to apply nationally from September) to remand in custody those who habitually offend on bail, sending a clear message that young people can no longer walk away from courts and return to previous habits of offending without consequence.

**3.42** We have improved the range of custodial accommodation available. We have increased the number of suitable secure places. This, coupled with the arrangements being made with the Prison Service to increase the number of places they have available for juveniles, should ensure that the courts are able to remand in custody those young people who have a history of offending or are likely to offend on bail. This has allowed us to extend the criteria for remanding into secure accommodation young people who have a recent history of committing imprisonable offences while they are remanded on bail. These arrangements

are working in the 10 targeted street crime areas where courts have made use of the additional provision and the balance of bail and remand use is changing in favour of remand, thereby protecting the public from further crime.

**3.41** Some very young offenders do not need to be remanded in custody but do need more intensive support and supervision than it is possible to provide in their homes. We aim to extend existing foster remand arrangements to include highly supervised and supported foster placements for persistent young offenders on bail. As well as maintaining links with their schooling, their own family and their friends, they would experience (some for the first time) a stable family environment. We would be proactive to ensure that we attract foster parents from all parts of the community.

## INFORMATION

**3.43** In order to make a sound decision to remand defendants on bail or in custody, it is essential that the courts know both the criminal record and history of offending on bail of those appearing before them. Intensive efforts have been made, and are continuing, to ensure that the records on the PNC, a major provider of bail information, are both accurate and up to date. Her Majesty's Inspectorate of Constabulary will maintain oversight and ensure progress continues to be made. We are also introducing systems to ensure that courts have feedback, particularly in cases where a remand was sought and refused, so that courts know the outcome of their bail decisions.

**3.44** If these changes are exploited to maximum effect, and tailored to individual cases, they should have a major impact on the cycle of offending on bail, and reducing inefficiencies in the court process. To ensure that bail decisions reflect these principles, the Government will include provision in forthcoming legislation to weight the court's discretion against granting bail to a defendant who has been charged with an imprisonable offence committed while on bail for another offence. In addition, the Government plans to end the restriction on the prosecution's right to appeal against bail decisions. At present this right only covers offences punishable by a sentence of 5 years imprisonment or more. The Government plans to extend the prosecution right to appeal bail decisions in all imprisonable offences.

**3.45** Starting initially in the highest crime areas, we will pilot and evaluate a new presumption at bail hearings that offenders testing positive for Class A drugs should be remanded in custody if they refuse treatment.

## Pre-trial openness and transparency

**3.46** Before the trial, the process by which the prosecution have to disclose their case to the defence, and the defence their case to the prosecution, does not work in a way which promotes justice. There are two main problems, late and inadequate disclosure by the prosecution leading too often to adjournments and sometimes dismissal of cases; and late and cursory or inadequate defence statements, which neither the prosecution nor the court challenge sufficiently. There is also some concern that some defence practitioners may be using disclosure as a procedural tactic to delay the process and cloud the issues.

**3.47** As part of the pre-trial process, the prosecution has to give the defence copies of the statements and exhibits that will be used at the trial to support the prosecution case. It must also disclose all unused material that it has, or has seen, which might undermine the prosecution case. So the prosecution must be completely open about its case, and anything they know about, that could cast doubt on that case. This is the first stage of the disclosure process. In the Crown Court the defence must, and in the magistrates' courts may, give the prosecution and the court a defence statement outlining the nature of the defence and the arguments to be used at trial. The prosecution must then reconsider any unused material in the light of the defence statement, and disclose any material which may help the defence, and any further material that may undermine their case, which has been identified. This is the second stage of the disclosure process.

**3.48** The tests to be applied at these two stages are different and described as a dual test. Much of the material that must be disclosed will meet both tests. The defence statement is intended to assist the management of the trial by identifying the issues in dispute and providing details of any alibi witnesses. We propose that this two-stage disclosure scheme should remain but that there should be a single test of disclosability at both stages.

**3.49** The process of prosecution disclosure is too complicated. It frequently leads to the prosecution failing to disclose all the material covered by the rules, and the issue of prosecution disclosure becoming a battleground between prosecution and defence in which the defence hope to 'trip the prosecution up' at an early stage.

**3.50** In addition the defence statement can sometimes give no real indication of what the defence case is. The defence is under no obligation to identify witnesses it may call, except when they are alibi or expert witnesses. It is perfectly possible therefore for the trial to be the first time the defence have indicated what their defence is. This can sometimes lead either to adjournments or trials proceeding without the prosecution having an adequate opportunity to check out the defence's case.

**3.51** Action is already in progress to improve prosecution disclosure through work being undertaken by the CPS and ACPO. They are taking forward recommendations made by the CPS Inspectorate and the Attorney General's Guidelines on disclosure issued in November 2000, and are developing revised joint operational guidance.<sup>19</sup> This will ensure consistent and efficient delivery of prosecution disclosure duties. This will in turn ensure that the defence has the necessary information to play its part in the disclosure procedure more effectively.

**3.52** As part of our aim to ensure a fairer balance between prosecution and defence, we will introduce legislation to remove the restrictions on the jury being invited to draw inferences from discrepancies between the pre-trial defence statement and the defence case at trial, specifically by:

- widening the matters on which an inference may be drawn to include any significant omission or anything that the defendant could reasonably be expected to have mentioned in the defence statement; and
- removing the present requirement for permission from the judge before making comment on discrepancies between the defence statement and the defence at trial.



**3.53** We also want to see greater protection for sensitive information in organised crime cases. Options are being developed in consultation with ACPO.

**3.54** We propose to introduce immediately a variety of incentives and strengthened sanctions to encourage the parties to comply with their disclosure requirements and to play their part in preparing their case more effectively for trial. Among the measures under consideration are:

- requiring prosecuting counsel to play a more active role in advising on and challenging the adequacy of the defence statement;
- giving the prosecution a right to apply for an early judicial ruling in circumstances where the defence statement is accompanied by unreasonable requests for long lists of prosecution documents;
- equipping the judiciary with the right case management skills to take a robust line at preliminary hearings, to ensure that both prosecution and defence have complied with the disclosure process to identify the triable issues;
- enhancing the requirements of the defence statement; and
- requiring the judge to alert the defence to inadequacies in the defence statement from which adverse inference may be drawn.

**3.55** We believe these changes will substantially improve prosecution disclosure and reduce the scope for tactical manoeuvring by the defence. They will reinforce the professional obligation on defence lawyers to assist decision-making by the courts by defining and clarifying the issues in the case.

**3.56** In every Crown Court we are determined that before the case starts, the defence and prosecution will set out their cases so that the issues are clear and irrelevant material is stripped away. We will consider whether both the defence and the prosecution should have the right of appeal in the case of important evidential rulings.

**3.57** The defence already has to disclose, in advance of the trial, details of alibi and expert witnesses. We also wish to make it a requirement for the defence to provide, in advance, details of any unused expert witness reports. We are currently considering introducing legislation to make it a requirement that they must disclose details of any witness that the defence may call. This would allow the court and prosecutor to comment adversely on surprise witnesses. We will consult with the legal profession on both these issues.

## LEGAL STANDARDS AND INCENTIVES

**3.58** There should be appropriate financial incentives and sanctions to encourage the defence – both defendants and their legal representatives – to play a proper part in the process of the case going through the CJS. We accept Sir Robin Auld’s recommendations that public funding should ‘reward adequate and timely preparation of cases for disposal on pleas of guilty or by trial’.<sup>20</sup>

**3.59** Payment should be linked much more closely with proper preparation than it is now. In magistrates' courts, most defence work is paid for by standard fees. We will review these. In all cases we wish to develop systems of payment that control cost and are simple and predictable in their operation.

**3.60** In consultation with the legal profession we will review the remuneration schemes for litigators and advocates, as an integral part of the wider work to reform case preparation and progression, to ensure that the correct incentives and sanctions are built in.

**3.61** In consultation, we will review the targets and incentives currently within the system and report on changes necessary to improve the efficiency of criminal case management processes from investigation through to disposal across the CJS.

**3.62** The Government also intends to review existing court powers to order defendants to pay prosecution costs where they have failed to give legal representatives instructions or to meet defence disclosure obligations. As well as the power to penalise lawyers by making them pay costs wasted as a result of their errors or omissions, we will also consider whether other forms of penalties, including financial, could be applied.

**3.63** Since April 2001, anyone arrested and held at a police station, or facing more serious criminal charges in a magistrates' court, is entitled to publicly funded legal advice and assistance, without reference to their means. At the end of proceedings in the Crown Court or on appeal, the trial judge may order the defendant to pay back some or all of the costs of the defence, where they can afford to pay.

**3.64** The Legal Services Commission, who are responsible for legal aid, will continue to work to raise standards in the legal profession in co-operation with the Bar and Law Society. Possible ways include extending the use of accreditation and peer review amongst the professions.

**3.65** The success of these arrangements will depend on defence solicitors and barristers playing their part in case management. We have a part to play in ensuring that publicly funded defence work remains sufficiently attractive for solicitors and barristers to undertake.

**3.66** With these reforms in place, we will see substantial improvements to the CJS, with better informed, more appropriate charges brought and a reduction in offending on bail. The reforms will mean there is a streamlined approach to case preparation, based on close co-operation between the police and the CPS, so cases should come to court better prepared and with the evidence to support them. This will contribute significantly to transparent, fair and informed trials that result in justice being done.

## ENDNOTES

- <sup>1</sup> *A Review of Cost and Efficiency Savings within 'Glidewell' Collocated Criminal Justice Units* (December 2001), Police/CPS Glidewell Working Group.
- <sup>2</sup> See 1.
- <sup>3</sup> Simmons, J. et al. (2002) *Crime in England and Wales 2001-02*, Home Office Statistical Bulletin 7/02, London: Home Office.
- <sup>4</sup> *Criminal Statistics England and Wales 2000* (2001), London: Home Office.
- <sup>5</sup> *Just in Case: the Audit Commission Study of the Criminal Justice System* (2002), London: Audit Commission.
- <sup>6</sup> *HMIC JPM Data on the timeliness and quality of police files* (January - December 2001), London: HMIC.
- <sup>7</sup> Brown, D. (1998) *Offending on Bail and Police Use of Conditional Bail*, Research Findings No.72, London: Home Office.
- <sup>8</sup> See 4.
- <sup>9</sup> *Policing a New Century: a Blueprint for Reform* (2001), London: Home Office.
- <sup>10</sup> *Diary of a Police Officer* (2001) Police Research Paper 149, London: Home Office.
- <sup>11</sup> Home Office (unpublished).
- <sup>12</sup> *The Visual Identification of Suspects: Procedures and Practice* (2002), Briefing Note 2/02, London; Home Office.
- <sup>13</sup> Glidewell, Sir I. (1998) *The Review of Crown Prosecution of Crown Prosecution Service*, London: HMSO.
- <sup>14</sup> *Evaluation of pilot schemes for the early involvement of the CPS in decision-making of the charging of suspects* (unpublished).
- <sup>15</sup> See 1.
- <sup>16</sup> *Prisoners Criminality Survey 2000* (forthcoming).
- <sup>17</sup> See 16.
- <sup>18</sup> See 4.
- <sup>19</sup> *Draft Attorney General's Guidelines on Disclosure: a consultation document* (2000), London: The Legal Secretariat to the Law Officers.
- <sup>20</sup> Auld, Sir R. (2001) *Review of the Criminal Courts*, London: The Stationery Office.

# Chapter 4

## DELIVERING JUSTICE – FAIRER, MORE EFFECTIVE TRIALS

### WHAT IS WORKING

- We have more than met our 1997 pledge to halve the time from arrest to sentence for persistent young offenders, reducing it from 142 to 63 days.<sup>1</sup>
- Most defendants plead guilty – 95% in the magistrates' courts and 74% in the Crown Court.<sup>2</sup>
- 95% of jurors are satisfied or very satisfied with their treatment by the CJS.<sup>3</sup>
- 95% of all criminal cases are dealt with in the magistrates' courts locally.<sup>4</sup>
- Measures introduced in 1999 have reduced delay by streamlining case preparation in magistrates' courts.
- Since 2000, the youth court has been able to deal with a wider range of defendants and, where necessary, to order up to two years detention.

### WHAT IS NOT WORKING

- There are too many cases in which tactical manoeuvres disrupt the process so a verdict is not reached and justice not done; in particular prolonging proceedings is used as a defence tactic to see if witnesses will attend to give evidence.
- In over half the either-way cases that go to the Crown Court in which the defendant pleads or is found guilty, magistrates could have given the sentence.
- Courts are deliberately over-booked on the basis that some cases will not go ahead as scheduled. Over 40% of victims and witnesses who attend court to give evidence are not called to do so on the day.<sup>5</sup> This causes disenchantment and makes it less likely they will attend on another day.
- Key witnesses fail to attend and the case has to be adjourned, or in some cases dismissed without trial, as the prosecution is unable to offer any evidence.
- Defendants remanded to custody perceive an incentive for delay as they receive greater privileges on remand than if they are convicted and imprisoned.
- No one has overall responsibility for managing the process to ensure the prosecution and defence are ready to proceed and present their cases efficiently and effectively.
- Some cases fail when the prosecution and the defence have not completed their preparations in time for the trial, particularly in identifying the issues for resolution by the jury.

## We propose to:

- overhaul the rules of evidence to ensure the widest possible range of relevant material is available for a judgement. This includes making information available to judges and juries on previous convictions and misconduct where it is relevant and put in context;
- extend magistrates' sentencing powers from 6 to 12 months and allow them to sentence all those they have found guilty, rather than committing some to be sentenced in the Crown Court;
- allow defendants to have the right to ask for trial by judge alone in the Crown Court;
- allow trial by judge alone in serious and complex fraud trials, and in some other complex and lengthy trials, or where the jury is at risk of intimidation;
- allow the prosecution the right of appeal where the judge makes a ruling that effectively terminates the prosecution case before the jury decides.
- strengthen youth courts to deal with more young offenders accused of serious crimes and invite views on whether the Crown Court should retain serious cases for 16 and 17 year olds;
- establish a criminal procedure code and a criminal evidence code advised by a new Criminal Procedures Rules Committee, amongst others;
- allow witnesses to refer to their previous and original statements and change the laws on reported evidence ('hearsay')
- reform the rule against double jeopardy so that in grave cases where compelling new evidence has come to light, an acquitted defendant can be tried again for the same offence;
- encourage early guilty pleas, by introducing a clearer tariff of sentence discount for those pleading guilty, backed up by arrangements where defendants could seek advance indication of what the discounted sentence would be if they pleaded guilty and ensure appropriate safeguards so that innocent defendants are not put under pressure to plead guilty;
- extend the availability of preparatory hearings, so issues can be resolved and clarified in advance of the full trial;
- assist those serving on juries to understand the trial process and their role in reaching a verdict; and
- integrate over time the management of the courts within a single courts administration and allow Crown Court judges to conduct trials in magistrates' courts.

**4.1** In the previous chapter we explained the package of reforms that will help ensure effective investigation and charging, better case preparation and proper disclosure of evidence by the defence. This chapter looks at the choice of court for different sorts of cases and whether particular cases can be disposed of without recourse to a trial. It examines the trial process, including what evidence may be heard, and when it may be appropriate to try cases

by judge alone. It covers arrangements for encouraging the earliest plea of guilty by defendants who are guilty, additional rights of appeal for the prosecution and the role of juries. Improving the quality of trials and delivering justice faster are our central aims.

**4.2** We have improved the way cases are handled in the Crown Court and in magistrates' courts. The average time from arrest to sentence for persistent young offenders has been more than halved. Many cases that would previously have reached the Crown Court without any indication of how the defendant would plead, no longer need to be listed for trial but only for sentence. This is because the defendant has been able to plead guilty in the magistrates' court. Measures introduced in 1999 have reduced delay for the majority of cases dealt with in the magistrates' courts by streamlining case preparation and, where appropriate, allowing straightforward guilty plea cases to be presented in court by CPS 'designated caseworkers'.

**4.3** More recently, the Street Crime Initiative has focused the attention of key agencies, both on fast tracking cases through the courts and ensuring that they are handled effectively, so as to secure a prompt and satisfactory outcome. Good initial case preparation is critical, but can be wasted if there is no continuity of handling through the court process. Through the new CPS Premium Service, dedicated teams are preparing and presenting these cases, and ensuring from the outset that the charges are right and are not subsequently watered down if the defendant pleads not guilty. 67 courts across the 10 Street Crime Initiative areas have been nominated as special Street Crime Courts to maintain a focus on the swift progression of street crime cases, enhancing the ability of the judiciary to deal consistently with street crime offences. From the moment of charge, and throughout the prosecution process, case files are identified with a special flag which ensures they are automatically fast tracked to these courts.

**4.4** Our proposals for reform are intended to minimise miscarriages of justice, both for defendants and victims, and to strengthen and modernise our tradition of justice:

- we shall establish a system in which it is clear the guilty have nothing to gain by delaying their plea, and therefore do not subject victim and witnesses to an unnecessary ordeal; and
- the accused who wants to contest a charge will know that the trial and its preparation will focus on the search for truth.

**4.5** The criminal justice process is based on principles that have evolved over time. The most fundamental of these are that someone is innocent until proved guilty and that the prosecution must prove its case against the defendant beyond reasonable doubt. If a reasonable doubt remains, the defendant is unquestionably entitled to the benefit of it. This will remain the case, but there is a strong sense of public frustration at the way in which the process operates, and at its outcomes. This can be heightened by high profile individual cases which leave a strong sense of dissatisfaction; or it may centre on overall failings, such as delays, or the unacceptably low proportion of offences for which offenders are brought to justice. We want less evidence to be withheld from the courts, on the principle that relevant evidence should be admissible unless there are good reasons to the contrary. Magistrates, judges and juries have the common sense to evaluate relevant evidence and should be trusted to do so.

## Who goes to which court?

**4.6** When a criminal case goes to trial, it should be dealt with at an appropriate level and location. We want this to be done in a more coordinated way. Sir Robin Auld recommended the establishment of a unified criminal court. Our view is that the benefits he identified from unification can be realised through a closer alignment of the magistrates' courts and the Crown Court, without a complete reordering of the court system and without adversely affecting the civil and family jurisdictions. We will therefore legislate to bring the magistrates' courts and the Crown Court closer together and collectively these courts will be known as 'the criminal courts' when exercising their criminal jurisdiction. Over time, we will also integrate their management within a single courts organisation to replace existing Magistrates' Courts' Committees and the Court Service, as described in Chapter 9.

**4.7** Taken together, these changes will allow judges and magistrates to be deployed more flexibly, for example a Circuit Judge sitting in the Crown Court would be able to hear a summary offence that became attached, without the case having to go back to a magistrates' court. These changes will also allow the straightforward and speedy transfer of cases from one magistrates' court to another, which will assist in conducting trials at the most convenient local site, and they will deliver greater consistency in procedures between the magistrates' courts and the Crown Court. In terms of judicial flexibility, we will also be looking at the sitting patterns of Recorders (part-time judges who are also solicitors or barristers) to see if they can accommodate more efficient listing, for example by taking longer cases, whilst recognising their other commitments.

**4.8** The Resident Judge, a senior judge responsible for managing the allocation of cases at each Crown Court centre, is in the best position to act as a focal point for judges and magistrates within an area. The Resident Judge can encourage best practice and consistency in case management and sentencing, and spot problems or special issues with the way the criminal process is working in their area. We will be working with the judiciary to explore how a role that allows the Resident Judges to have a broad oversight and overall responsibility will operate. We believe, however, that Resident Judges' primary function must still be to hear and try cases. Detailed matters of administration will continue to be dealt with by local court management.

## Cases where there is no need for a trial

### FIXED PENALTY NOTICES

**4.9** Court time spent dealing with minor offending should be freed up to deal with more serious crimes. We are also determined to do more to help reduce any unnecessary bureaucratic burden on police forces and on the courts. Sir David O'Dowd's Task Force (see 3.9) is identifying ways of reducing police bureaucracy and has already proposed extending the use of fixed penalty notices to a wider range of offences committed by adults. This will build on provisions in the Criminal Justice and Police Act 2001, extending fixed penalties to offences of disorder, which are to be piloted shortly. It also reflects Sir Robin Auld's recommendation that a review should be conducted leading to the wider use of fixed penalty notices for offences such as television licence evasion. We aim to pursue the extension of the fixed penalty system, and will consult on how this will work in practice.

## CONDITIONAL CAUTIONING

**4.10** As an alternative to being charged with a minor offence, the police may, in certain circumstances, give a formal caution to offenders who are willing to admit their guilt. Cautions are recorded and may be taken into account by the police in responding to any subsequent allegation of misconduct against the offender concerned, and by the court in any subsequent proceedings.

**4.11** In some areas the police operate Caution Plus schemes. In such schemes the offender is not simply cautioned, but enters into a voluntary agreement with the police to comply with a specified condition. This might be to make some redress to the victim, or submit to some form of supervision or treatment. Other agencies are often involved in agreeing (through inter-agency panels) the sort of condition which is available and supervising compliance with it. But the schemes that exist at present are entirely voluntary and the offender cannot be prosecuted if the conditions are not complied with.

**4.12** We see schemes of this type as having a real value in reducing offending, promoting reparation and saving court time. We propose, therefore, to create a formal conditional cautioning scheme for use by the CPS in appropriate cases, where more than a simple caution is justified but the circumstances are not such that the public interest requires a prosecution. The CPS will take account of victims' interests and views when deciding whether a conditional caution is appropriate under the proposed scheme. Conditional cautioning will therefore provide a valuable framework within which the restorative justice approach (as described in Chapters 5 and 7) can be used, as it will provide a means of ensuring that the offender actually honours their undertaking to make reparations to their victim. The Probation Service will be closely involved in the form and control of a conditional caution. We will introduce legislation now and will pilot schemes prior to national implementation.

**4.13** There is much evidence to show that if offenders can be tackled at an early stage of their criminal career there is a greater opportunity to steer them away from offending in the future. Conditional cautioning will provide a number of positive incentives for the small group of offenders for whom it is appropriate: the desire to avoid the publicity surrounding a court appearance; the prospect of having their offence quickly and finally resolved; the advantage of not having a costs order; and in drugs or alcohol cases, an opportunity to undergo treatment. It will provide an important incentive for those who have a drug problem who have been arrested for a comparatively minor offence to seek treatment at an early stage.

**4.14** Before a conditional caution could be administered there would need to be sufficient evidence to support a successful prosecution. Indeed the process of accepting the conditional caution would involve recording an admission of guilt. The sanction for subsequent non-compliance will therefore be to prosecute the offender for the original offence.

**4.15** Unconditional cautions will continue to be appropriate for use in those minor cases in which they are already used, and it will continue to be open to the police to administer these without reference to the CPS.



## DEFERRED CAUTIONING

**4.16** Deferred cautioning is a variation of the conditional cautioning process which has been developed for use when dealing with some drug users who are arrested for the first time for possessing small amounts of Class A or Class B drugs, for their own personal use. Usually such offenders receive a police caution. Under deferred cautioning the offender is placed on police bail on the basis of an undertaking to seek help from a drug agency. A decision about whether or not to formally caution, which automatically results in a criminal record, is deferred for several weeks. If the offender engages with the agency, and shows good progress, the police will take no further action.

**4.17** Deferred cautioning schemes have been piloted in the past, most notably in Kirklees, Chesterfield, Lincolnshire and Tower Hamlets. These pilots have shown that the incentive of avoiding a criminal record can be effective in securing offenders' active engagement in treatment. These pilots do, however, pre-date the recent expansion of other approaches such as arrest referral schemes, the introduction of Drug Treatment and Testing Orders and the piloting of drug testing, which all aim to get drug misusers out of the CJS and into treatment.

**4.18** We therefore see the need for an updated deferred cautioning pilot scheme, to run alongside the other approaches now in operation. The precise form of such a scheme is presently being developed.

### Tackling arrestees' drugs problems

The Crime Reduction Programme has allocated £20 million to introduce Arrest Referral Schemes to all custody suites in England and Wales across England and Wales. These schemes are partnerships between police, local agencies and Drug Action Teams, and involve trained drug workers operating in or near police custody suites helping to get drug-misusing arrestees into treatment.

## The right court for the most effective trial

**4.19** About 95% of all criminal cases are dealt with in the magistrates' courts, locally and quickly. This benefits defendants, victims and witnesses. We are not convinced that there is a strong enough case to justify introducing a new 'intermediate tier' court, as was recommended by Sir Robin Auld. We believe that the benefits this would provide can be achieved in other ways. We will legislate to increase magistrates' sentencing powers to 12 months, and to allow us to increase them up to a maximum of 18 months, depending on the results of evaluations, and taking account of any necessary additional training requirements.

**4.20** Some types of case, known as ‘either-way’ cases, may be dealt with in either the Crown Court, where they would receive jury trial, or the magistrates’ court<sup>6</sup>. They may go to the Crown Court either because magistrates decide that the appropriate sentence on conviction could exceed their sentencing powers (presently up to 6 months imprisonment for adult defendants) or because the defendant elects jury trial. In practice, most cases of these types are dealt with by magistrates – 87% in 2000, with 9% going to the Crown Court because the magistrate declined to take the case and 4% because defendants elected. The proportion of these cases that are heard by magistrates has increased in recent years. In over half of the either-way cases that do go to the Crown Court and in which the defendant pleads or is found guilty, magistrates could have given the sentence.

**4.21** All too often defendants will elect for trial, then after some time plead guilty in the Crown Court and receive a sentence which magistrates could have passed. Alternatively they will hope to avoid a trial altogether, or perceive a better chance of being acquitted although guilty. The motive will often be to prolong the process in the hope of reducing the chance of either the victim or necessary witnesses giving evidence.

**4.22** We have decided that the right of defendants in these cases to elect trial by jury in the Crown Court ought to remain. However, this right should not be abused by defendants who hope that a sufficient case against them will not be made if they protract the process, but when confronted by such a case then plead guilty. Such abuse and delay puts pressure on victims and witnesses, and threatens good justice. We also want to reduce the numbers of cases sent by magistrates to the Crown Court unnecessarily, because of uncertainties about the possible sentence.

**4.23** Currently, when magistrates decide whether a contested case is suitable for them to deal with, they are not made aware of any previous convictions recorded against the defendant. We believe magistrates’ courts should know about these before deciding whether they can try the case.

**4.24** We propose that when magistrates do hear a case, they should sentence the defendant if convicted. The practice of committing cases to the Crown Court for sentence after magistrates have agreed to take the case will be abolished. This means that defendants will always know the maximum sentence they could incur if they enter a not guilty plea but do not exercise the right to elect trial by jury.

**4.25** We expect these changes to lead to significant reductions both in the number of cases going to the Crown Court which can be dealt with more effectively and appropriately in the magistrates’ courts, and in the abuse of the right to elect for jury trial. In deciding to retain the defendant’s right to elect for trial by jury we have recognised the issues of principle that arise over it, and that the number of defendants who elect for jury trial are a small and diminishing proportion of those who could do so. We will, however, keep this issue and the others described above under review, pending evaluation of the operation of these procedural changes.

## Preparatory hearings

**4.26** Preparatory hearings are governed by statutory provisions for ensuring that complex cases are adequately prepared for trial and for resolving and agreeing key issues before the trial begins. At present, such hearings are available in complex and serious fraud cases and in some other complex and lengthy cases. We want to make it possible to hold a preparatory hearing in serious as well as complex and lengthy cases, for example drug trafficking and conspiracy to rob, because they are a useful mechanism for planning and managing these cases by reducing the number of issues that have to be discussed during the trial and for enabling binding rulings to be made by the judge at an early stage. At present, binding rulings on the admissibility of evidence and points of law are appealable by the prosecution and defence. We propose to extend the range of appealable rulings to include decisions on whether charges or defendants should be tried together or separately. This links with our proposals for prosecution appeals described in paragraph 4.68 below.

## Trial by judge alone

**4.27** We propose to implement Sir Robin Auld’s recommendation that defendants in the Crown Court should in future have the right to apply to the court for trial by a judge sitting alone. The judge will have discretion whether to grant the application and will have to give reasons for this decision. He or she will also have to give reasons for the verdict at the end of the trial. This arrangement will be similar to what already happens in some other countries, including Canada and the USA, and the introduction of a similar provision here was widely supported by those commenting on the Auld recommendation.

### SERIOUS AND COMPLEX FRAUD TRIALS

**4.28** A small number of serious and complex fraud trials, many lasting six months or more, have served to highlight the difficulties in trying these types of cases with a jury. Such cases place a huge strain on all concerned and the time commitment is a burden on jurors’ personal and working lives. As a result it is not always possible to find a representative panel of jurors.

**4.29** As well as this, the complexity and unfamiliarity of sophisticated business processes means prosecutions often pare down cases to try and make them more manageable and comprehensible to a jury. This means the full criminality of such a fraud is not always exposed, and there are risks of a double standard between easy to prosecute ‘blue-collar’ crime and difficult to prosecute ‘white-collar’ crime.

**4.30** We have concluded that there should be a more effective form of trial in such cases of serious fraud. The Auld report recommended that the judge should have the power to direct such fraud trials without a jury, sitting with people experienced in complex financial issues or, where the defendant agrees, on their own. We recognise that the expertise of such people could help the trial proceed. However, identifying and recruiting suitable people raises considerable difficulties, not least because this would represent a substantial commitment over a long period of time. For these reasons, we propose such cases are tried by a judge sitting alone. We do not expect there to be more than 15-20 such trials a year and we expect their length to reduce as a result.

#### OTHER COMPLEX AND LENGTHY TRIALS

**4.31** The difficulties faced by juries are not confined entirely to cases of fraud, but can extend to some organised crime cases where there are similar complex financial and commercial arrangements. We are considering whether the court should have the power to direct trial by judge alone in any case that involves such a lengthy and complex hearing that justice would be better served by this alternative. It will be important to ensure that any test governing the exercise of such a power is both workable and effective, and **we would welcome views, before deciding whether to proceed.**

#### JURY TAMPERING

**4.32** We have been looking at ways to deter jury intimidation. A number of trials are stopped each year because an attempt has been made to intimidate or influence the jury. The court currently has no option other than to dismiss the jury and order a re-trial. We intend to legislate to give the judge power to continue the trial with him or her sitting alone, if necessary with police protection, or to order that the case be retried before another judge sitting alone.

**4.33** We are also considering whether the option of trial by judge alone should be available in cases where there is a serious risk that the jury will be subject to bribery or intimidation. The courts currently order police protection for the jury in such cases. This protection, which may have to continue over a period of months, can be extremely disruptive and an unreasonable intrusion on the lives of individual jurors. **We would welcome views on this.**

#### Youth courts

**4.34** Youth courts have been at the forefront of speeding up justice. Joint working and fast tracking have enabled us to meet our pledge to halve the time taken from the arrest to sentence of persistent young offenders. We must build on this throughout the court system.

**4.35** Since 2000 the youth court, operating within the magistrates' court structure, has been able to deal with a wider range of defendants and where necessary order up to two years' detention as part of arrangements for giving the best chance for a young offender to mend his or her ways. Despite this, some 5,000 young defendants still go to the Crown Court for trial each year – about 1,000 from the youth court and a further 4,000 committed for trial with an adult from the adult magistrates' court.<sup>7</sup>

**4.36** The youth court is more suitable for young people, because it is a specialist court and its style has been progressively modified to ensure young defendants and their parents properly understand and engage in the process. By contrast, in the Crown Court the presence of a jury as the focus for the trial makes it difficult to involve young people properly. We therefore propose to provide for strengthened youth courts to deal with young offenders accused of serious crimes. Juveniles facing such charges without adult co-defendants would be dealt with by the youth court, presided over by a judge, with two experienced lay magistrates in support.

**4.37** We know from the consultation on the Auld report that many welcomed the proposal to take young defendants out of the Crown Court. And certainly, as Sir Robin Auld himself stated, the younger the defendant, the stronger the case. There was however some concern over those in the older age group. One option which has been put to us is for the Crown Court to have discretion to retain serious cases involving 16 and 17 year olds. **We would be interested in hearing any further views on this issue.**

**4.38** We also need to consider the approach to take in cases where there are adult co-defendants, and they cannot be tried separately because of the nature of the charges. There are several possibilities:

- as now, trying the youth with their adult co-defendant in a Crown Court;
- providing for them to be tried together in the strengthened youth court; and
- giving the Crown Court the right to decide the venue for the trial at a preliminary hearing – having regard to the circumstances of the case, including the maturity and responsibility of the young co-defendant.

**4.39** The last of these options is our preferred approach. **We would welcome views.**

**4.40** We will reform the system by which lay magistrates are authorised to hear youth and family cases. We propose that the system of 'panels' will be replaced by a system of personal authorisation, so that a magistrate selected and trained for specialist work need no longer wait months to be elected to their new local panel. The system will continue to operate locally, with input from local magistrates, but the authorisation process will be more transparent and consistent, and based on competencies.

## Early Guilty Pleas

**4.41** Most defendants plead guilty – 95% in the magistrates’ courts and 74% in the Crown Court. But sometimes they do not do so until proceedings have been going on for some time.<sup>8</sup> And many in the system believe that defendants’ delayed guilty pleas are a tactic employed in the hope that witnesses will lose patience and decide not to testify. If more defendants pleaded guilty early in the process, the courts and other agencies within the CJS would be able to concentrate on the remaining contested cases. Earlier guilty pleas would also benefit witnesses, who would not have to come to court only to be told they are no longer required, and of course victims, who would see justice done more promptly. And the advantages also extend to defendants themselves, because the courts can already give discounts on sentence in recognition of an early guilty plea.

**4.42** We therefore intend to introduce a clearer tariff of sentence discount, backed up by arrangements whereby defendants could seek advance indication of the sentence they would get if they pleaded guilty. This should help to encourage more defendants who are guilty to plead guilty earlier.

**4.43** We do not take lightly the danger of putting innocent defendants under pressure to plead guilty. To minimise that risk, we will incorporate safeguards. The defendant, through their legal advisers (who should advise them not to plead guilty unless they are guilty) should initiate the request. It should be made formally in court sitting in private, in the presence of the prosecution, the defendant and advisers. It should be fully recorded. All relevant information about the offence and defendant should be put to the judge, who would indicate the maximum sentence on a guilty plea made at that stage (but not what the sentence might be were a contested trial to result in a guilty verdict). Should the defendant wish to plead guilty in the light of that information, the judge should question them directly to ensure that they understand the effect of a guilty plea and of its voluntary nature.

**4.44** These arrangements will not apply in cases that can be considered only in the magistrates’ courts. But where magistrates have decided they could try a case which could also be tried in the Crown Court, they could give defendants an indication of the sort of sentence (custodial or non-custodial) they might receive if they were to plead guilty at that point. Magistrates would be aware of relevant information, including relevant previous convictions, in doing this. This will encourage guilty defendants to plead guilty at the earliest opportunity, rather than electing jury trial and then pleading guilty later. An advance indication given by magistrates but rejected by the defendant would not tie the hands of a Crown Court judge when sentencing on any subsequent guilty plea. A trial conducted by magistrates after an advance indication would be handled by different magistrates from those who gave the indication.

## Specialist court hearings

**4.45** We will consider the scope for introducing a greater degree of specialisation within the criminal court system. This could cover certain kinds of crime, including cases that involve drugs, and domestic violence. Specialisation could increase the throughput of cases, secure more effective outcomes, allow more convenient and less burdensome arrangements to be made for victims, witnesses and lawyers, and use court time more effectively. But it does depend on having sufficient cases to justify the special arrangements, and on the availability of suitably trained judges, magistrates, and staff.

**4.46** Our strategy for specialisation within the criminal courts includes:

- developing Drug Treatment and Testing Orders (DTTOs) to increase judicial involvement in supervising the requirement for an offender to take part in a treatment programme, or a programme to prevent reoffending; and
- building on experience of dealing with particular kinds of offence, for example street crime and domestic violence, to see if there are advantages in handling them together in particular court sittings.

**4.47** In terms of drugs, many courts already play a role in reviewing the progress of offenders on DTTOs. This allows a welcome continuity of sentencers in the implementation and review of the orders, and provides a framework of how a drugs court might operate. We will consider ways in which this framework might be adapted to deal with more offenders whose drug habits have contributed to their offending.

**4.48** Finally, we will consider whether a number of issues which affect crime and anti-social behaviour in a community – but short of criminal behaviour itself – could be dealt with in a local court with some local input. For example, evictions and enforcement of community penalties could both usefully be dealt with in the same court setting. The same judge or panel would become acquainted with the issues which affected order in the community, and the community itself.

## The Role of Juries

**4.49** In Chapter 7 we stress the importance of everyone being ready to serve on a jury when called. We shall do more to assist people serving on juries to understand the trial process and their role in reaching a verdict. We must show jurors – most having their first encounter with the CJS – that the system works efficiently, and that their time and contribution is both valued and used effectively. We will continue to improve the information provided to jurors on their role, and on the jury process in general. We plan to give them a proper introduction to their task, including the structure and practical features of a trial, the best ways of working, and an explanation of the role of jury foreman. This will contribute to their confidence in the system, as well as helping to progress the case in hand.

**4.50** During a trial, the issues should be clearly highlighted and explained to jurors. Jurors will then be able to get to grips more easily with what is actually in dispute, and to focus on this. The judge will continue to help jurors to do this, particularly in summing up a case before the jury discuss their verdict and there may be times when the jury would find a written note of the issues helpful. We will consider all this in the context of other work to improve case preparation, as described in Chapter 3. We do not propose to go further and require a judge to devise and put to the jury a series of questions, and possibly to ask them to answer those questions publicly. Nor do we intend to legislate to prevent juries from returning verdicts regarded as perverse where the verdict flies in the face of the evidence, as has happened very occasionally.

## Criminal Procedure Rules Committee

**4.51** We want a criminal evidence code and a criminal procedure code. These would simplify cases and be a means of determining how crime should be tried. We believe that other significant changes in evidence and procedure are required as well as those set out in this White Paper. Any further changes would require widespread consultation. As part of this consultation process we would welcome the formation of a Criminal Procedure Rules Committee, chaired by a member of the higher judiciary, which we propose to place on a statutory basis.

## Decisions based on all the relevant facts – the rules of evidence

**4.52** The current rules of evidence, which determine what evidence the court can take into account, are difficult to understand and complex to apply in practice. There has been growing public concern that evidence relevant to the search for truth is being wrongly excluded.

**4.53** Magistrates, judges and juries should be trusted to give appropriate evidence the weight it deserves when they exercise their judgement. To enable them to do so, the rules of evidence need to be rewritten to ensure that they have all relevant material to help them to reach a just verdict. The rules should be coherent, consistent and realistic for today's CJS. Our approach is set out below.

### PREVIOUS CONVICTIONS AND OTHER MISCONDUCT

**4.54** Evidence of a person's previous convictions, or anything else suggesting a criminal tendency, currently cannot generally be referred to in court during a trial and, in the case of defendants with previous convictions, are only revealed at the time of sentencing. Even when it can be referred to, juries are often asked to perform the almost impossible task of taking previous convictions into account for one purpose, such as credibility, but to ignore them when considering whether the defendant actually committed the crime or not.



**4.55** On the face of it, there is an argument for simply having a defendant's previous convictions read out at the beginning of every trial as a matter of routine. But previous convictions, or some of them, may be irrelevant to the issues in the case. Research undertaken for the Law Commission<sup>9</sup> shows that knowledge of previous convictions may prejudice a jury or magistrates unfairly against the defendant. It is essential that any changes do not jeopardise the defendant's right to a fair trial. Juries and judges need to make their decisions on the basis of the evidence of whether or not the defendant committed the crime with which he is charged rather than his previous reputation. That is why we are opposed to the routine introduction of all previous convictions as evidence in a case.

**4.56** Currently the defendant's previous convictions can be introduced where he attacks the character of prosecution witnesses, often by introducing their previous convictions. The threat of introducing his previous convictions will frequently inhibit him from introducing character evidence about the prosecution witness. We favour an approach that entrusts relevant information to those determining the case as far as possible. It should be for the judge to decide whether previous convictions are sufficiently relevant to the case, bearing in mind the prejudicial effect, to be heard by the jury and for the jury to decide what weight should be given to that information in all the circumstances of the case. And this should be the case for witnesses as well as defendants.

### Examples of how this approach will work

#### Example 1

A doctor is charged with indecent assault against a patient. He denies that any indecency took place. Two separate patients in the last five years have made similar complaints resulting in separate trials. On both occasions the doctor has been acquitted.

The matter in issue is whether the complainant is telling the truth when she says that the indecency took place, or the accused when he says it did not. It defies belief that it could only be an unlucky coincidence that this number of patients have made this kind of allegation and therefore the previous allegations are of clear probative value. The judge should therefore be able to rule that the jury should hear of the previous allegations, taking into account the other evidence in the case and the risk that undue weight might be put on them.

#### Example 2

The defendant is charged with assaulting his wife. He has a history of violence, including a number of convictions for assault occasioning actual bodily harm, and there are witness accounts of him striking his wife in the past. He claims that she received her injuries falling down the stairs.

In this case, his previous conduct could be thought relevant to determining whether the allegations of violence, or the defendant's version of events, are true. The judge should therefore be able to rule whether this is admissible, provided that he is satisfied that it can be put in its proper context by the jury.

### Example 3

A 19 year old man is stopped at 2am driving a car that has been reported stolen. He tells the arresting officer that the car belongs to a friend of a friend and that he has been given permission to borrow the vehicle. Upon investigation it transpires that he has three recent previous convictions for taking without consent (TWOC).

There is a statutory defence to TWOC if the court is satisfied that the accused acted in the belief that he had lawful authority, or that the owner would have consented had he or she known of the circumstances of the taking. In this case the young man's previous convictions are clearly relevant to whether his version of events is true and it would be for the magistrates to determine whether they are likely to have a disproportionate effect, in the context of the other evidence in the case.

### Example 4

The defendant has come from abroad to live in England and is later charged with rape. A jury is unable to reach a verdict at a first trial. Shortly before the re-trial the defendant tries to leave the country but is arrested at the terminal. The fact that a defendant has absconded in the course of proceedings is unlikely to be admitted under the current law but our approach would make it more likely that it would be heard by juries.

### Example 5

The defendant has a previous conviction for indecent assault. Many years later he is charged with possession of cannabis with intent to supply. He claims that the police have framed him and planted the drugs and the money. Under the current law, this defence opens the way for his own record to be put to him when he gives evidence, and this is likely to include his previous conviction even though it has little bearing on the issues in the case. Alternatively, the fear of his record coming out might prevent the defendant from presenting his full defence to the court. Under our proposals, it is unlikely that evidence of the indecent assault conviction would be considered sufficiently relevant to be admitted.

### Example 6

The defendant is suspected of rape, during which the victim is threatened with a knife. He denies being in the area at the time. There is, however, evidence that the next day, the defendant tried to sell items from a handbag stolen from a car parked near the scene and broken into shortly before the rape took place. He has previous convictions for violent offences which have involved the use of a knife and for stealing handbags from cars.

Here, the evidence of selling the stolen items, coupled with his previous convictions for theft, have a bearing on whether he was in the area at the time and should therefore be capable of being admitted by the judge. The convictions for violent offences would add to the jigsaw of identification evidence and should therefore also be admitted provided that the judge is satisfied that they will not have undue weight in the light of the other evidence.

**4.57** Under this approach, where a defendant's previous convictions, or other misconduct, are relevant to an issue in the case, then unless the court considers that the information will have a disproportionate effect, they should be allowed to know about it. It will be for the judge to decide whether the probative value of introducing this information is outweighed by its prejudicial effect. These safeguards will be set out in legislation. This will reform the current haphazard collection of exclusionary rules.

**4.58** But it is not only defendants who have previous convictions, witnesses may have them too and a similar approach should also apply. In other words, their previous convictions should not be used in court unless their relevance is clearly established. This will prevent defendants from dragging up long forgotten and barely relevant convictions in an attempt to unfairly undermine the credibility of prosecution witnesses.

**4.59** We will consult on what the appropriate guidelines should be, informed by the Law Commission proposals, on the extent to which previous convictions will be admissible in criminal trials. At the same time, we will consider what judicial and other safeguards are required to exclude evidence where its prejudicial effect exceeds its probative value.

#### REPORTED EVIDENCE ('HEARSAY')

**4.60** Another area ripe for change is the principle that evidence must be given by witnesses in person to the court. This is based on the idea that seeing and hearing the evidence of a witness in the witness box is the best means of getting at the truth. Whilst reported evidence, or 'hearsay', is generally less satisfactory than first hand, there may be some cases where this is not so and others where it is all that is available and should therefore be considered by the court. The strict application of the rules also means that the previous statements of witnesses are not admissible as evidence, even on long forgotten issues of detail, and that video recorded evidence is only admissible in a limited range of specified cases.

**4.61** We believe the right approach is that, if there is a good reason for the original maker not to be able to give the evidence personally (for example, through illness or death) or where records have been properly compiled by businesses, then the evidence should automatically go in, rather than its admissibility being judged. Judges should also have a discretion to decide that other evidence of this sort can be given. This is close to the approach developed in civil proceedings.

**4.62** We believe it is important to ensure that when witnesses are testifying, rules of evidence do not artificially prevent the true and full story from being presented to the court. Justice is not served if important information is excluded for no good reason. Therefore we propose to legislate to make it easier for witnesses to give their evidence by making their previous and original statements, often made at the time or shortly after the incident, more widely admissible at trial and allowing witnesses to refer to them when they give their evidence in court. We also propose to extend the scope for witnesses to give evidence on tape or by TV link as outlined in Chapter 2.

## Double Jeopardy

**4.63** The double jeopardy rule means that a person cannot be tried more than once for the same offence. It is an important safeguard to acquitted defendants, but there is an important general public interest in ensuring that those who have committed serious crimes are convicted of them. The Stephen Lawrence Inquiry Report recognised that the rule is capable of causing grave injustice to victims and the community in certain cases where compelling fresh evidence has come to light after an acquittal. It called for a change in the law to be considered, and we have accepted that such a change is appropriate. The European Convention on Human Rights (Article 4(2) of Protocol 7) explicitly recognises the importance of being able to re-open cases where new evidence comes to light.

**4.64** We believe that the principles recommended by the Law Commission in its report last year provide the right basis for our reforms and we will bring forward legislation to implement many of its recommendations. Our reforms will go wider than the proposal that change should be limited to murder and certain allied offences. We believe that there are other cases where a re-trial would be justified if there were compelling fresh evidence giving a clear indication of guilt. For this reason we have decided that the change should extend to a number of other very serious offences such as rape, manslaughter and armed robbery. We do not expect these procedures to be used frequently, but their existence will benefit justice.

**4.65** Our proposals will work as follows:

- Should fresh evidence emerge that could not reasonably have been available for the first trial and that strongly suggests that a previously acquitted defendant was in fact guilty, the Director of Public Prosecutions (DPP) will need to give his personal consent for the defendant to be re-investigated. He may also indicate that another police force should conduct the re-investigation. This will ensure that the rights of acquitted defendants are properly protected.
- Before submitting an application to the Court of Appeal to quash an acquittal, the DPP will need to be satisfied that there is new and compelling evidence and that an application is in the public interest and a re-trial fully justified.
- The Court of Appeal will have the power to quash the acquittal where:
  - there is compelling new evidence of guilt; and
  - the Court is satisfied that it is right in all the circumstances of the case for there to be a re-trial.
- There will be scope for only one re-trial under these procedures.

**4.66** The power will be retrospective. That is, it will apply to acquittals which take place before the law is changed, as well as those that happen after.

## Appeals

**4.67** The defendant has a right of appeal at the end of the trial against both conviction and sentence. But the prosecution has no equivalent right of appeal against legal decisions by the trial judge, which end the trial, before or at the close of the prosecution case.

**4.68** The prosecution will be given a right of appeal where the judge makes a ruling that effectively terminates the prosecution case. This will mean that where the Court of Appeal concludes that the trial judge's ruling was wrong, the case, which would otherwise be lost, will be returned to the Crown Court to be determined by a jury. We propose that this prosecution right of appeal against such terminating rulings should be available for all cases tried in the Crown Court, and not just the restricted range of offences proposed by the Law Commission. This links with the proposals to extend the range of appealable rulings in preparatory hearings described in paragraph 4.26 above.

## A trial system that works

**4.69** Our proposed reforms build on the best traditions of our justice system, and are intended to strengthen and update it, to take account of scientific and technological advances and modern methods of detection. Together these measures mark a radical commitment to reform criminal justice. We will ensure that a balanced and improved service is provided to victims and witnesses, and also to those accused of crime and to the wider community. Using our reforms we will boost public confidence and strengthen the CJS as a building block of civil society.

**4.70** All these changes are intended to deliver a trial system that works, and works well. They are intended to maintain justice for defendants, based on the presumption of innocence before proof of guilt, whilst making the role of victims and witnesses easier. They are intended to allow everyone involved in the running of the courts to do the most effective and satisfying job. They are intended to deliver what society has a right to expect.

### ENDNOTES

- <sup>1</sup> Lowe, W. and O'Brien, J. (June 2002) *Average Time from Arrest to Sentence for Persistent Young Offenders: January-March 2002*, LCD Statistical Bulletin 6/2002, London: Home Office.
- <sup>2</sup> Crown Prosecution Service (unpublished).
- <sup>3</sup> *Jury Satisfaction Survey* (2002), Court Service (unpublished).
- <sup>4</sup> Simmons, J. et al (2002) *Crime in England and Wales 2001/2002*, Home Office Statistical Bulletin 7/02, London: Home Office.
- <sup>5</sup> Whitehead, E. (2001) *Witness satisfaction: findings from the Witness Satisfaction Survey 2000*, Home Office Research Study 230, London: Home Office.
- <sup>6</sup> An either-way case is one where the offence can be tried either in the magistrates' courts or in the Crown Court. Common examples of either-way offences include theft, burglary (unless 'aggravated') and assault occasioning Actual Bodily Harm (ABH).
- <sup>7</sup> Home Office (unpublished).
- <sup>8</sup> Crown Prosecution Service (unpublished).
- <sup>9</sup> Law Commission *Evidence of Bad Character in Criminal Proceedings*, Law Comm No.273, 9 October 2001.

# Chapter 5

## PUTTING THE SENSE BACK INTO SENTENCING

### WHAT IS WORKING

- The youth justice system has been substantially reformed giving sentencers a wide range of powers for young offenders with an emphasis on community punishment, reparation and restorative justice.
- We know more about the risks offenders pose and understand better the behaviour and personality features that contribute to these risks. We know the interventions that work best to address these traits.
- Technological advances such as tagging and voice recognition technology give innovative ways to deny liberty and are effective at preventing reoffending. Denying liberty through means such as curfew has proved effective, for example 98% of those subject to Home Detention Curfew have not reoffended while on the scheme.

### WHAT IS NOT WORKING

- Although the overall number of people sentenced has declined since 1981 the custodial population has reached record levels.<sup>1</sup> Prison sentences cost, on average, £37,500 per year. One of the key purposes of custody is to reduce crime once offenders are released yet half of all convicted criminals are reconvicted within two years.
- The number of female prisoners more than doubled between 1993 and 2001.<sup>2</sup>
- There are extreme cases of variation in sentencing for similar crimes across the country.
- Prison can break up families, impede resettlement and place children at risk of an intergenerational cycle of crime: 43% of sentenced prisoners and 48% of remand prisoners say they have lost contact with their families since entering prison.<sup>3</sup> 125,000 children are affected by the imprisonment of parent each year.<sup>4</sup>
- Nearly three-quarters of all cases sentenced result in a fine being imposed, but the payment rate for fines and other financial penalties currently stands at only 59%.<sup>5</sup>

### We propose to:

- create a sentencing framework that is clearer and easier for practitioners to understand and to work within, and establish a Sentencing Guidelines Council, chaired by the Lord Chief Justice, thereby providing clear guidelines to tackle the unacceptable sentencing variation;
- ensure tough community sentences are a credible alternative to custody;
- introduce a series of new and innovative sentences: a new suspended sentence called Custody Minus; reform of short custodial sentences through the introduction of Custody Plus; a new Intermittent Custody sentence that denies liberty through a custodial sentence served intermittently, for example at the weekend, but allows the offender to continue working and maintain family ties; and a new special sentence for dangerous sexual or violent offenders;
- make the release of all juveniles sentenced for serious crimes subject to decision by the Parole Board and require them to be supervised until the end of their sentence, as is the case for adults;
- introduce a fine enforcement scheme under which the fine will increase if the offender fails to pay;
- publish a paper in the Autumn on the law reform of sexual offences and proposals to overhaul the Sex Offenders Act; and
- look at ways to develop and pilot further intensive fostering to include more young people on remand and as part of a sentence.

**5.1** We have shown in previous chapters how we will improve the court process to bring more of the guilty to justice. Justice means appropriate sentencing, which is also an essential element of our overall strategy to reduce crime. This chapter sets out what sentencing policy should achieve and how, and outlines our plans to address the problem of inconsistent sentencing between courts. It shows why and how prison must be reserved for serious, dangerous and seriously persistent offenders, and for those who have consistently breached community sentences, with appropriate alternative options for others. This chapter also sets out how we will enable sentences to be tailored to the offender and the offence, including the introduction of new and innovative types of sentences that combine custody with community activity, punishment with rehabilitation.

**5.2** The public are sick and tired of a sentencing system that does not make sense. They read about dangerous, violent, sexual and other serious offenders who get off lightly, or are not in prison long enough or for the length of their sentence. There is no real clarity for magistrates and judges in sentencing and the system is so muddled the public do not always understand it or have confidence in it.

**5.3** As we indicated at the start of the consultation on the Halliday report on sentencing reform last year, it is time to put the sense back into sentencing. It is time to see sentencing not simply as being about custody and community penalties, but about the whole supervision, registration and follow up system to protect the public when offenders are released back into the community. It is time for a radical overhaul.

**5.4** We want sentencers to consider the best way of preventing crime when they pass sentence. We will ensure that they base their sentencing practice on what has been shown to work in reducing reoffending. This was one of the proposals which attracted overwhelming support in the public consultation on sentencing last year. There was also widespread support for the proposal that there should be greater clarity in sentencing. We will ensure that sentencers specify when they pass sentence how much time an offender will spend in custody. The legislation we propose will create a sentencing framework that is clearer and easier for practitioners to understand and to work within.

**5.5** As noted in Chapter 1, at present half of convicted criminals are reconvicted within two years. We are determined to break this cycle.

**5.6** Custody has an important role to play in punishing offenders and protecting the public. But it is an expensive resource which should be focused on dangerous, serious, seriously persistent offenders and those who have consistently breached community sentence. It is imperative that we have a correctional system which punishes but also reduces reoffending through the rehabilitation of the offender and his or her successful reintegration into the community.

**5.7** For those who are not serious, dangerous, or seriously persistent offenders, we need to provide a genuine third option to sentencers in addition to custody and community punishment. For this reason we will introduce new and reformed sentences that combine community and custodial sentences.

## Purposes and principles of sentencing

**5.8** For the first time, we will set out in legislation the purposes of sentencing. Sentences should:

- first and foremost protect the public. This is paramount;
- act as a punishment and ensure the punishment fits the crime;
- reduce crime. Sentencing must be an effective tool which leads to fewer crimes;
- deter (this includes both the general effect on the population at large and the specific effect on the offender);
- incapacitate, where offenders are physically prevented from committing crimes by removing them partly or entirely from society;



- reform and rehabilitate, so that the offender can learn new skills and attitudes which make him or her less likely to reoffend; and
- promote reparation. We must actively encourage offenders to make amends for the crimes they have committed.

**5.9** Sentencers will be required to consider these purposes when sentencing and how the sentence they impose will provide the right balance between the purposes set out above, given the circumstance of the offence and the offender. Legislation will make it clear that custody should be used only when no other sentence would be adequate to protect the public or in relation to the seriousness or persistence of the offence or offences.

**5.10** The severity of the sentence should be governed by the following principles:

- it should reflect the seriousness of the offence;
- the seriousness of the offence should reflect its degree of harmfulness or risked harmfulness, and the offender’s culpability in committing the offence; and
- persistent offending should also justify a more severe view and more intensive efforts at preventing reoffending. Increased punishment will be the outcome for those offenders who have consistently failed to respond to previous sentences. We will ensure that such an outcome is explicit in the statutory framework for sentencing.

### Pre-Sentence Reports

The Pre-Sentence Report (PSR) is prepared by the Probation Service to aid the sentencer when the sentence or the offence in question can be either a community penalty or custody. After the offender has been found guilty, the court is adjourned specifically for preparation of the report. It is copied to the defence lawyer.

The National Standards for the Supervision of Offenders in the Community state that every PSR should contain:

- a **front sheet** – setting out the basic information on the offender and the offence(s), and listing the sources used to prepare the report and whether or not the information has been verified;
- an **offence analysis** – analysing the offence, the offender’s attitude to it, whether or not the offender has made any positive steps towards reparation or addressing their offending behaviour, and the effect of the offence on any victim;
- an **offender assessment** – giving details of the offender’s literacy and numeracy; assessing the implications of any special circumstances such as family crisis or substance misuse; evaluating patterns of offending; considering the impact of racism where directly relevant to the offence and including any background that may have contributed to the committing of the offence;

- a **risk assessment** of harm to the public and the likelihood of reoffending; and
- a **conclusion** which makes clear proposals for sentencing, including specifically stating whether or not the offender would be suitable for a community sentence and, where custody is a likely option, identifies any anticipated effects on the offender's family circumstances, current employment or education.

**5.11** There are currently wide variations in sentences imposed by the courts in different parts of England and Wales. Statistics from magistrates' courts in 2000 show that, for example:

- for burglary of dwellings, 20% of offenders are sentenced to immediate custody in Teesside, compared with 41% in Birmingham. 38% of burglars at Cardiff magistrates' courts receive community sentences, compared with 66% in Leicester;
- for driving while disqualified, the percentage of offenders sentenced to custody ranged from 21% in Neath Port Talbot to 77% in Mid North Essex. 18% in Mid North Essex were given community sentences, compared with 68% at Neath Port Talbot; and
- for receiving stolen goods, 3.5% of offenders sentenced at Reading magistrates' court received custodial sentences, compared with 48% in Greenwich and Woolwich, and 39% at Camberwell Green. 24% in Greenwich and Woolwich received community sentences, compared with 62% in Bradford.<sup>6</sup>

**5.12** These variations are often inexplicable and hard to justify. They also make it very difficult to plan for the necessary custodial facilities for remand and for sentencing. We need therefore to provide a new approach to ensuring greater continuity and consistency, whilst at the same time recognising the need for local circumstances to be reflected by magistrates.

## Sentencing Guidelines Council

**5.13** Consistency in sentencing has traditionally been encouraged by guiding principles, set out in Court of Appeal judgements and in the Magistrates' Courts Sentencing Guidelines or 'bench book'. Recently, the Sentencing Advisory Panel has provided advice to the Court of Appeal for use in formulating guidelines. But the present system has weaknesses. The guidelines are not comprehensive and they are not all set down clearly in one place.

**5.14** We need to have a consistent set of guidelines that cover all offences and should be applied whenever a sentence is passed. We must work to eradicate the wide disparity in sentencing for the same types of offences and the public's mistrust of the system that comes partly from this inconsistent sentencing.

**5.15** In consultation with the judiciary, we will legislate for and establish a Sentencing Guidelines Council, chaired by the Lord Chief Justice, which will be responsible for setting guidelines for the full range of criminal offences. We fully recognise the importance of an independent judiciary, and do not seek to infringe upon its independence. Our intention is to strengthen and broaden the current guidelines.

**5.16** Appointments to the Sentencing Guidelines Council will be made by the Lord Chancellor after formal consultation with the Home Secretary and the Lord Chief Justice. Members of the Council will be drawn from the Court of Appeal as well as from the High Court, the Crown Court and the magistrates' courts. The Council will have a responsibility to publish its guidelines in a way that is easily accessible to the public as well as to the judiciary and other legal practitioners.

**5.17** We will ask Parliament to have a role in considering and scrutinising the draft guidelines drawn up by the Council. This will ensure democratic engagement in the setting of guidelines, by those who have to consider proposals for, and make the law on, sentencing. The public has a right to expect this democratic engagement in a way that does not contravene the proper distinction between the role of Parliament and the independence of the judiciary.

**5.18** The Sentencing Advisory Panel provides only the Court of Appeal with advice. It will now offer advice to the Sentencing Guidelines Council. The guidelines produced by the new Council will apply to all courts. In every individual case, the judge or magistrate will continue to make his or her own decision as to sentence, but will be required to operate within the Council's guidelines or explain why they do not apply to the case in question. The task of the Council is a complex one, but subject to legislation the Sentencing Guidelines Council will be established and begin work immediately, with individual guidelines being issued to judges and magistrates (and made available to other practitioners and the wider public) as and when they are completed.

## New sentencing framework

**5.19** We will legislate to give sentencers a better framework within which to tailor sentences to the offender and the offence.

## The new sentences in the framework, in summary, are:

- **Customised Community Sentence** – *all the sentence would be served in the community.* All existing community sentences would be available together in a new sentence, allowing sentencers to fit the restrictions and rehabilitation to the offender.
- **Custody Plus** – *a short prison sentence followed by a community programme.* A prison sentence of up to 3 months, followed by a compulsory period of supervision in the community, within an overall sentence envelope of up to 12 months.
- **Custody Minus** – *a short prison sentence will be suspended and the offender will undertake a community sentence.* A prison sentence suspended for up to 2 years, whilst a programme in the community is undertaken. Breach of the community programme will result in imprisonment.
- **Intermittent Custody** – *a new approach in which a prison sentence and community sentence are served intermittently.* A prison sentence would be served for example at weekends whilst the community programme is served through the week.
- **Prison Sentences of 12 months and over** – *half served in prison, half in the community.* Automatic release will be at the halfway point, with license conditions extending till the end of the community sentence period.
- **Dangerous violent and sexual offenders** – *an indeterminate sentence triggered by violent and sexual offences and an assessment that the offender is dangerous.*

## A customised community sentence

**5.20** The public consultation on sentencing last year showed that there was a high level of support for changing the existing arrangements for community sentences. Recent improvements to community sentences have made them more demanding, with specialised options, like Drug Treatment and Testing Orders (DTTOs) to tackle the specific reasons behind offending behaviour. However, they are still not tough enough nor do they allow the sentence to be matched to the individual offender. We need effective sentences in the community which are flexible enough to meet the particular needs of a case, where the courts are not forced to choose between options.

**5.21** The Government will introduce a community sentence which will replace individual community penalties and give sentencers a menu of options which can be combined to form a single sentence. These will build on existing provisions and will include:

- compulsory, unpaid work;
- offending behaviour programmes;
- education and training, especially basic skills;
- drug testing, treatment and abstinence requirements;
- intensive community supervision;
- curfew or exclusion restrictions;
- electronic monitoring of compliance;
- residence requirements; and
- participation in restorative justice schemes.

## Reform of short custodial sentences

**5.22** The Government believes that existing short-term custodial sentences, where the offender is released from prison at the halfway point of sentence, often with no community support or supervision afterwards, are usually ineffective. Short custodial sentences with no support or supervision after release do not allow the correctional services to do any meaningful behavioural or rehabilitation work with offenders and reoffending rates for short-term prisoners are high.

**5.23** Although short prison sentences will continue to be appropriate for some offenders, we want to ensure they support our overall aim of reducing reoffending. The best way of achieving this is to have proper support, supervision and follow through of education programmes, drug treatment and anger management schemes in the community. The consultation on sentencing reform showed that there was widespread recognition of the need to make short sentences more effective in this respect.

### CUSTODY PLUS

**5.24** For this reason, the Government will introduce a new sentence of Custody Plus, which will be served partly in custody and partly in the community. This sentence could eventually replace all custodial sentences of up to 12 months.

**5.25** Custody Plus will consist of a maximum period of 3 months in custody served in full, followed by a compulsory period of supervision in the community, within an overall sentence envelope of up to 12 months. During the period in the community, the offender will be subject to rigorous requirements, which will be designed to address the particular factors that underlie their criminal behaviour and cause them to reoffend. The Pre-Sentence Report will set out the individual needs for each offender and ensure that components of the community sentence are tailored to the individual offender.

**5.26** The supervisory part of the sentence should flow on seamlessly from the custodial one to ensure that the offender is given the best possible opportunity of rehabilitation. Should the offender not complete any one of the elements making up the community supervision period, they are likely to return to custody.

**5.27** Chapter 4 outlines how, subject to legislation, we will extend magistrates' sentencing powers from 6 months to 12 months. This change will allow magistrates to pass a sentence of Custody Plus.

**5.28** We will be making changes to calculating sentences for offenders who have been convicted of multiple crimes. A priority is to simplify sentence calculation. Of particular significance is the proposal to restrict consecutive sentences of Custody Plus to a maximum six months in custody within a 15 month overall sentence period. Magistrates will be able to impose such consecutive sentences.

**5.29** This will involve not only a change in infrastructure to make it possible, but the necessary recruitment, training and deployment of staff. Therefore we envisage that in the current Parliament we will pilot these programmes and use this experience to work out with judges and magistrates, and those services engaged in implementation, a timescale for full implementation.

## Custody Minus

**5.30** We will introduce legislation for a new suspended sentence, Custody Minus, which will give judges and magistrates the power to put an offender into custody and suspend the sentence for up to two years on condition that the offender undertakes a demanding programme of activity in the community. Any breach will lead to immediate imprisonment.

**5.31** Custody Minus will replace the provisions for the existing suspended sentence, which is used only in exceptional circumstances. Custody Minus will be available for a wide range of offenders. In some cases it may be used as a last chance before a custodial penalty is imposed. The range of options available to the court to impose during the period of suspension will be the same as those that will make up the customised community sentence.

**5.32** This sentence is more rigorous than existing provisions. Not only will there be a demanding programme of activity, but failure to comply with conditions will lead to custody. This is not always the case with the existing suspended sentence. Special hearings, or 'review courts', will enable sentencers to order the offender to appear before them at any stage of the sentence and allow them to amend any sentencing requirements they have made. This might result in a toughening up of the conditions if the offender was showing signs of failure, immediate imprisonment in the event of failure, or a less onerous sentence if there was good progress.

## Intermittent Custody

**5.33** We will legislate for a new sentence of Intermittent Custody, where offenders will serve their custodial sentence at weekends or during the week with the rest of their sentence spent in the community. The sentence will enable an offender to continue in regular employment, maintain caring responsibilities, or follow a court specified educational, treatment or reparative programme in the community.

**5.34** Intermittent sentences could be served in existing open prisons and will be suitable for those currently receiving short sentences who are not dangerous and who do not have to be held in secure accommodation to protect the public. They will allow offenders to undertake compulsory programmes to address their offending behaviour, or make reparations to the community, while holding down a home and a job. This could be especially effective for some women offenders who have children, which could result in fewer children growing up in care or starting life in jail. Subject to legislation we will pilot Intermittent Custody at once.

**5.35** We are interested in developing a network of community custody centres that will deny offenders liberty whilst allowing them to work, to learn new skills, and, vitally, to maintain family relationships and care for their children. We expect such centres to be located within existing prison perimeters to form part of the multi-functional 'campus style' sites outlined in Chapter 6. The primary function of community custody centres would be to provide a venue to allow convicted offenders to serve an Intermittent Custody sentence with the priority being to deny liberty while delivering offender behaviour programmes, literacy, numeracy and jobs training, and drug and alcohol treatment.

**5.36** When they are not in the centres, offenders could be monitored using proven technology such as electronic tagging and voice recognition. Because offenders will be less restrained than they would be in a 'traditional' prison regime, careful thought will be given to developing a regime of incentives and earned privileges, with gradual removal of restrictions on liberty as the sentence progresses.

## Custodial sentences of 12 months and over

**5.37** All offenders sentenced to determinate custodial sentences of 12 months and over, other than dangerous offenders, will serve part of their sentences in the community. For non-dangerous offenders with such sentences release will be automatic at the halfway point in the sentence and supervision will last until the end of the entire sentence.

**5.38** The community part of the sentence will include a package of constructive activities and conditions for the offender to follow in the community. The Prison and Probation Services will set the package prior to release and the offender will be required to comply with them until the end of the sentence. These will be made up of any combination of the elements available as part of the customised community sentence. If the offender fails to comply with the conditions of the supervision element of the sentence they will be returned to custody.

## Sentences for violent and sexual offenders

**5.39** The Government is determined to ensure that the public is properly protected from dangerous and sexual offenders. We recognise that this issue is of critical importance to the public and are determined to implement a range of proposals to address the fear many people have of being attacked, the anxiety faced by parents about the safety of their children, and to ensure that communities can live together without fear and distrust. Our overhaul of the system began with the special measures we put in place after the tragic murder of Sarah Payne. These included: tightening up the Sex Offenders Act in relation to initial registration; creating a foreign travel notification; and the introduction of the Sex Offender Restraining Order.

**5.40** We will overhaul sentences for violent and sexual offenders and ensure that on release there are rigorous and ongoing supervision and public protection measures. In the Autumn we will publish a White Paper on Sexual Offences detailing how we will modernise and reform sexual offences law, based on the consultation paper 'Setting the Boundaries'. The Government will also publish its proposals in the Autumn to overhaul the Sex Offenders Act. The radical and sweeping change of sex offenders and sex offences will be complemented by draft proposals on reform of the law on offences against the person.

**5.41** We want to ensure that the public are adequately protected from those offenders whose offences do not currently attract a maximum penalty of life imprisonment but who are nevertheless assessed as dangerous. We believe that such offenders should remain in custody until their risks are considered manageable in the community. For this reason we propose to develop an indeterminate sentence for sexual and violent offenders who have been assessed and considered dangerous. The offender would be required to serve a minimum term and would then remain in prison beyond this time, until the Parole Board was completely satisfied that the risk had sufficiently diminished for that person to be released and supervised in the community. The offender could remain on licence for the rest of their life.



**5.42** Plans to deal with dangerous people with a severe personality disorder are already in place. Revisions to mental health legislation in the recently published Mental Health Bill will make it possible to detain individuals for as long as their disorder means that they continue to present a risk to the public, subject to review by the Mental Health tribunal.

**5.43** The Government is considering a new Order to provide protection against dangerous and violent offenders, similar to the existing Sex Offender Order. This will ensure that the police will have the right tools to manage such offenders in the community and deal with them effectively if they believe that the public is at risk of serious harm.

**5.44** Policies on the protection of the public and punishment of the guilty must always be the domain of Parliament and we will be reviewing what may be necessary to ensure this important principle is maintained, and Parliament's duty and right to adequately protect the public it directly serves.

## The role of the Parole Board

**5.45** The Parole Board for England and Wales exists to make risk assessments to inform the decisions on the release and recall of prisoners with the ultimate aim of protecting the public and successfully reintegrating prisoners into the community. Sentencing reform will change the remit and role of the Parole Board. Discretionary release will now apply only to dangerous, sexual and violent offenders. All other prisoners will be subject to community supervision after the custodial part of their sentence has been served.

**5.46** The Parole Board has welcomed this stronger focus on public protection which will involve a continuing increase in formal oral hearings to establish and assess levels of risk. The Board is preparing itself for the challenges ahead by participating in a comprehensive improvement programme, which includes:

- continuing scrutiny of processes to achieve improved efficiency and to ensure that decisions are based on the best available evidence;
- reappraisal of the balance of skills and experience needed for the Board to deliver its reform agenda which will inform future recruitment and training strategies; and
- improvements to the appointments processes to ensure that the Board's membership properly reflects the whole community.

## Enforcement

**5.47** Public confidence in a reformed sentencing structure will only be established if the new sentences are effectively enforced. When an offender is released from prison on licence, including in the future the new sentences of Intermittent Custody, Custody Plus, custodial sentences over 12 months and the new sentence for dangerous sexual or violent offenders, the local Probation Board is responsible for monitoring the offender's compliance with their requirements. If the offender breaches the requirements of the licence, a report is sent to the Prison Service, who will consider whether to recall the offender to prison. Once back in prison the recall will be considered by the Parole Board and the offender will, as currently, have the right of appeal.

**5.48** Community sentences need rigorous enforcement to command public confidence. If an offender fails to comply with the conditions of the sentence he or she will be given one warning. If he or she continues to fail to comply, one of four things will happen:

- The existing sentence will be varied to make the requirements more onerous.
- The offender will be resentenced (taking into account the completed work of the original sentence).
- Wilful and persistent failure to comply could result in a custodial sentence, even if the original offence did not warrant a custodial sentence (though not for under 18s).
- Whichever route is chosen the court must impose a penalty of some kind, so breaches will not go unpunished.

**5.49** Custody Minus is a special case. It will be clear to the offender that failure to comply with the community sentence could result in immediate imprisonment. Should he or she breach the community sentence the judge or magistrate will activate the suspended prison sentence, taking into account successful completion of any activities from the community sentence.

## Fine Enforcement

Nearly three-quarters of all cases sentenced result in a fine being imposed, but the national payment rate for fines and other financial penalties currently stands at only 59%. There are also unacceptably high levels of arrears and very marked variations in performance between areas, not all of which are explicable by socio-economic factors. The payment rate in West Yorkshire last year was 86% but in Merseyside it was 38%. In Dorset it was 89% but in Cambridgeshire it was 36%. Despite recent improvements in fine enforcement methods, such as obtaining information from the Department of Work and Pensions about defaulters' addresses, innovative payment methods, and an injection of £10 million extra for enforcement from April 2002, more needs to be done to bring the poorly performing areas up to the level of the best. So a performance management framework will be incorporated into the new integrated courts organisation, which will provide support for all areas to improve performance but intervention where there is persistent failure.

We plan to ensure that those who need help to organise their payments or who are genuinely struggling with multiple debts can get support. But those who are fined or ordered to pay compensation and can pay will not be able to escape payment. Initially defendants will be obliged to disclose their income and expenditure to the court before appearing in court. This is so that the court can match the fine to the offender's ability to pay and people are not fined inappropriately. If they fail to provide the necessary information the court will be entitled to assume that they have plenty of money and fine accordingly.

Fines officers from the new integrated court service will be appointed in every area. Their job will be to make sure that fines and compensation orders get paid.

Prompt payment or payment in line with agreed terms will attract a discount, and the fine will increase if the defendant fails to pay on time. For those who need time to pay, the fines officers will adjust payment terms according to ability to pay and with the assistance of the Community Legal Service we will promote fines clinics and support and advice for those who have run up multiple debts, which create real problems for them in making payments.

But to deal with those who can afford to pay but try to avoid payment we will, following pioneering reforms in New Zealand and Australia, give fines officers a range of powers, including: registering the fine with the registry of judgements (which prevents defaulters obtaining credit); ordering the clamping of a vehicle, which could be sold if the fine was not paid; authorising bailiffs to seize defaulters' goods; or ordering deductions to be made from defaulters' pay or benefits. There will be a right of appeal against fines officers' discretionary decisions and appropriate safeguards for those who are genuinely unable to pay but ultimately, failure to pay could result in imprisonment by a court.

## Young Offenders

**5.50** Prevention is better than cure, and we are committed to reducing the number of young people that are involved in criminal and anti-social behaviour in the first place. However, when young people do commit a crime, they require a careful balance of appropriate punishment and targeted rehabilitation so that they do not embark on a career of crime. An imaginative range of community and custodial measures is needed to provide the right approach to each young offender. It is also important to maximise community involvement so young offenders grow up understanding more about the society of which they are a part.

### JUVENILE COMMUNITY SENTENCES

**5.51** A custodial sentence remains the very last resort for young offenders. As with adult sentences we need to ensure that juvenile community sentences are robust and command public confidence and contain the correct element of reparation so that the debt to society is repaid and interventions will rehabilitate the young person and make good the educational and social deficits they may have.

**5.52** There are numerous community sentences available to juveniles and although this provides a great deal of flexibility, like the adult sentences there is a lack of clarity and overlapping interventions for different age ranges. We intend to simplify the current sentencing structure, building on and learning from the most effective existing sentences.

**5.53** We will bring forward legislation to broaden the scope of and strengthen the Action Plan Order. Currently Action Plan Orders are fairly short intensive community based sentences combining punishment, rehabilitation and reparation. The extended Action Plan Order would include the additional options of curfews, intensive fostering, residence requirements and Intensive Supervision and Surveillance (see below). We will make it available for up to 12 months rather than the current 3 months. We intend to build on acceptable behaviour contracts for children and parenting contracts, to ensure young offenders and their parents take responsibility for their actions, and the child has a clear unambiguous understanding of their expected standard of behaviour and clarity on the support and discipline they can expect from their parent or carer.

**5.54** We will enable the courts to request drug treatment as part of a range of community sentences (including the Action Plan Order) where a young person's substance misuse is identified as contributing to offending behaviour. This will allow the range of needs impacting on a young person's offending and substance misuse to be tackled holistically.

**5.55** In the longer term we intend to consult on how best to simplify and improve community sentences for juveniles so the sentencer has the flexibility to develop a package of interventions depending on the severity of the offence and the needs of the young person and their family. This may range from a relatively short sentence focusing on reparation to the community, to a longer more intensive community sentence with multiple interventions, such as ISSP – the most rigorous, non-custodial intervention available for young offenders. Chapter 3 explained how we are making greater use of ISSP to support bail. We are also extending them for use with convicted young offenders to all of the areas in the street crime programme.

**5.56** As an alternative to custody we are looking at ways to develop and pilot intensive fostering as described in Chapter 3. It would be particularly appropriate for the 10 and 11 year old cases outlined below. We will build on existing provision and work in partnership with voluntary organisations such as Coram Family that runs an intensive fostering service and 24 hour professional multi-disciplinary support service for young offenders on bail.

## 10 AND 11 YEAR OLDS

**5.57** There have recently been some high profile cases of 10 and 11 year old persistent or spree offenders, who are bailed by the court only to offend again. These are children with very disturbed behaviour, usually out of school, often with family problems and sometimes taking drugs. But custodial options to lock up this age group are available only in exceptional circumstances, and this is as it should be. Instead, we must find more reliable ways of providing help and support, including by social services, in order to protect the community and the children themselves.

**5.58** In addition to developing intensive fostering we propose to allow a criminal court to require a Local Authority to report back to the court within a 48 hour period on how it would exercise its responsibilities if the court decided to remand the child to the care of the Local Authority. We will also create a power, similar to that which family proceedings courts currently have under the 1989 Children Act, allowing courts to direct a Local Authority to undertake an investigation into the child's circumstances, in order to ascertain whether grounds appear to exist to justify applying for a care or supervision order. At the 48 hour hearing, the court would be able to make the Local Authority remand in the secure knowledge of where the Local Authority would place the child. In addition to this new remand process, the court may also, in isolation or additionally, require the Local Authority to investigate the child's circumstances and report back to the court. In extreme circumstances, where there were immediate concerns for the safety of the child following initial assessment, the Local Authority may look to take an Emergency Protection Order.

**5.59** These proposals are designed to promote improved collaborative working between courts and Local Authorities, in order to facilitate improved decision making that takes into account both criminal justice and social welfare issues.

**5.60** We will consider further and make separate proposals in due course on how, as early as possible, we identify children who appear likely to be embarking on a prolonged period of offending, and provide the right support for them and their families as soon as possible.

## JUVENILE CUSTODIAL SENTENCES

**5.61** We will introduce legislation to ensure that, like adults, young offenders sentenced for serious offences are released at the halfway point of the sentence and supervised all the way until the end of the sentence. In addition we will explore introducing a Custody Plus type sentence for young offenders which would enable the courts to vary the proportion of the sentence spent in custody.

**5.62** A small minority of juvenile offenders pose a real danger to society and both sentencing and interventions while in custody must reflect this. Long periods of detention are already available to the courts where necessary, for those who have committed the most serious violent and sexual offences – including robbery, rape and murder. Release up to the three-quarters point of sentence under supervision or licence is decided by the Parole Board in the same way as for adults and we propose to give the Parole Board control over the date of release right up to the end of the sentence. Some are placed in Local Authority Secure Units or Secure Training Centres. We have now opened 3 special units within Prison Service juvenile establishments providing higher levels of supervision and programmes suitable for longer term juvenile prisoners.

**5.63** There are some cases where the high risk which a young offender poses to the community stems directly from a serious conduct or behavioural disorder. We will consider what services should be provided for such young people, making proper allowance for their age and potential for development.

**5.64** This chapter has set out a radical programme of reform to sentencing policy that, once implemented, will ensure a consistent delivery of justice and crime reduction across England and Wales. Some provisions, such as those on dangerous offenders and the setting up of the Guidelines Council, will take effect immediately on enactment. Others will be phased in progressively.

## ENDNOTES

<sup>1</sup> *Criminal Statistics England and Wales 2000* (2001), London: Home Office.

<sup>2</sup> *Prison Statistics England and Wales 2000* (2001), London: Home Office.

<sup>3</sup> *The Forgotten Majority: the resettlement of short-term prisoners* (2000), London: National Association for the Care and Resettlement of Offenders.

<sup>4</sup> Ramsden, S. (1998) *Working with Children of Prisoners: a resource for teachers*, London: Save the Children.

<sup>5</sup> *Collection of fines and other financial penalties in the criminal justice system* (2002), London: National Audit Office.

<sup>6</sup> See 1.

# Chapter 6

## PUNISHMENT AND REHABILITATION

### WHAT IS WORKING

- Reforms to the youth justice and correctional services have contributed to a 14% reduction in juvenile reconviction rates.<sup>1</sup>
- We have made significant progress on enforcing community sentences properly. The Probation Service has improved breach enforcement from 51% in September 1998 to 70% in September 2000.<sup>2</sup>
- Significant investment has expanded prison capacity by over 18% since 1997, with 2,300 places funded in the April 2002 Budget.
- Health and education are essential too. Last year prisoners achieved 16,000 basic skills qualifications that could help them find a job,<sup>3</sup> and £42m is being invested in better healthcare.
- Security has radically improved within prisons. In 1992-93 there were 232 escapes from Prison Service establishments and escorts. Between 1994-95 there were 12 Category A escapes. In 2000-01 there were 19 escapes. There have been no Category A prisoner escapes since 1995.<sup>4</sup>

### WHAT IS NOT WORKING

- Our prison population is at record levels, with 71,000 prisoners currently held in 140 establishments around England and Wales. We have one of the highest prison populations in Western Europe.
- Many prisoners get short custodial sentences that do not help with effective rehabilitation and resettlement. Short spells in prison also increase the chances of reoffending and these prisoners are reconvicted at a higher rate than those who serve longer sentences. Prisoners need better help with their skills and their health problems.
- Half of all prisoners discharged in 1997 were reconvicted within 2 years.

## We propose to:

- give greater flexibility to probation officers to drug test offenders on release from custody;
- pilot the 'Going Straight Contract', for 18-20 year olds, which could include offenders making financial reparation to victims through contributions from their prison pay;
- develop a national rehabilitation strategy and review reception and release procedures for all prisoners to avoid prison leading to arrears of rent or debt and ensure departing prisoners have somewhere to go and can get access to legitimate employment and benefits to help them resettle;
- modernise the prison estate through new builds and the closure of those establishments which no longer meet our needs;
- extend the remit of Multi-Agency Public Protection Panels. Independent lay members will be appointed to the Panels and there will be a statutory requirement to include a wider range of agencies and local bodies; and
- carry out a major independent review of the correctional services.

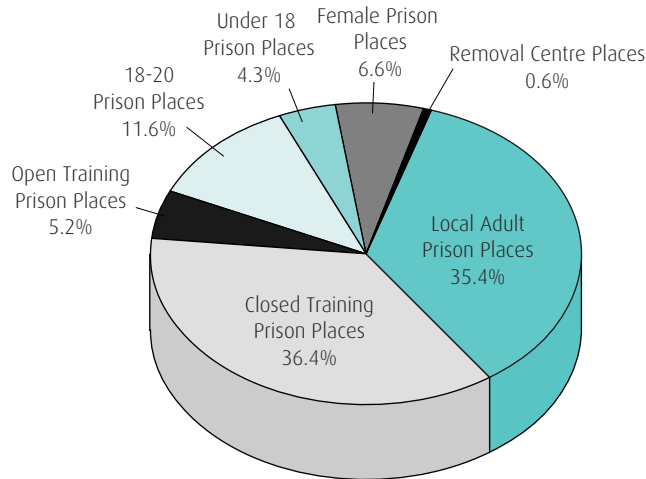
**6.1** A key objective of sentencing is to reduce reoffending through the punishment and rehabilitation of offenders. Both involve a range of correctional services – Prison and Probation Services and the Youth Justice Board (YJB) – that deal with some of the most challenging and difficult people in society, as well as some of the most dangerous. This chapter sets out the challenges they face and how by more collaborative working with other statutory agencies and the voluntary and community sectors they will deliver a sentence that reduces crime and help build safer more cohesive communities.



## PRISON SERVICE

The Prison Service is an Executive Agency of the Home Office.

There are currently a total of over 71,000 prisoners held in 140 establishments around England and Wales. Prisons have several types of prisoners as shown below:<sup>4a</sup>



## THE NATIONAL PROBATION SERVICE

Each year the Probation Service commences the supervision of some 175,000 offenders. The caseload on any given day is in excess of 200,000. In 1999 the average number of people supervised by a main-grade officer was 37. Approximately 90% are male and 10% female. Just over a quarter of offenders serving community sentences are aged 16-20 and just less than three quarters are aged 21 and over.

Approximately 70% of offenders supervised will be on community sentences, and 30% on a period of statutory licence supervision in the community as an integral part of their custodial sentence.

## The challenges facing the correctional services

**6.2** The correctional services face a huge task in turning round offenders who have often grown up without hope, a sense of belonging and identity, or the chance to develop self-esteem and self belief.

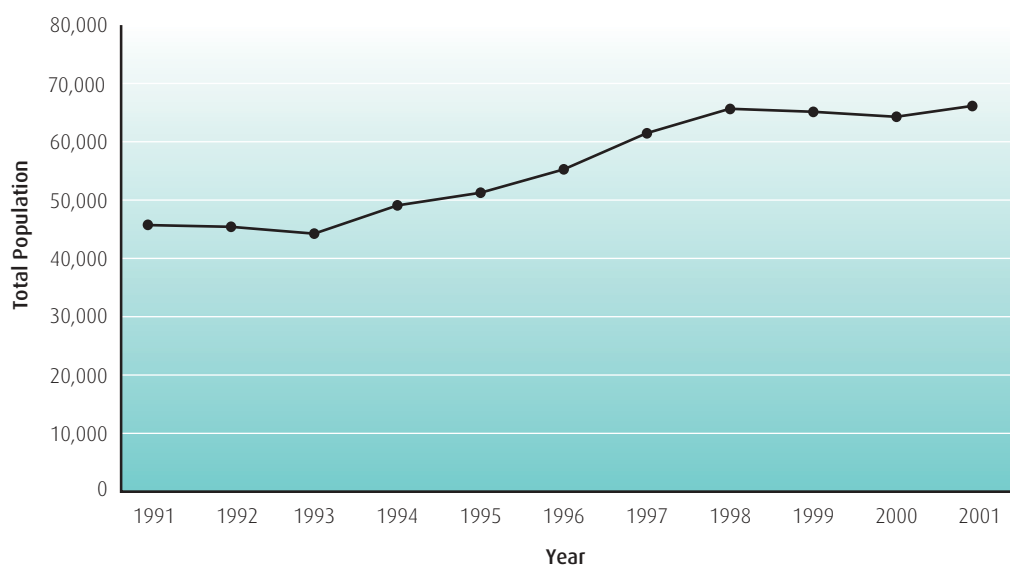
**6.3** Prisoners are 13 times as likely as the general population to have been a child in care, 14 times as likely to be unemployed, 10 times as likely to have been a regular truant and 2½ times as likely to have had a family member convicted of a criminal offence.<sup>5</sup>

**6.4** And many prisoners have more severe problems that need treatment. About seven out of every 10 prisoners were using drugs before imprisonment, and around 43% of sentenced prisoners have three or more types of mental illness.<sup>6</sup> A significant number will have tried to commit suicide before imprisonment. The correctional services need to work with each other to help tackle mental health and drugs problems and offer the prospect of a job, and a chance of future success.

### PRISON NUMBERS

**6.5** Prison numbers have risen significantly since the early 1990's.

The prison population from 1991-2001<sup>6a</sup>



**6.6** High prison numbers mean staff have to spend more time supervising the additional offenders. This reduces the amount of time prisoners can spend outside their cell in education, training or work. Many offenders are in prison for too short a period of time for much rehabilitation to take place but long enough to disrupt their lives and make them even more likely to offend. Prisoners who emerge from short-term sentences are reconvicted at a higher rate than those who serve longer sentences, and more short-term prisoners are discharged every year than any other type of prisoner. High prison numbers also lead to constant transfers to prisons all over the country. This means a prisoner may well have to move before he or she completes a rehabilitative programme, and they may well be moved to a prison far from home. 43% of sentenced prisoners say that they have lost contact with their families since entering prison, as do 48% of remand prisoners.<sup>7</sup> Research shows that prisoners are six times less likely to reoffend if contact with their families is maintained.<sup>8</sup>

**6.7** High prison numbers also inhibit effective joint working between the Prison and Probation Services. All offenders have a probation officer from their home area and in some inner-city areas the Probation Service may deal with as many as half of all prison establishments in the country, including juvenile and female establishments and many training prisons.<sup>9</sup> This can hamper effective working partnerships or good quality handover arrangements.

**6.8** Our radical reform of sentencing policy should ensure that prison is reserved for those who cannot be dealt with in any other way. Our key priorities are public protection and reducing crime. Changes to the sentencing framework will ensure that the most serious, dangerous and seriously persistent offenders are kept in prison and closely supervised when released. Community punishment and treatment programmes as well as custodial sentences are central to our crime reduction strategies.

**6.9** We will set up a major independent review of the correctional services. This will include a detailed examination of the cost effectiveness of the service.

## THE CHALLENGE OF JOINT WORKING

**6.10** The Prison and Probation Services work together to ensure an offender's progress is managed through the sentence, both in prison and in the community, and beyond. The Inspectorates of Prison and Probation Services and the Social Exclusion Unit have highlighted some of the problems faced by the two Services. Work is often duplicated, or, more commonly, not carried out or followed through. Those receiving prisoners or ex-prisoners cannot assume that the work, which should already have been carried out in prison, has been undertaken. Work begun in prison (on drugs, offending behaviour or education and training) is currently rarely followed through in the community. The problem is especially acute for short-term adult prisoners who receive no statutory post-release supervision.<sup>10 11</sup>

**6.11** In addition to working together the correctional services need to involve other services in the rehabilitation and resettlement of offenders. Jobcentre Plus makes an important contribution as do other government departments, agencies, local services and voluntary and community groups such as the National Association for the Care and Resettlement of Offenders (NACRO) and Community Service Volunteers.

## Recent improvements

### REHABILITATION IN PRISON

**6.12** Whilst serving a custodial sentence, the rehabilitation of prisoners involves getting them to accept responsibility for their actions, and understand the consequences of offending on both their victims and themselves. We need to give them the skills to get back into society. Drug treatment, adequate health care, accredited learning programmes and behaviour programmes all contribute to rehabilitation.

**6.13** In 2001-02, prisoners achieved about 16,000 qualifications at basic skills level 2, the minimum level required by most employers. Over £20 million is being invested in boosting the learning capacity of prisons and increasing prisoner motivation.

#### Learning skills in prison

Tony was brought up in Scotswood in Newcastle. He rarely attended school, and at 15, after a lot of petty offending, he tried unsuccessfully to rob a local newsagents, armed with a knife. He came to Castington Prison serving a 6 year sentence. At that time he couldn't write a single sentence or read a handful of words. But gradually, a real change has been seen in this young man as a result of his learning in prison and his self-esteem has improved. He wrote a simple book for his nephew, which last summer won an award at the Koestler Awards Ceremony and the Puffin Book of the Year Award.

**6.14** We are investing £42 million over 3 years in the improvement of healthcare facilities. This should ensure they are modern and can meet the mental and physical health needs of prisoners, which are often severe. This programme includes the establishment of new health centres, modernising healthcare provision and the refurbishment of existing healthcare schemes. More day care facilities in healthcare centres will be provided by the NHS. Under the Mental Health In-reach Programme, 300 community psychiatric staff are being provided by the NHS to work in prisons.

**6.15** The drugs Counselling, Assessment, Referral, Advice and Throughcare service (CARATs) now operates in all prisons. CARATs workers provide a package of support and advice services for drug misusers throughout their time in prison, and provide continuity between treatment in prison and that available on release. There are now 50 intensive treatment programmes for prisoners with moderate to severe drug misuse problems and related offending behaviour. In 2000-01, there were 3,100 entrants onto these programmes.

**6.16** It is too soon to draw firm conclusions about the effectiveness of drug treatment programmes but the emerging findings from the research are encouraging. A study of the Rehabilitation for Addicted Prisoners trust (RAPt) programme that runs in 10 prisons has shown that there were 11% fewer reconvictions from prisoners that completed the programme than the rate expected of comparable prisoners who did not.<sup>12</sup>

## PUNISHMENT AND REHABILITATION IN THE COMMUNITY

**6.17** Chapter 5 outlines how a robust system of community sentences will aim to reduce crime through rehabilitation and protect the community through a range of sentencing options for offenders and strict supervision by the Probation Service. This builds on the best of our recent reforms to community punishment and rehabilitation such as tackling underlying offending behaviour such as drug use and effectively using technology such as tagging to deny offenders liberty and protect the public. The Government's sentencing reforms will give the Probation Service a central role in the new community sentence. The Probation Service embarked on a major modernisation process last year. One of the key aims has been to increase the number of probation officers, and training them to assess offenders and deliver accredited programmes which can help reduce reoffending.

**6.18** The Probation Service will maintain its role of strict supervision and ensuring community sentences are properly completed. However, our sentencing changes will result in an increased emphasis on working with offenders to rehabilitate them. From 2003-04 the Probation Service aims to put 30,000 offenders a year through its accredited community punishment scheme. In this scheme, trained staff function as positive role models and offenders are able to gain qualifications based on the skills they develop in carrying out the work.

## JOINT WORKING AND RESETTLEMENT IN THE COMMUNITY

**6.19** To support their work on reducing reoffending the Prison Service and Probation Service have jointly developed a national Offender Assessment System (OASys). This will allow the sentence to target the needs of the offender and address the underlying causes of their offending behaviour. The OASys assessment will also inform the Pre-Sentence Report (see Chapter 5).

**6.20** Both services are committed to the 'What Works' approach to reducing reoffending. The Probation Service and the Prison Service have established a Joint Accreditation Panel that defines standards for the content and delivery of accredited programmes. Called 'What Works', these are specific structured schemes, backed up by research evidence, designed to address the factors that give rise to offending, such as thinking or social skills. For example nearly half of offenders have poor abilities to solve problems or are impulsive. Most schemes also cover empathy with the victim, so offenders can understand the impact of their behaviour on others.

**6.21** A number of resettlement pathfinder projects for short-term prisoners are already being developed. While the pathfinders differ in detail, they all involve:

- close partnerships between prisons, probation service areas and voluntary sector organisations. These partnerships are delivered 'through the prison gate' and are designed to ensure that the prisoner is assessed in terms of the risk they present, and that work on offending behaviour and resettlement is coordinated throughout the sentence and following release;
- a focus on practical resettlement needs such as employment and housing, and addiction to drugs, which are particularly prevalent amongst this group of prisoners and which we know are closely associated with reoffending; and

- building motivation and the skills necessary to sustain the change required from a prisoner on release. This includes ensuring that support systems are in place in the community; from families, the voluntary sector, and from mentors as well as the Probation Service itself.

**6.22** There is a lack of systematic and effective support for those with substance misuse problems on community sentences or leaving prison. We are developing a comprehensive programme of aftercare provision. This will integrate and complement existing programmes for housing, education and employment.

**6.23** Currently offenders serving custodial sentences for specific ‘trigger’ offences can be tested for heroin and crack/cocaine following their release on licence into the community. These testing powers have been piloted in 4 areas and are currently being extended to 6 additional areas. The pilots should: identify the most effective use of drug testing following release; evaluate the impact on the criminal justice agencies; and assess the potential to reduce reoffending. Although current legislation does allow some flexibility to allow testing in the case of non-trigger offences, the restrictive nature of the current legislation has been an issue highlighted by probation staff. We plan to legislate to extend this discretion at the earliest opportunity and allow probation staff to test a greater range of ex-prisoners.

**6.24** We know the factors and circumstances that make people less likely to reoffend. Employment reduces the risk of offending by up to a half.<sup>13</sup> Stable accommodation can make a difference of up to 22% in terms of reducing reconvictions.<sup>14</sup> Ensuring that training can continue after release, that ex-prisoners are supported into the labour market, helped to find housing and can access benefits will all help transition from prison to the community.

**6.25** The Custody to Work programme is one example of good practice. This is a programme geared to increase the number of prisoners getting jobs, education, or training places after release. It focuses on sectors such as construction, catering, industrial cleaning and sport and leisure where there are skill shortages, and is looking to develop links with employers so ex-prisoners can be directly linked up with appropriate work.

### Releasing a Potential Workforce

HM Prison Bristol has been at the forefront of resettlement working with the Probation Service, Jobcentre Plus, housing authorities, training providers and local employers. The Prison Inspectorate noted that the prison has made a concerted effort to build on existing resettlement programmes: ‘We saw more work being done at Bristol to deal with the needs of resettlement and help prisoners to address offending behaviour than in any other local prison. It is now working with local employers in sectors such as construction, catering, retail and transport with vacancies in the area to increase prisoner employment on release.’

At HM Young Offender Institution and Remand Centre Reading, the Lattice Foundation train young offenders in fork-lift truck driving. Participants attend a day-release course leading to nationally accredited qualification. Over 70% of participants found employment on release, and just 3 are known to have reoffended. The scheme has now been extended to training in gas engineering.

**6.26** The Home Detention Curfew (HDC) scheme strikes a good balance between resettlement of prisoners and providing protection for the public. It was introduced in 1999 and allows selected short-term prisoners, following a risk assessment, to spend up to the last 2 months of their custodial sentence subject to an electronically-monitored curfew for at least 9 hours per day in the community. Over 44,000 prisoners have been released in the last three years and only 2% have offended during their time on curfew. The new scheme began on May 1 this year. This allows prisoners serving sentences of between 3 months and 12 months – with the exception of those convicted of violent or serious drug offences and prisoners who have any history of sexual offending – to be released on an electronic curfew towards the end of their sentence unless there is a compelling reason not to do so. HDC is a key resettlement tool which gives authorities the opportunity to keep an offender under close supervision while managing their transition back into the community.

**6.27** The Government wants to promote closer collaborative working between the Prison and Probation Services and will be looking at various models for achieving this.

## The 'Going Straight Contract'

**6.28** Both the Social Exclusion Unit's report *Reducing reoffending by Ex-prisoners* and the joint report on rehabilitation and resettlement by the Prison and Probation Inspectorates highlighted the importance of effective rehabilitation to reduce reoffending. We will aim to pilot a 'Going Straight Contract' for 18-20 year olds to deliver an integrated approach to rehabilitation. This will be tailored to the individual and cover the entire sentence, in and out of custody. It will address the factors either associated with the prisoner's offending or likely to increase the chance of reoffending. It will also cover all the organisations responsible for delivery.

**6.29** The programme will be drawn up by a case manager, who will oversee its delivery throughout the prisoner's sentence. The prisoner will sign the rehabilitation contract to last for the whole of the sentence, including that served in the community. The aim is that this will include rewards for participation and sanctions for non-participation. We will review the existing Incentives and Earned Privileges scheme in prisons. To fulfil their side of the contract, prisoners would be required to follow their agreed programme. They would also make payments from their prison pay, both to make reparation to the victims and to help finance the support the case manager would provide on release.

**6.30** This Contract will complement the new sentence of Custody Plus which will also be piloted for 18-20 year olds. Custody Plus, with its emphasis on supervision and rigorous programmes after release into the community, will allow rehabilitation work to continue, including education and any drug treatment.

## The need to improve provision for young adult offenders (18-20)

Young adult prisoners aged 18-20 present particular challenges for the correctional services and we have yet to respond to their specific needs and difficulties. Although no longer children in the eyes of the law, research shows that making the transition from childhood to independence as a young adult is extremely challenging.<sup>15</sup> They make up a substantial amount of the prison population and constitute 42% of first time offenders. In 1999 reoffending by this age group accounted for one fifth of reconvictions.<sup>16</sup>

Compared with older prisoners, offenders aged 18-20 have fewer basic skills, higher unemployment rates, and are more likely to have been excluded from school.<sup>17</sup> Around two thirds of male prisoners under 21 were unemployed, sick or disabled and so unable to work in the four weeks prior to imprisonment.<sup>18</sup> Nearly half of males aged under 21 admitted that some or all of their offences are drug related.<sup>19</sup>

Currently, there is no specific provision for 18-20s and the recent concentration on regimes for under-18s has put the relative lack of provision for young adult offenders in stark contrast.<sup>20</sup>

**6.31** The recommendations in the reports from the Social Exclusion Unit and the Joint Inspectorates will be considered as the Government develops and implements its national rehabilitation strategy. The Correctional Service Board, chaired by the Minister for Community and Custodial Provision and including the heads of the Prison and Probation Services and chair of the YJB, will provide overview and direction in developing the strategy. This process will involve government departments and those delivering services in the voluntary and statutory sector. As a priority it will consider the reception and release arrangements for all prisoners.

## Rehabilitation of Offenders Act

**6.32** Many offenders find it difficult to get work because of their criminal record. The Rehabilitation of Offenders Act 1974 specifies the periods in which offenders must disclose their previous convictions to employers. However, the Act does not extend to offenders sentenced to more than 30 months in custody and, for many of those who do qualify for the right not to disclose their 'spent' convictions, the disclosure periods have been criticised as complicated and excessively long.

**6.33** The Act has been reviewed, and recommendations have been made to amend the scheme so that a better balance is achieved between the need to protect the public from those who continue to pose a serious risk of harm on the one hand, and improving the chances that an ex-offender can get a job, and thus reduce his or her chances of reoffending on the other. We will consult on the recommendations of the review and subject to the results of this consultation we will legislate at the earliest possible opportunity.<sup>21</sup>



## Public protection – dangerous offenders

**6.34** We are committed to increased public protection and prison sentences for the most dangerous and violent offenders. Our sentencing policy reflects this. However, there will come a point for the vast majority when they are released and we need to ensure this reintegration continues to protect the community and deal sensitively with victims of the original crime.

**6.35** Although there are currently stringent procedures for risk assessment and supervision, we wish to improve the protection of the public and especially the most vulnerable. This is an area where any weakness in the system has life destroying consequences.

**6.36** The introduction in April 2001 of Multi-Agency Public Protection Panels (MAPPPs) put a statutory duty on police and probation service to jointly assess and manage the risks posed by violent and sex offenders when they are released back into the community. This is a major step forward in public protection. Since then, any offender who poses a high risk of harm to the public is subject to close scrutiny and monitoring.

**6.37** We will now draw a wider range of agencies into these Panels, so that more agencies pool resources effectively to ensure the protection of victims and the safe reintegration of offenders. They will now include Prison Service, electronic monitoring providers, social services, housing and Jobcentre Plus. As we discuss in Chapter 7, independent lay members will be appointed to strategic local groups overseeing and directing these arrangements.

## Diversity

**6.38** Despite significant improvements in recent years in the Prison Service's work on race relations, gender and disability issues, and cultural and religious matters, the Service still has fundamental problems. We are committed to expanding diversity training for all staff and introducing it for prisoners. The Prison Service will ensure through monitoring that minority ethnic prisoners and prisoners with disabilities enjoy expanded access to programmes and activities.

**6.39** The Ombudsman for Prisons and Probation has an important role in providing independent adjudication of individual cases. At present this is an administrative Home Office appointment. We feel that such a critical appointment should have a clear statutory basis and we will legislate to achieve this as soon as possible. At the same time we are considering giving the Ombudsman power to investigate suicides.

## Management of prisons

**6.40** The Prison Service has been much more effectively managed in recent years. The Prison Inspectorate and programme of reviews have contributed to improved performance. However, some prisons are still not performing well enough, and where this

happens Government will intervene. Where prisons fail to demonstrate they can reach the necessary standards in performance and cost, they will be closed or contracted out to the private sector. These developments are about making governors more accountable for the performance of their prisons. The Prison Service will look to delegate more powers to prison governors reinforced by locally monitored Service Level Agreements.

**6.41** The Prison Service has led the way in involving the private sector in public service delivery. The private sector runs nine prisons and provides escorts for prisoners going to courts. There is now a healthy competition between the public and private sectors which we want to maintain. As well as performance testing, we will inject a competitive element into the running of new prisons and will open established prisons, whether in the public or private sector, to market testing. We are interested in decent and effective prisons, whether publicly or privately run.

## A modernised prison estate

**6.42** The location of prisons is a legacy from the Prison Service's inheritance of redundant sites and history of acquiring sites in remote areas. It does not meet today's needs to keep prisoners close to their communities, or encourage co-operative work with probation and other services. Too many prisons are Victorian or older, too small, expensive to run, and are in the wrong place. They have a large maintenance backlog and have inadequate provision for regimes to reduce reoffending. Unless the historic inadequacies in the prison estate are addressed, the Prison Service will not be able to deliver the step change required to implement a new sentencing framework successfully.

**6.43** That is why we are embarking on a modernisation programme to expand capacity in those existing prisons which we want to keep and building new multi-functional community prisons. As the population allows, we will close outdated prisons. In this way we will radically transform existing prisons and provide the opportunities for prisoners to serve much more of their sentence in a single location, closer to home.

**6.44** New prisons will be more economic, but, more importantly, they will provide different levels of security within the site so that an individual's progress through not have to mean a move to another prison. These 'campus' style prisons would hold, for example, adults, remand prisoners, young offenders and women in separate sections with open facilities outside the main secure perimeter. The potential to keep prisoners in the same location will avoid disruption to education, rehabilitation and resettlement. It will also make the introduction of new sentences, such as Custody Plus for short-term prisoners and case management, simpler.

**6.45** The Prison Service will also work with other agencies in developing new and imaginative options for use of the estate. We will put in place the necessary legislative change to pilot intermittent custody for both men and women. We need to ensure that prisons buildings have the right facilities and are located in the right place to support intermittent custody.

## Categorisation

**6.46** We are not convinced that we yet have the categorisation procedures required to underpin prison security. We will therefore commission a thorough review of categorisation. This review will focus on those prisoners who pose the lowest level of risk.

## Juvenile correctional policy

**6.47** Significant investment and joint working are delivering improvements but the current variations in reconviction rates demonstrate there is still significant work to do. Our juvenile sentencing policy aims to limit the number of young people who are in custodial provision. However, there are some young people for whom custody is the only option. There is still a need to improve conditions for these young people and ensure they are supported in their resettlement back to the community.

**6.48** We will improve custodial programmes in three main areas – learning and development, safer custody, and better aid to young prisoners to re-establish themselves in society when they are released. This will improve young people’s skills and future employability while providing a safe environment during their time in custody.

**6.49** A quarter of young offenders in custody are parents or about to become parents. Compulsory parenting classes can help break the current cycle of intergenerational offending. Boys with criminal parents are 4½ times more likely to offend than those without.<sup>22</sup> We will extend parenting classes for all juvenile offenders who are parents (this includes community as well as custodial sentences).

**6.50** Rehabilitation of young people requires partnership working from a range of statutory agencies and voluntary sector partners. The Connexions Service is a key partner in brokering services for young offenders as they re-enter education or the labour market following release from custody. In a pilot at Huntercombe Young Offenders Institution, Connexions advisers work alongside prison caseworkers on training and in co-ordinating links with other agencies in preparation for a prisoner’s release. They also work with the young person and their Youth Offending Team (YOT) on the goals of the sentence.

**6.51** The changes set out in this chapter are essential to making sentencing reform work. If we can bring these changes about, as we are determined to do, it should mean that more people have a much better chance of returning to the community without returning to a life of crime.

## ENDNOTES

- <sup>1</sup> *One Year reconviction rates for July 2000 cohort of Young Offenders* (June 2002), RDS web-site, <http://www.homeoffice.gov.uk/rds/pdfs2/reconrates.pdf>
- <sup>2</sup> Probation Service (unpublished).
- <sup>3</sup> *Prison Statistics England and Wales 2000* (2001), London: Home Office.
- <sup>4</sup> Category A prisoners are the highest risk offenders who are viewed as being the most dangerous risk to society.
- <sup>4a</sup> *Prison Service Statistics: Daily Function Report 26 June 2002*.
- <sup>5</sup> *Reducing Reoffending by Ex-prisoners* (2002), London: Social Exclusion Unit.
- <sup>6</sup> *Survey of Psychiatric Morbidity among Prisoners in England and Wales* (1998), London: Office of National Statistics
- <sup>6a</sup> See 3.
- <sup>7</sup> *The Forgotten Majority: the resettlement of short-term prisoners* (2000), London: National Association for the Care and Resettlement of Offenders.
- <sup>8</sup> Holt, N. and Miller, D. (1972) *Explorations in Inmate-Family Relationships*. Research Report 46. Sacramento, CA, California Department of Corrections.
- <sup>9</sup> Training prisons are where many prisoners spend the bulk of their sentence and do most rehabilitative work, as opposed to local prisons, where they are usually first sent after sentencing, and resettlement or open prisons, where some are sent to begin to re-enter society.
- <sup>10</sup> *Through the Prison Gate: a joint thematic review by HM Inspectorates of Prison and Probation* (2001), London: HM Inspectorates of Prison and Probation.
- <sup>11</sup> See 5.
- <sup>12</sup> Rehabilitation for Addicted Prisoners trust (forthcoming).
- <sup>13</sup> See 5.
- <sup>14</sup> OASys pilot data (unpublished).
- <sup>15</sup> *Young Adult Offenders* (2001), London: National Association for the Care and Resettlement of Offenders.
- <sup>16</sup> See 3.
- <sup>17</sup> See 5.
- <sup>18</sup> *Prisoners Criminality Survey 2000* (forthcoming).
- <sup>19</sup> See 17.
- <sup>20</sup> *Annual Inspection Report of HM Chief Inspector of Prisons for England and Wales 1999-2000* (2001), London: Home Office.
- <sup>21</sup> *Breaking the Circle: A report of the review of the Rehabilitation of Offenders Act* (July 2002), London: Home Office.
- <sup>22</sup> See 5.

# Chapter 7

## ENHANCING THE PUBLIC'S ENGAGEMENT

### WHAT IS WORKING

- We benefit from a strong civic tradition of public engagement in criminal justice. Nearly 29,000 magistrates across England and Wales try the vast majority of cases, and nearly 200,000 people serve on juries each year.
- There is an enormous resource of members of the community able and willing to help in the fight against crime in their neighbourhoods. For instance there are 160,000 local Neighbourhood Watch schemes and thousands of people involved in community projects to reduce crime. This year, over 5,000 volunteers have been trained to sit on Youth Offending Panels.
- Over the last few years a number of innovative restorative justice schemes have been developed, such as 45 set up by the Youth Justice Board.
- 99% of the population in England and Wales is now covered by the Community Legal Service (CLS) network of advice and guidance services that help people resolve disputes and enforce their rights effectively.

### WHAT IS NOT WORKING

- Less than half of those summoned for jury service actually serve. Recent research suggests that 15% of people failed to attend and 38% were excused.<sup>1</sup>
- Among those who do serve, men are over-represented whilst those aged over 65 and skilled manual workers are under-represented.<sup>2</sup>
- There are problems recruiting lay magistrates in some areas.
- There is still some way to go before lay magistrates reflect local communities in all their diversity, including the balance of ages, genders and ethnicity.
- For many people the first or only contact they have with CJS is the police, and the standard of customer service varies. The 999 emergency number is the only means of contact many people know and demand for the service is rising, but use is often inappropriate.
- Many members of minority ethnic communities do not have confidence that the CJS treats all people equally.
- Court procedures can be intimidating and inaccessible to many people.
- Criminal law is prohibitively complex for many people, which greatly inhibits public engagement.

## We propose to:

- codify the criminal law, bringing it together into accessible documents which will be available via the internet;
- emphasise the importance of jury service as part of citizenship, ensuring that juries better reflect all sections of society by reducing the number of people who are exempted from jury service and improving the practical support provided to jurors;
- continue to implement the findings of the Stephen Lawrence Inquiry, in order to reduce racism in the CJS, increase diversity and build the confidence of all sections of the community;
- introduce more restorative justice schemes, and extend the use of Referral Orders;
- make courts more accessible, including reviewing court dress and exploring whether there are appropriate alternatives to the formal court room for hearing some cases;
- improve channels of communication between criminal justice agencies and the public, through better use of technology and clear standards of customer service;
- implement a national strategy to raise the profile of the magistracy and encourage more people to apply from as wide a cross section of the community as possible; and
- help reduce disorder in communities by extending police powers to deal with raves which trespass on property and introducing eviction powers for the police in regard to traveller communities under specific conditions, alongside the provision of suitable sites.

**7.1** The CJS exists to serve the public. It is vitally important that people understand and have confidence in the system, and can engage with it. So, as we reform the CJS we want to build on Britain's strong civic tradition of public engagement in the delivery of justice. This tradition includes jury service, the vital work of magistrates, and the thousands of individuals and community organisations who work with the police to reduce crime in their neighbourhoods and bring offenders to justice. We also want to build on the more recent development of community involvement in restorative justice schemes, which bring together offenders, local residents and others to agree the appropriate reparation for a crime and decide on ways in which offenders will be expected to change their behaviour.

## Improving communications

**7.2** Good communication between the public and criminal justice agencies is essential if people are to engage with the delivery of justice and have confidence in the capacity of the CJS to provide an effective service to the community.

**7.3** Police forces have a particularly important role to play. Members of the public have contact with the police for a host of reasons: as victims or witnesses of crime; as volunteers in community policing and crime prevention; in dispute settlement initiatives; or in asking for advice. For many, this will be their only experience of the CJS. If members of the public are confident that they will be treated with consideration and receive an appropriate response when they do contact the police, they are more likely to do so.

**7.4** Communication between the public and the police is currently hampered for a number of reasons. Many individuals feel that the 999 emergency number is the only point of contact they have with the system and demand for the service is rising, but a large proportion of calls are not emergencies. Generally, people do not want to tie up the emergency number, but are not always clear about what warrants use of it.

**7.5** To improve communication, we propose to introduce a single non-emergency number for the police service. The feasibility study on a dedicated non-emergency number, announced in the December 2001 White Paper *Policing a New Century*,<sup>3</sup> revealed a great diversity in the quality of call handling across forces. Most notably, the standard of service that the public receives when calling the police on non-emergency calls was variable. We are currently working with police forces on a pilot that will map the technology and business processes required to get the non-emergency number right. We want the public to be confident that when they call the non-emergency number they will receive the same standard of service regardless of where they live.

**7.6** More generally, the HMIC (Her Majesty's Inspectorate of Constabulary) Thematic Inspection report *Open All Hours* identified wide variations in the quality of customer service that members of the public receive from the police, depending not only on where they live, but sometimes on which individual they are dealing with.<sup>4</sup> We want to ensure a greater consistency in standards of customer care, including communication, by disseminating the good practice that exists in some forces so that all can reach the level of the best.

**7.7** As a first step we intend to work with partners to develop and agree clear standards for the quality of service that is provided to the public, from the time that they make initial contact with the police onwards. Further work will determine the priorities, but they are likely to focus on:

- how initial calls are dealt with;
- victim and witness care;
- the provision of information to the public; and
- the ease with which the public can contact various police services.

**7.8** *Open All Hours* identified much innovative work within forces to improve the ease with which police services are accessed by the public. Building on this, best practice guidance will be developed for forces. Nationally, the Police Information Technology Organisation is looking at ways to boost the use of the police portal, the national website which helps people contact local forces, and a strategy is being developed to enable police forces to meet our aim of greater electronic delivery of public services.

**7.9** We are also working to develop stronger local mechanisms of accountability and customer feedback to enable police forces to better understand and respond to community needs.

**7.10** To complement this work by the police, we want to ensure that other services in the CJS develop better channels of communication with the public. The delays that sometimes occur in the progress of cases contribute to the sense that individuals and communities are 'left in the dark' about cases that concern them. It is often the police who have contact with communities through regular consultation meetings or through contacts established in the wake of notorious cases. We want all services in the CJS to be aware of community views and consider whether or how they can inform communities in appropriate ways. We will also ensure that local people receive better information about their local criminal justice agencies, through the regular publication of performance indicators for police forces, the Probation Service and courts.

## Working with all sections of the community

**7.11** We have set ourselves a challenging target to improve, by 2004, the level of public confidence in the CJS, including that of minority ethnic communities. An important issue for public confidence in the CJS is perceptions of, and experience of, inequality in the treatment people receive.

**7.12** We are concerned that statistics on race in the CJS do not show major improvements over previous years.<sup>5</sup> For a variety of reasons, people from minority ethnic communities remain:

- more likely to be victims of crime;
- more likely to be arrested;
- less likely to be cautioned;
- more likely to plead not guilty, to have their case discontinued, and to be acquitted;
- more likely to receive longer custodial sentences; and
- less likely, as court users, to be satisfied with the court.



**7.13** Much is being done to address these issues. A detailed report on progress was published in the third annual report on implementation of the Action Plan for the recommendations of the Stephen Lawrence Inquiry Report.<sup>6</sup> We are committed to developing and implementing policies that deliver real change in local communities. We also recognise the importance of improving the performance of police forces in the area of recruitment, retention and progression of minority ethnic officers; in the 12 months to September 2001 there was a 10% increase in the number of minority ethnic officers.

**7.14** There is much work still to be done both to fully understand the patterns of discrimination and disproportionality, and to tackle the problems that we have identified. The Race Relations (Amendment) Act 2000 placed over 40,000 public bodies under a statutory duty to eliminate unlawful discrimination and to promote race equality and good race relations. All the major public services, including government departments and the criminal justice agencies now have to work at preventing unlawful discrimination before it occurs, by assessing and monitoring the impact of policies on different racial groups; and through better consultation arrangements and ensuring that information about services is accessible to all communities. Each service had to publish a Race Equality Scheme by 31 May 2002 setting out plans for meeting the new duty. This is only the first step.

**7.15** We are determined to take a 'joined up' approach to the delivery of improvement in performance, and tackle the complex task of getting beneath the surface of race issues in the CJS. To do this we will:

- develop a better understanding of the scale and causes of the over-representation of people from ethnic minorities among those arrested and given a custodial sentence;
- identify system-wide barriers to improved performance and ensure that the work necessary for individual agencies to meet their responsibilities under the Race Relations (Amendment) Act is joined up and complementary;
- develop a programme of action that will make faster progress in eliminating discrimination in the CJS, and champion the implementation of agreed measures; and
- draw together existing good practice and disseminate the lessons across the CJS.

## Helping people understand the law

**7.16** In Britain, you still need a whole library to understand the law's rules and procedures. Setting out our criminal law in codes (documents which outline the current legal position) would make it more easily accessible not only to those who work in the CJS but also to the public. Codification of the criminal law will be a complex exercise because it is contained in a vast number of Acts of Parliament and decisions made by the courts. It is therefore a long-term modernisation objective, but one we believe is essential to a modern justice system which people can understand.

**7.17** We are committed to ensuring that, as criminal procedures and laws are codified, these are made available to the public on the internet. The Lord Chancellor's Department website already includes the Civil Procedure Rules ([www.lcd.gov.uk](http://www.lcd.gov.uk)).

## Making court procedures more accessible

**7.18** Chapter 2 described the steps we are taking to improve the experience of victims and witnesses. Although it helps protect the rights of participants for courts to convey a sense of authority, we recognise that some aspects, such as formal dress, technical or old-fashioned language and obscure procedures, can make courts appear intimidating and inaccessible to many people.

**7.19** We are looking at ways to make the courts, including youth courts, more accessible and less intimidating to the communities they serve. This is not window-dressing, but part of a much wider process of modernisation which extends to listing arrangements, use of information technology, proper treatment of victims and witnesses, and the provision of better information to the public.

**7.20** Following a wide-ranging public opinion survey shortly to be conducted in England and Wales, the Lord Chancellor will issue a consultation paper which will contain proposals on possible alternatives to the current modes of court dress for judges, lawyers and court staff.

**7.21** More generally, we are committed to making courts more welcoming places for people to attend. As part of this, we will explore whether there are appropriate alternatives to the formal courtroom for the hearing of some cases, particularly those involving young and vulnerable victims, witnesses and defendants. Advantages could include a more accessible and less forbidding court process and reduced travel time. In developing these ideas, we will take account of the existing plans for civil and family cases to be heard in local hearing venues, allowing improved access to hearings through the use of existing county courts, partnerships with magistrates' courts, or hired facilities. This work will draw on the lessons learned from the use of community courts in other countries, especially in relation to security. We believe that this approach could be particularly useful in dealing with offences involving anti-social behaviour.

## Improving the recruitment of magistrates

**7.22** Most magistrates are volunteers who sit on the bench a couple of times a month as a way of serving their local community. They are called 'lay' magistrates because they are not trained lawyers and are unpaid, except to compensate for any lost earnings or expenses. They are assisted in their work, however, by justices' clerks who are qualified legal advisers. There are currently nearly 29,000 magistrates in England and Wales. Whilst the number of magistrates currently sitting is enough to deal with the 97% of criminal cases that start in the magistrates' courts, numbers will need to be boosted in order for them to deal with the increase in workload resulting from their enhanced jurisdiction, as described in Chapter 4, and from police-led initiatives such as those targeting street crime and bringing more offenders to justice. There are also problems of recruitment of lay magistrates in some areas.

**7.23** A great deal of work has been done during the last few years to improve the balance of the lay bench. Yet there is still some way to go before we achieve benches that reflect local communities in all their diversity, including the balance of ages,

genders and ethnicity. The lay magistracy is a much valued institution which reflects the willingness of so many freely to volunteer their time, but it can only be justified if it is truly representative of the community it serves. To this end, the Lord Chancellor has commissioned a national strategy for the recruitment of lay magistrates. The strategy will aim to raise the profile of the lay magistracy and encourage more people to apply, and from as wide a cross-section of the community as possible. It is a positive step to attract applicants from all walks of life and social backgrounds and whilst not replacing local recruitment, it will integrate best practice and pull together all the ideas, initiatives and activities that groups such as the Magistrates' Association, the Citizenship Foundation and the Lord Chancellor's Advisory Committees are currently working on.

## Improving jury service

**7.24** Juries make an invaluable contribution to the CJS. As we outline in Chapter 4, we believe that trial by jury should be used for the most appropriate cases, and that juries should be better supported in practical ways. We also need to reform the process of calling juries. The need for improvement is clear:

- recent research into numbers excused from jury service suggests that less than half of those summoned for jury service actually serve. Some 38% of people were excused, 15% failed to attend and 13% were ineligible, disqualified or excused by right;<sup>7</sup> and
- a Royal Commission study which examined differences between juries and the general population found that men were over-represented, those over 65 were under-represented and service and skilled manual workers were significantly under-represented.<sup>8</sup>

**7.25** We believe that members of the community have a responsibility and a duty to carry out jury service if they possibly can. They also have a right as jurors to be treated with respect, to expect minimal disruption to their personal and working lives and to feel that their contribution has been worthwhile and is valued. Court delays can be particularly frustrating for jurors. Too many jurors currently find themselves waiting around, rather than making a contribution to the process of justice.

**7.26** We are therefore reforming the jury system to ensure that those who serve as jurors are better supported with more information and advice, and that their time is not wasted. In particular, we have:

- established a new Central Jury Summoning Bureau (CJSB) designed to improve the management of the jury process;
- made a commitment to reduce the delays and interruptions which many jurors face, through better case preparation and management (described in Chapter 3);
- made a commitment to improve the information and induction provided for jurors (described in Chapter 4); and
- identified special types of cases which are so complex and lengthy that they may be better served by trial by judge alone (described in Chapter 4).

**7.27** In return, we expect all who can to play their part in the CJS by serving on juries when summoned. The centralisation of jury summoning is promoting consistent consideration of excusal requests. More of those summoned to serve, who might otherwise have been excused, are being given the opportunity to suggest alternative suitable dates for service. Shifting the balance from excusal to deferral at a later date has increased the pool of potential jurors. We also plan to legislate so that eligibility for jury service will cover all registered electors between 18 and 70 years old, who have been resident in the United Kingdom for five years, unless they have a criminal record or mental illness. The CJSB would have the power to excuse or defer service if it was essential that the individual be available to perform important duties during the period covered by the summons. We will develop guidance to ensure that the operational effectiveness of the armed forces is not impeded. It should be a matter for the CJSB to decide whether it would be right for an individual who has worked within the CJS to sit on a jury for a particular trial. This reform will ensure that many individuals previously ruled ineligible for jury service will have the opportunity to fulfil this civic commitment.

**7.28** While juries are broadly reflective of the ethnic background of the national population, we are committed to ensuring that juries reflect the full diversity of communities, including age and gender, and that the summoning of juries is based on the best available information about the diversity of communities. Work is already being undertaken by the Electoral Commission to improve the quality of the electoral register and ensure in particular that more people from minority ethnic communities register. In addition, we will invest in new technology to ensure that the CJSB has access to up-to-date records for the purpose of calling juries and we are reviewing the catchment areas for jury service later this year.

**7.29** We considered carefully the recommendation by Sir Robin Auld that in cases where race is a significant issue, the judge should have the power to arrange for a multi-ethnic jury to hear the case.<sup>9</sup> After consultation, we have concluded that it would be wrong to interfere with the composition of the jury in these cases. We believe that to do so would potentially:

- undermine the fundamental principle of random selection and would not achieve a truly representative jury of peers;
- assume bias on the part of the excluded jurors when no prejudice has been proved;
- place the selected minority ethnic jurors in a difficult position – they might feel that they are expected to represent the interests of the defendant or victim;
- generate tensions and divisions in the jury room instead of reaching consensus on the guilt or innocence of the accused based upon the evidence put before it;
- place undue weight on the views of the specially selected jurors; and
- place a new burden on the court to determine which cases should attract an ‘ethnic minority quota’ and provide a ground for unmeritorious appeals.

**7.30** We do not underestimate the concern of either a minority ethnic victim or defendant about the right to a fair trial, but the use of what is effectively a quota in certain cases is likely to create more problems than it would solve.

## Community involvement in restorative justice

**7.31** The Government is firmly of the view that community involvement in the CJS will be enhanced by justice being dispensed through processes that promote and depend on community input. Restorative justice is an important example of this.

**7.32** Restorative justice schemes have the potential to offer constructive, community-based responses to crime. They bring together all parties (offender, victim, friends, family, community representatives and others) with a stake in a specific offence to resolve how to deal with the aftermath of the offence and any implications for the future. Restorative justice can take a variety of forms. At present, they operate primarily within the youth justice system, especially as part of final warnings and Referral Orders, but there is scope for extending the activity within the adult system too.

### Restorative justice in action

Two 11-year-old boys caused thousands of pounds worth of criminal damage to cars and a caravan parked on farmland. The owner of the caravan agreed to meet the perpetrators of the crime at a restorative justice meeting held at their primary school. He wept as he explained he had decided to take his ill wife on holiday after the death of their dog, only to find his caravan wrecked. The boys were mortified about what they had done and wrote a letter to the victim expressing their deep remorse. Neither boy has offended since then – over 18 months ago.

**7.33** Restorative justice can help offenders to understand that their offending behaviour is not just against the law, but also has a damaging effect on their victims, themselves and on their communities. It also gives more of a voice to victims and communities by bringing them into the process and involving them in the solution. Volunteers can act as mediators or sit on community panels, as they do in the context of Referral Orders. And within restorative conferences, they can represent the community viewpoint or attend in a personal capacity to support the individual offender or victim.

**7.34** We are developing a national restorative justice strategy. Our proposals will be published for consultation later this year. The strategy will:

- consider the availability of restorative justice across all age groups and at all stages of the criminal process: pre-crime, especially with juveniles, pre-charge, post-conviction, pre-sentence, and post-sentence;
- make the link with our work to turn children away from crime, for instance through developing informal panels in schools and other institutions, to tackle bullying and anti-social behaviour;
- give a high priority to the needs of victims and ensure they need only participate if they wish;
- seek to maximise the potential of restorative justice to reduce reoffending; and
- promote consistent, appropriate and effective use of restorative justice techniques.

**7.35** The Youth Justice Board has already set Youth Offending Teams (YOTs) a target of ensuring that restorative justice processes are used in all Referral Orders and at least 75% of other YOT interventions by March 2003, and will ensure in particular that it plays a significant part in support of police final warnings. Referral Orders, which are already available for offenders appearing for the first time in court who plead guilty, will be extended to more cases. Young offenders who are referred to a Youth Offender Panel, led by volunteers from the local community, have to agree a contract which requires them, along with their parents, to tackle their offending behaviour and make amends to their victim or the wider community.

**7.36** We believe that this innovative programme should be broadened to give magistrates the choice of including those who plead not guilty but are convicted on their first appearance in court, and those who appear in court for a second time for a different kind of offence. We will legislate to that effect.

**7.37** We also foresee that some of the new options proposed for adult offenders will benefit from extending restorative justice schemes. The new Conditional Caution (described in Chapter 3), for example, could benefit from this community-based framework for ensuring reparation agreed by the offender.

## Increasing community involvement

**7.38** The CJS simply cannot function without broad community involvement. Although the number of ways in which community involvement contributes to criminal justice processes have a strong tradition – beginning with juries and lay magistrates – it is imperative that the degree and quality of community involvement evolves alongside the CJS. Local Crime and Disorder Reduction Partnerships, Neighbourhood Wardens, Youth Offender Panels, Victim Support and mentoring are just some examples of the way community engagement has evolved to help reduce crime and deliver justice. For example, this year over 5,000 volunteers throughout England and Wales have been recruited and trained to sit on Youth Offending Panels. We are committed to extending the involvement of community in the CJS as part of its modernisation.

## Communities tackling crime

Alongside work to bring offenders to justice, many communities are tackling crime as part of strategies to improve their neighbourhood. Residents coming together to fight crime can have a significant impact. People living in Balsall Heath, Birmingham, took radical action against prostitution and crime in the early 1990s – forming a picket to deter kerb crawlers – and have gone on to form the Balsall Heath Forum which is working to regenerate the area. The Forum has calculated that 4,000 people out of Balsall Heath's population of 12,000 now regularly participate in a caring activity designed to improve the quality of life of the neighbourhood.

**7.39** This means including, where possible, community involvement in areas of the CJS that cause most concern to the public. The management of dangerous and high profile offenders is an example of this. Last month, we announced that, for the first time, members of the public will be invited to sit on the strategic boards that oversee the Multi-Agency Public Protection Panels (MAPPPs) which monitor and manage dangerous and high profile offenders in local communities across England and Wales. Such lay involvement in MAPPPs is being piloted before being extended nationwide. Adverts have been placed in the pilot areas inviting members of the public to apply. Initially, the pilot areas will each invite two members of the public to sit on the strategic boards. Meeting quarterly, they will oversee the work of the panel in managing offenders in their area. We also will ensure a greater role for members of the community in the work of the Parole Board by improving the appointments process (described in Chapter 5).

**7.40** We are committed to continuing to listen and respond to communities' requests for greater security and order. Our crime reduction priorities, outlined in Chapter 8, reflect communities' concerns, and programmes such as Safer Communities are investing in additional measures to tackle crime and disorder. We are committed to a legal framework which supports this work. For example, we are working to address the problem of unlicensed and unregulated rave parties, which can cause considerable distress to individual landowners and rural communities, acting as a focus for anti-social behaviour. Section 63 of the Criminal Justice and Public Order Act 1994 provides police with powers to deal with large outdoor rave events. We will extend the current legislation to allow police to deal with much smaller, indoor raves which trespass on the property of the rightful owner. Also, as a consequence of the continuing problem of unauthorised camping and anti-social behaviour by a minority of the Gypsy and traveller communities, we propose to introduce new eviction powers for police which will be tied into adequate provision of a range of sites by local authorities.

**7.41** An effective and responsive CJS means the public need never take the law into their own hands. We will explore what guidance can be given to assist the public so that they know what to do if their safety or their home is threatened.

**7.42** We are also working with local people to resolve disputes before they lead to crime. The Community Legal Service (CLS) provides the framework for local networks of advice and guidance services to help people resolve actual or potential disputes and enforce their rights effectively. Delivered through local partnerships, usually consisting of local authorities, solicitors and voluntary and community organisations such as Citizens Advice Bureaux, the service now covers 99% of people in England and Wales and is an important part of the Lord Chancellor's Department's greater involvement in the wider social agenda. Providers' work includes advising groups such as homeless people and asylum seekers, as well in work in courts and prisons.

## ENDNOTES

- <sup>1</sup> Airs, J. and Shaw, A. (1999) *Jury Excusal and Deferral*, Research Findings No.102, London: Home Office.
- <sup>2</sup> Zander, M. and Henderson, P. (1993) *The Crown Court Study, Royal Commission on the Criminal Justice System*, Research Report No. 19, London: HMSO.
- <sup>3</sup> *Policing a New Century: a Blueprint for Reform* (2001), London: Home Office.
- <sup>4</sup> *Open All Hours: An HMIC thematic inspection report on the role of police visibility and accessibility in public reassurance* (2001), London: HMIC.
- <sup>5</sup> *Race Equality in Public Services*, Home Office (forthcoming).
- <sup>6</sup> *Stephen Lawrence Inquiry: Home Secretary's Action Plan Third Annual Report* (June 2002), London: Home Office.
- <sup>7</sup> See 1.
- <sup>8</sup> See 2.
- <sup>9</sup> Auld, Sir R. (2001) *Review of the Criminal Courts*, London: The Stationery Office.



# Chapter 8

## FOCUSING THE CJS ON FIGHTING AND REDUCING CRIME AND DELIVERING JUSTICE

### WHAT IS WORKING

- Crime levels remain stable after significant falls since 1997 – particularly the crimes that people are most concerned about.<sup>1</sup>
- Burglary is down 39% and vehicle crime is down 26% since 1997.<sup>2</sup>
- The risk of being a victim of crime is at its lowest for nearly two decades.<sup>3</sup>
- We are developing and implementing preventative strategies to reduce crime rather than accepting crime as an inevitability.
- Improved co-operation between government departments and agencies is having a positive impact on issues such as street crime and domestic violence.

### WHAT IS NOT WORKING

- Crime is still high by historical standards.
- Street crime has risen and fear of crime remains unacceptably high especially in poorer neighbourhoods.
- Women and ethnic minorities are particularly worried about certain types of crime. For example, approximately a quarter of women report that they are 'very worried' about physical attack.<sup>4</sup>
- Concern about anti-social behaviour is high and rising. For instance, over a third of the population believe that vandalism is a 'very' or 'fairly big' problem.<sup>5</sup>
- Under-reporting and under-recording remains a concern for crimes such as domestic violence and racist crimes.

### We are:

- targeting particular types of crime, such as vehicle crime, domestic burglary and street crime;
- developing better ways to deter criminals, such as designing products to be crime resistant, and CCTV schemes;
- dealing with the factors which exacerbate crime, such as the prevalence of drugs; and
- turning young people away from crime.

### We propose to:

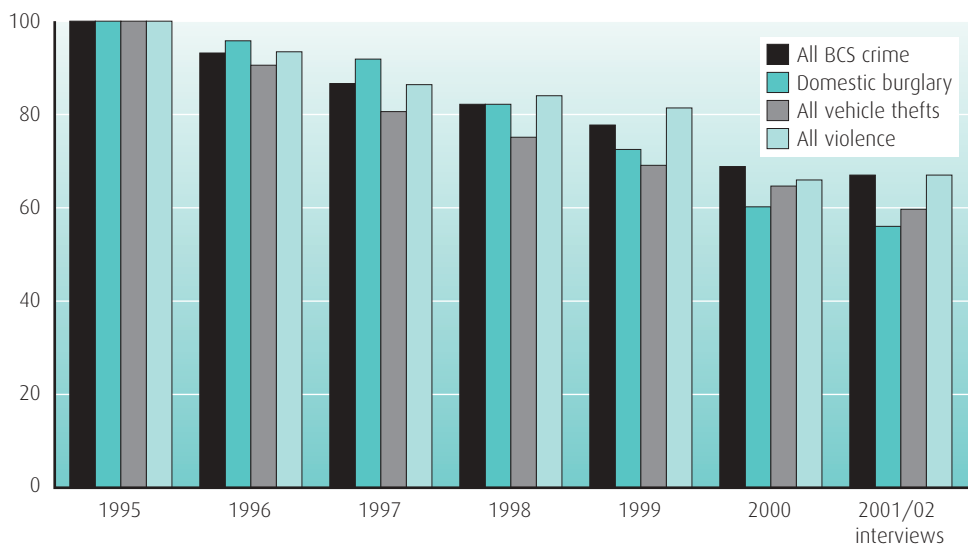
- consult on:
  - putting domestic violence murder reviews on a statutory footing;
  - extending the range of restraining orders;
  - making the breach of a non-molestation order a criminal offence;
  - providing anonymity for victims of domestic violence;
  - improving liaison between the civil and criminal courts and the family and criminal courts;
- consider introducing a specific offence of dealing to minors that will attract a higher maximum sentence than those currently available to the courts;
- extend existing drug testing provisions to the under 18s, with parental or appropriate adult consent; and
- arrange referral to treatment services for young people with substance misuse problems, who currently either receive a reprimand or for whom the police take no further action.

**8.1** Reducing crime requires tackling offending by individuals and building safe communities. It requires concerted work by families, communities, businesses, schools, health services, Local Authorities, police, courts, Prison and Probation services to prevent people offending and bringing them to justice if they do. It requires extensive partnership working, from international co-operation in the fight against organised crime to street level partnerships to eliminate crimes such as robbery and burglary.

## Violent crime

**8.2** Violent crime such as domestic violence, robbery and sexual offences cause the public greatest concern. Recent British Crime Surveys show that violent crime has generally been falling. Our challenge now is to ensure that this trend continues, and that resources are carefully planned to deal with areas that present greater difficulties.

Trends in crime as measured by the British Crime Survey, 1995 to 2001/02 (indexed, 1995 = 100)<sup>6</sup>



## Who commits crime?

- Recent research suggests that a hard core of persistent offenders may be responsible for half of all crime.<sup>7</sup>
- A third of active offenders are aged under 21 and the peak age of offending is 18.<sup>8</sup> A quarter of young people aged 11 to 16 admit to committing a crime in the last year.<sup>9</sup>
- Compared with the general population, those who find themselves in prison are 13 times as likely to have been in care as a child, 13 times as likely to be unemployed, 10 times as likely to have been a regular truant, two and a half times as likely to have had a family member convicted of a criminal offence, and six times as likely to have been a young parent.<sup>10</sup>
- Of remand prisoners, over 80% of males (and roughly three-quarters of females) admitted prior drug use, with 51% of males (54% of females) admitting drug dependency.<sup>11</sup> The number of people in prison for drug offences more than trebled between 1991 and 2001.<sup>12</sup> The most problematic drug users (who test positive for three or more drugs) commit the most crimes, especially property crimes, to fund their habits.
- Half of all people starting a prison or community sentence will be reconvicted for a crime within two years, this figure rises to 72% for male 18-20s discharged from custody and 84% for male under-17s discharged from custody.<sup>13</sup>

**8.3** We have introduced a number of cross-cutting measures which combine to form a consistent and coherent approach to violent crime. These measures underscore the importance of a joined up approach to effective delivery. We have put in place a new violent crime Best Value Performance Indicator for the police, and developed an action plan to reduce alcohol-related crime. An inter-ministerial group is driving forward a plan to combat domestic violence and initiatives have been developed to promote safety on public transport, reduce violence against NHS staff and stamp out incidents of violence in the workplace.

## Tackling domestic violence

**8.4** Domestic violence accounts for nearly a quarter of all violent crime but to some extent remains hidden. Most, although not all, domestic violence is committed by men against women. Some stark statistics illustrate just how prevalent it is in our society:

- one woman in four will experience domestic violence in her lifetime;<sup>15</sup>
- on average, a woman will be assaulted by her partner or ex-partner 35 times before reporting it to the police;<sup>16</sup>
- the police receive a 999 call every minute about domestic violence; and<sup>17</sup>
- between a quarter and a third of victims of homicide are killed by a partner or former partner.<sup>18</sup>

**8.5** The impact on children can be direct or indirect and should not be under-estimated. More than a third of children in a violent home know what is happening, and up to a half if the violence is repeated. Some 70% of the children staying with their mothers in refuges have also been abused.<sup>19</sup>

**8.6** This is totally unacceptable. Stopping domestic violence and bringing perpetrators to justice is a priority. Since late last year, a new Ministerial Group has been starting to take the steps needed to make a real difference. The Group is concentrating on five priority areas for action:

- to increase safe accommodation choices for women and children;
- to develop early and effective health care initiatives;
- to improve the interface between the civil law and the criminal law;
- to ensure a consistent and appropriate response from the police and the CPS; and
- to promote education and awareness raising.

**8.7** The police and the CPS are committed to best practice in the investigation and prosecution of domestic violence crime. A pro-arrest policy has been introduced across all police forces and the CPS has reviewed its policy and, following extensive consultation, set out how domestic violence cases are prosecuted, including in what circumstances a case may proceed without the need for the victim to give evidence personally. Guidance has also been produced for prosecutors on a range of issues relevant to domestic violence cases, such as the effect on children and the extra difficulties some victims from minority ethnic communities face in reporting these crimes. The CPS now also has a national network of domestic violence specialists who can coordinate prosecution policies and processes across the country.

**8.8** Building on projects initiated by the Metropolitan Police and the Solicitor General, the Ministerial Group will also be looking at how to ensure that the circumstances surrounding each domestic violence murders are reviewed in order to enable risk factors to be identified that will better equip the police and other agencies to take action that could prevent similar crimes.

**8.9** Consideration will also be given to whether restraining orders other than those already available under the Protection from Harassment Act 1997 could be introduced and whether breach of non-molestation order could be made a criminal offence. We would welcome views on this and on whether allowing anonymity for victims, such as there is for victims of sexual offences would increase the likelihood of victims reporting offences and how to encourage better liaison between civil courts dealing with actions relating to the family and criminal proceedings for offences.

**8.10** Further to work being led by the Ministerial Group, a number of domestic violence perpetrator programmes are currently being evaluated by the Probation Service. We want to ensure these programmes effectively challenge the offending behaviour of perpetrators before disseminating them more widely. The Crime Reduction Programme has also funded a

major research programme to establish which of the many different kinds of projects that can help to prevent domestic violence and reduce repeat victimisation is most likely to deliver lasting results. We are expecting the results of this programme later this year.

**8.11** We are building on the progress outlined above by setting up within government a new Domestic Violence Unit. Working on a cross-cutting basis, the unit will support Ministers in driving forward key programmes to ensure that our public services – health, education, housing, and the CJS – work together more effectively in a common commitment to bring down the levels of domestic violence.

## Tackling street crime through joined up government

**8.12** We have set out in previous chapters the achievements of the Street Crime Initiative, which has set out systematically to tackle the problem of street crime by identifying and removing the barriers that have previously allowed offenders to persist in committing such crimes. However, we cannot leave the fight against street crime to the CJS alone. We are engaging every part of government in support of this vital effort:

- The Department for Education and Skills Behaviour Improvement Programme is providing 34 Local Education Authorities, where there are high levels of crime and truancy, with up to £1.5 million each to support action to improve behaviour and attendance in selected schools. Action will include improving general standards of behaviour; reducing truancy; securing lower levels of exclusions than comparable schools; ensuring that every child at risk of truancy, exclusion or criminal behaviour has a key worker; and providing full-time supervised education for pupils who are excluded from school for a fixed term as well as those who are permanently excluded.
- The Department for Education and Skills is also increasing police involvement in schools to help to identify problems and take early action. This includes:
  - some 900 truancy sweeps having taken place across the 10 areas with more planned for the Autumn term;
  - schools and education authorities putting in place arrangements for better information exchange with police and social services; and
  - increasing police presence in schools to foster good relations.
- The Department of Health is ensuring that necessary drug treatment provision is available for offenders, and making sure that social services are fully engaged in exchanging information about children at risk.
- The Department of Work and Pensions is ensuring that appropriate training and employment opportunities are made available to young offenders.
- The Department of Culture, Media and Sport and the Department for Education and Skills are working with the Youth Justice Board to promote activities (particularly over the summer period) which will help to divert young people at risk from crime and improve their skills and motivation.

**8.13** We are further examining the ways in which support for the health, education and housing needs of young offenders is currently provided, and how it might be improved in the future, including through better use of existing finance and possible legislation.

## Racist Crime

**8.14** Racist crime has a very damaging effect on individuals, the specific groups that are targeted, as well as community relations. It can destroy trust and understanding between different groups, and it harms our attempts to promote community cohesion. To tackle it requires a multi-agency approach, in which criminal justice agencies are fully joined up, and work closely and constructively with other partners.

**8.15** We have put in place a number of measures to begin to confront racist crime:

- introduced specific new categories of racially and religiously aggravated offences;
- published a Code of Practice on the reporting and recording of racist incidents to discourage the under-reporting and under-recording which have characterised responses to these incidents in the past;<sup>21</sup>
- the Association of Chief Police Officers have published a guide to identifying and combating hate crime (*Breaking the Power of Fear and Hate*) which has proved to be a vital aid for the police in their work in this area; and<sup>22</sup>
- strengthened sanctions against those found guilty of incitement to racial hatred.

**8.16** Recent statistics indicate that the reporting and recording of racist incidents has improved substantially, with the gap between official police figures and those reported to the British Crime Survey reduced considerably.

**8.17** We will continue to build on these measures to further drive down the number of racist incidents:

- we are improving the police response through our comprehensive programme of community and race relations training, and training on the handling of critical incidents;
- we are developing programmes aimed specifically at reducing repeat victimisation, which research shows is particularly prevalent in racist crime, and work on young offenders who are disproportionately represented among offenders in this area; and
- we will also ensure that criminal justice agencies play a full part in the multi-agency work on community cohesion, which we are taking forward across government.

## Domestic Burglary

**8.18** Over £30 million has been used in a Reducing Burglary Initiative to fund 250 differing projects tackling burglary in highly victimised communities, which include over two million households. Other projects funded under the Crime Reduction Programme include 'Locks for Pensioners', residential CCTV schemes and several targeted policing projects. As a result recorded domestic burglary has fallen by 9% between 1998-99 and 2001-02.<sup>23</sup>

### The Studentland Project in Sheffield

One successful initiative has been the 'Studentland' project in Sheffield. The high student turnover in an area of housing characterised by poor security and the abundance of electrical goods owned by students made the area attractive to burglars. The project aimed to reduce burglary in the area by at least 20%.

The project involved providing gates across back alleys, improving security to prevent the same victim being attacked twice and Web Detect software to enable the police to track stolen computers when they are attached to the internet.

In the first 9 months of the project burglary dropped by almost 35%.<sup>24</sup>

## Vehicle crime

**8.19** A national vehicle crime reduction communications campaign, in partnership with motoring and insurance organisations is estimated to have reached almost 6 million drivers and car owners. A new website, [www.secureyourmotor.gov.uk](http://www.secureyourmotor.gov.uk), is receiving 11,000 hits per day and has contributed to a reduction in vehicle crime by over 90,000 crimes during 2001. This is more than a 9% decrease since 1998-99.<sup>25</sup>

## Designing out crime

**8.20** Our crime prevention agenda includes working with business to design out crime, for instance making cars and mobile phones harder to steal. We are already engaging successfully with business organisations to tackle car crime, retail crime and fraud, and we will develop these links further to forge a strong partnership against crime.

**8.21** Through the way in which they design their products and services, businesses often hold the key to reducing various types of crime and criminal activity. Businesses are therefore well placed to reduce the opportunities for crime.



**8.22** There are numerous case studies available which demonstrate good practice in design against crime – mostly recently those produced by the Design Council as part of the Home Office Crime Reduction Programme. The example of security improvements by vehicle manufacturers demonstrates what can be achieved. The first three years of the Vehicle Crime Reduction project saw a 9% reduction in thefts of vehicles.<sup>26</sup> The critical ingredient is often channelling consumer pressure which in this case led to the Car Theft Index. Retrospective improvements are useful but the challenge is to identify the optimal moment in the product development cycle to assess the potential crime impact of a new good or service. Perhaps this way, any future crime epidemic can be averted.

## Tackling anti-social behaviour

**8.23** Safe communities need to be free of anti-social behaviour, as well as crime. Young people often indulge in anti-social behaviour before they turn to more serious crime. Quite apart from the risk to the individual perpetrator, this has a corrosive impact on communities. Anti-social behaviour covers a range of different activities, among them threatening and intimidating people, vandalism, and abandoning cars.

**8.24** We have introduced a range of measures to address this problem. These include Anti-Social Behaviour Orders (ASBOs), which prohibit individuals from certain acts or from entering particular areas, and often include prohibitions on inciting or encouraging others to commit specified anti-social acts. Breaching an ASBO is a criminal offence and we plan to extend and improve them through a series of informal and tougher measures, coupling support with prohibition. The legal remedies are a civil matter rather than a criminal one, but they are still subject to the judicial process. Over half of ASBOs have been made against young people under the age of 18. We want to extend the protection that they provide to the community by helping those young people to address their anti-social behaviour. To achieve this we shall introduce a new measure, the Individual Support Order for young people with ASBOs, meaning they must undertake counselling or educational activities. Currently, ASBOs only prohibit, they do not support. This new measure will change that.

**8.25** If the anti-social behaviour is less severe, a more informal Acceptable Behaviour Contract may be more appropriate than an ASBO. A police officer and a representative of the Local Authority housing department meets with the young person and their parents and together they agree a contract specifying how the individual should behave, for instance stating that they should not be abusive towards others. The measure was developed by Islington Police and Islington Borough Council in London and has since been adopted in other areas. Reports of success are good, particularly in engaging parents. We will look at extending schemes of this type. We will also look at any unnecessary restriction or bureaucracy that hinders the implementation of such schemes or prevents the police dealing effectively with anti-social behaviour, such as under-age possession or use of alcohol in a public place, is removed.

## Building safer communities

**8.26** Community safety means local groups, businesses and individuals joining forces with the police to prevent and reduce crime and anti-social behaviour. We have been working to ensure that localities develop comprehensive strategies to prevent and reduce crime at every opportunity. Many are already putting crime prevention at the centre of their efforts to improve life in their community.

**8.27** A small number of neighbourhoods, often the poorest, suffer disproportionately from crime and we are determined to tackle this. The Safer Communities Initiative will invest £20 million in 2002-03 to address crime and disorder in communities, and is based on the recognition that crime tends to involve repeat victims, persistent offenders and to be geographically concentrated in so-called 'crime hotspots'. Under this initiative a number of schemes such as 'pub-watch' and approved tenancy schemes to tackle anti-social behaviour have been established. Other innovations include mobile police stations and burglary projects. We expect the first impacts to be felt before the end of the year.

## Tackling drugs

### Key facts:

- In 2000, 31% of British Crime Survey respondents identified drugs as a serious problem in their area.<sup>27</sup>
- Arrestees testing positive for heroin/crack/cocaine spend an average of £15,000 a year in order to feed their addiction. This group is estimated to be responsible for 50% in value of acquisitive crime.<sup>28</sup>
- Those arrested who use heroin and/or cocaine/crack cocaine commit almost 10 times more offences than those who do not.<sup>29</sup>

**8.28** One of the biggest scourges in communities is drugs. Drug misuse and crime are strongly connected. The most problematic drug users commit the most crime to fund their habit. They wreck their own lives as well as those of their victims. The CJS provides an important opportunity to identify problematic drug users and find ways of tackling their drug misuse problems. We have to do more to break the cycle.

**8.29** Evidence suggests that it is users of heroin and cocaine, particularly crack cocaine, that are most likely to be prolific offenders. Around three-quarters of arrestees who report using heroin and crack thought that their drug use and offending behaviour were connected.<sup>30</sup> Drug users are also more likely to reoffend on release from prison, or at the end of supervision, than non drug-using offenders. Those leaving prison have been shown to be at high risk of drug-related death, especially in the first few weeks following release.

**8.30** We are focusing our resources on a coherent strategy that seeks to tackle the problem at its roots. Key elements of the strategy are:

- a focus on reducing drug dealing and supply through concerted action by all the enforcement and intelligence agencies working together;
- strengthening community projects to resist drugs;
- education, information and advice for all young people;
- a strong emphasis on treatment, because treatment works and interventions in the CJS designed to bring drug misusers into treatment are effective; and
- concentrating on tackling the drugs that cause most harm – Class A drugs like heroin and cocaine.

**8.32** We will also protect children and young people by clamping down on those dealers who prey on them. We are considering introducing a specific offence of dealing to minors that will attract a higher maximum sentence than those currently available to the courts for supply cases.

**8.33** Targeting drug users before they commit crimes is preferable to cleaning up the mess they make of their lives and others' afterwards. In the next three years, we plan to pilot multi-agency schemes targeted at prolific offenders to point them in the direction of assessment and treatment before arrest.

**8.34** We must tackle the wide range of drug crimes if we are to make our streets safe. Through the Communities Against Drugs initiative (CAD), we are supporting local community partnerships. Reducing demand is as important as cracking down on those who supply and misuse drugs, and CAD does this through educating vulnerable young people, helping them identify alternative lifestyles and removing the detritus of drug use, such as needles, from the environment. These partnerships are funding a range of interventions to deliver the programme's objectives. Typically, partnerships' plans involve both drug misuse enforcement projects and work to reduce demand to provide a balanced mix of activity to tackle drug problems within communities.

**8.35** We propose to extend the drug testing provisions of the Criminal Justice and Court Services Act 2000 to the under 18s, providing a procedure for parental or appropriate adult consent. When extending drug testing in this way, we intend to take the opportunity to add handling stolen goods, and 'attempted' acquisitive crimes, to the list of trigger offences. Current trigger offences include theft, burglary and drug related offences such as possession or supplying.

**8.36** If no further action is taken following arrest of a young person, or if a reprimand is administered, a Youth Offending Team (YOT) would not normally be asked to attend. In this case the young person's substance misuse would not normally be addressed. Options to remedy this situation include the offer of an interview with an appropriately trained arrest referral worker, youth justice worker or volunteer mentor (where YOT mentoring schemes exist). We propose to arrange the referral of young people to substance misuse treatment services to be tested in 10 areas, with a view to extending the scheme nationally.

## Turning children and young people away from crime

**8.37** Investing in measures to stop young people offending is an essential element in the fight against crime. A quarter of known offenders are juveniles and if young people do start offending but are not quickly deterred from criminal activity, the young people, communities and the CJS can end up paying the price for many years.<sup>31</sup>

**8.38** Research indicates that programmes to address risk factors that can lead to crime can significantly reduce the chances of offending in later life. We need to intervene at an earlier stage and ensure that different agencies provide a better-integrated service that families and young people can easily engage with. The Children's Fund is supporting work at local level to help local partners develop a preventive strategy for 5-13 year olds and their families, to address the risk factors that lead to crime and other problems. An important part of that work is looking at ways to ensure different agencies share information and manage more effectively the different interventions with young people and their families. But we need to go further and we will look at ways in which mainstream services should give a greater focus to preventive work, ensuring that they coordinate their efforts across all age groups and improve information exchange.

**8.39** Families are the building blocks of communities, but parents can sometimes struggle to bring up children in difficult circumstances. We are working with voluntary and community groups to support them in this and give all children and young people the best start in life. Since 1998, the Sure Start programme has provided packages of support for young children and their families in the most deprived areas, helping to join up services and working with voluntary organisations and the community to make a real difference. The Family Support Grant provides funding for voluntary organisations working to support parents in their parenting role. This includes support to Parentline Plus to run a national freephone helpline service to parents. The Children's Fund is also providing additional support for older children.

**8.40** We need to ensure that those in care are given particular support so that they do not start offending. Many young people in the CJS have been looked after by the Local Authority. Adult prisoners are 13 times more likely to have been in care compared to the average.<sup>32</sup> In 1999 we introduced the Quality Protects programme to provide more effective protection, better quality care and improved life chances for children in need, especially children looked after by Local Authorities. This is starting to make a positive difference, with children in care experiencing fewer placement moves, more are being placed in new permanent families through adoption and fewer are leaving care prematurely when they reach age 16. As part of the monitoring of the programme, we have required councils to demonstrate how they are improving the life chances of black and minority ethnic children in care.

**8.41** If we want to keep young people away from criminal activity, we have to keep them in education, encourage them to learn and provide activities to divert them from crime and anti-social behaviour. Adult prisoners are 10 times more likely to have regularly truanted from school in their youth,<sup>33</sup> excluded pupils are more than twice as likely to offend than pupils in school, and the offences they commit tend to be more serious.<sup>34</sup> As outlined in paragraph 8.12, the Department for Education and Skills is funding projects to

improve behaviour and attendance in selected schools in 24 Local Education Authorities with the highest levels of crime and truancy. New Learning Support Units on the school site are helping to keep young people in mainstream education, while programmes like Excellence in Cities give schools in inner city areas the resources to improve attendance and performance. The Children's Fund is supporting work alongside schools to help ensure that, there are greater efforts to improve school attendance for 5-13 year olds.

**8.42** In addition to mainstream education, the Government has established the new Connexions Service to provide guidance and support for 13-19 year olds to help them through the difficult years of adolescence, career choices and transition from education to labour market. A Personal Adviser provides stability and continuity and can arrange a package of specialist tailored support. The Service focuses the vast majority of its resources on the most at-risk children. We are committed to overhauling and modernising the Youth Service so it can provide constructive activities and outreach to re-engage young people in mainstream services.

**8.43** On school sites, Safer Schools Partnerships, initially focused on high crime areas, will help schools that want more support or want to strengthen community links. 100 police officers based in and around these schools will work with pupils, creating safer places to learn for children, young people and teachers, and reducing risks of anti-social or criminal behaviour.

### Juvenile offenders

- There are currently 2,740 15-17 year old males and 156 15-17 year old females in Juvenile Young Offender Institutions.<sup>35</sup>
- From April 1st 2000 to 31 December 2000 there were 5,027 Detention and Training Orders (multiple offenders counted as multiple orders – no data is available on the actual number of offenders).<sup>36</sup>
- There are 747 offenders on ISSP on average on any one day and 1,333 offenders started ISSP up until May 2002 (ie are either on it now or have completed it).<sup>37</sup>
- The average age when offending started is 13½ for boys and 14 for girls.<sup>38</sup>
- Type of offending varies by age. Amongst men, for example, fighting and criminal damage make up two-thirds of offences among 12 to 13 year-olds, half of 14 to 15 year-olds' offences and less than one in twenty offences committed by 26 to 30 year-olds.<sup>39</sup>
- Only 16% of 16 year-olds in custody had previously been in mainstream education.<sup>40</sup>

**8.44** Beyond the classroom, we are encouraging young people to channel their energies into creative activities and sport. Splash schemes and Youth Inclusion Programmes run in deprived areas to provide constructive activities for young people during school holidays. Splash has been working with 13-16 year olds during Easter and Summer holidays. Initial plans to run 65 schemes this Summer in areas with high levels of street crime have now been significantly expanded. Working with the Department for Culture, Media and Sport, the YJB will run some 300 'Splash Extra schemes' in these areas, extending the target age range to include 9-12 year olds. Youth Inclusion Programmes run in 70 deprived estates throughout the year and work with children most at risk of offending due to poor family support, lack of schooling or low self esteem. They have led to a 32% decrease in crime in some areas.<sup>41</sup>

### WORKING WITH THE FAMILIES OF YOUNG OFFENDERS



**8.45** If children start to offend or cause trouble in communities, it is important that both parents work to help them change that behaviour. But research shows that 81% of those attending parenting classes on Parenting Orders were female. We want fathers to take more responsibility for their children's care and are looking at ways in which more fathers can be made subject to Parenting Orders where needed.

**8.46** In some cases, action is required for parents to take their responsibilities towards their children seriously. We have already introduced Parenting Orders which require parents of young offenders to attend parenting classes. We will extend the range of settings in which these can be granted. We want more of them to be issued with ASBOs, to ensure parents of children engaging in anti-social behaviour get the support they need to address the problem. Similarly, we will give the courts the power to make a Parenting Order when a young offender pleads guilty to a first time offence and is referred to a Youth Offending Panel by way of a Referral Order.

**8.47** Further, Educational Supervision Orders (ESOs) will be extended so that they can be triggered following a pattern of exclusion from school. These ESOs will carry Parenting Orders with them.

### Youth Justice Board (YJB)

The YJB has made a major impact on reducing the levels of youth crime. Reducing the reconviction rates of young people by 14% is one of its key achievements. Its core delivery task is the rehabilitation of young people once they have come into contact with the police. A good example is the Final Warning scheme (see Chapter 5). In Devon, 96% of final warnings are accompanied by interventions and recorded youth crime has fallen by 22% in just over a year.<sup>43</sup> The multi-agency YOTs (whose performance and operation the YJB is responsible for) have played a major part in delivering crime prevention and reduction programmes.

### REPORTING YOUTH CRIME

**8.48** Pooling information between all agencies is essential to tackling the problem of under reporting and sustaining long-term reductions in youth crime. Several measures have been put in place to achieve this, including the Youth and Crime Unit in the Government Office for London which has assisted boroughs in their information sharing arrangements.

**8.49** Taken together, these actions and initiatives amount to the largest ever programme to reduce crime. They bring together the police, communities, Local Authorities and a range of other organisations. By developing them alongside our reform of the CJS we should reduce the number of crimes committed, increase the number of offenders who are caught and convicted and increase the number of offenders who change their behaviour and are rehabilitated in the community.

## ENDNOTES

- <sup>1</sup> Simmons, J. et.al. (2002) *Crime in England and Wales 2001-02*, Home Office Statistical Bulletin 7/02, London: Home Office.
- <sup>2</sup> See 1.
- <sup>3</sup> See 1.
- <sup>4</sup> Kershaw, C., Chivite-Matthews, N., Thomas, C. and Aust, R. (2001) *The 2001 British Crime Survey: First Results, England and Wales*, Home Office Statistical Bulletin 18/01, London: Home Office.
- <sup>5</sup> See 1.
- <sup>6</sup> See 2.
- <sup>7</sup> *Criminal Justice: The Way Ahead* (2001), London: Home Office.
- <sup>8</sup> *Criminal Statistics England and Wales 2000* (2001), London: Home Office.
- <sup>9</sup> Flood-Page, C., Campbell, S., Harrington V., and Miller J. (2000) *Youth Crime: Findings from the 1998-99 Youth Lifestyles Survey*, Home Office Research Study No. 209, London: Home Office.
- <sup>10</sup> *Reducing Reoffending by Ex-prisoners* (2002), London: Social Exclusion Unit.
- <sup>11</sup> Singleton, N., Farrell, M. and Meltzer, H. (1999) *Substance misuse among prisoners in England and Wales*, London: Office for National Statistics.
- <sup>12</sup> *Prison Statistics England and Wales 2000* (2001), London: Home Office.
- <sup>13</sup> See 12.
- <sup>14</sup> See 1.
- <sup>15</sup> Mirrlees-Black C. (1999) *Domestic Violence: Findings from a new British Crime Survey self-completion questionnaire*, Home Office Research Study No 191, London: Home Office.
- <sup>16</sup> Yearnshire, S. *Analysis of cohort*, in Bewley, S., Friend, J. and Mezey, G. (eds) (1997) *Violence Against Women*, London: RCOG.
- <sup>17</sup> Stanko E. (2000) *The Day to Count: A Snapshot of the Impact of Domestic Violence in the UK*, *Criminal Justice* 1:2, 2000.
- <sup>18</sup> *Criminal Statistics England and Wales 1999* (2000), London: Home Office.
- <sup>19</sup> Women's Aid website: <http://www.womensaid.org.uk/dv/dvfactsh3.htm>
- <sup>20</sup> *Domestic Violence: a Healthcare Issue?* (1998), London: British Medical Association.
- <sup>21</sup> *The ACPO Guide to Identifying and Combating Hate Crime* (2002), London: ACPO.
- <sup>22</sup> *Breaking the Power of Fear and Hate: Identifying and Combating Hate Crime* (2000), London: ACPO.
- <sup>23</sup> See 1.
- <sup>24</sup> *Sheffield Studentland: Interim Evaluation Report*, Home Office (unpublished).
- <sup>25</sup> See 1.
- <sup>26</sup> See 1.
- <sup>27</sup> See 1.
- <sup>28</sup> Bennett, T. et al. (2001) *Drug Use and Offending: summary results from the first year of the NEW-ADAM research programme*, Home Office Research Findings 148, London: Home Office.
- <sup>29</sup> *Prisoners Criminality Survey 2000*, Home Office (forthcoming).
- <sup>30</sup> See 25.
- <sup>31</sup> See 8.
- <sup>32</sup> *Estimating Criminality 2001*, BMRB Market Research (unpublished).
- <sup>33</sup> Dodd, T. and Hunter, P. (1992) *The National Prison Survey 1991*, London: HMSO.
- <sup>34</sup> MORI survey for YJB, (2002), website: [http://www.youth-justice-board.gov.uk/policy/youth\\_survey\\_2002.pdf](http://www.youth-justice-board.gov.uk/policy/youth_survey_2002.pdf)
- <sup>35</sup> Prison Service (unpublished).
- <sup>36</sup> See 8.
- <sup>37</sup> Youth Justice Board, (unpublished).
- <sup>38</sup> See 9.
- <sup>39</sup> See 9.
- <sup>40</sup> Youth Justice Board (November 2001) (unpublished).
- <sup>41</sup> *September 2001 Evaluation into Youth Inclusion Programmes (YIPs): Management Summary* (2001), London: Morgan, Harris and Burrows.
- <sup>42</sup> See 12.
- <sup>43</sup> See 21.



# Chapter 9

## JOINING UP THE CJS

### WHAT IS WORKING

- Many of the initiatives set out in *Criminal Justice: The Way Ahead* last year have started the process of moving the Criminal Justice System (CJS) towards our vision of a modern, joined up system.
- We will deliver secure e-mail across the CJS by 2003. We are on course to enable victims to begin to be able to follow the progress of their case on-line and all criminal justice organisations to be able to exchange case file information electronically by 2005.
- New performance measures and reporting structures are helping to improve delivery. The Youth Justice Board (YJB) has reduced reoffending amongst young offenders by establishing a culture that focuses on outcomes rather than inputs.
- 42 Criminal Justice Units and 54 Trial Units have been operational since March 2002.
- Criminal justice agencies are working towards five joint targets on: attrition; victims and witnesses; rights of defendants; delay; and public confidence.

### WHAT IS NOT WORKING

- Where the system is not sufficiently joined up, case management is less efficient than it ought to be. If information is not up to date and accessible, it can lead to inappropriate decisions about charges and bail. Performance is not measured well enough and accountability is insufficiently clear.
- Each criminal justice agency still has its own method of referencing defendants, offenders, charges and cases. This makes cross-referencing or case management and tracking virtually impossible.
- The Crown Prosecution Service (CPS) creates 'committal bundles' by photocopying and manually numbering pages of case information, which often have to be re-numbered several times before hearings.
- Prosecution case files are not always complete or consistent, which can result in adjournment (while the information is located), attrition (the case does not proceed due to missing or inaccurate information) or unjustified acquittal.
- There are unnecessary delays in disseminating and recording the results of hearings, meaning that previous conviction information held on the Police National Computer may not be up to date, which in turn can affect sentencing and bail decisions.
- Changes to charges can be mismanaged in a way that leads to the wrong information being recorded on the Police National Computer.

## We propose to:

- invest over £600 million over the next 3 years in case management IT across the CJS;
- establish a new National Criminal Justice Board (to replace the existing Strategic Board) chaired by the Permanent Secretary of the Home Office including the Permanent Secretary of the Lord Chancellors Department, Director of Public Prosecutions, the Chief Executive of the CJS agencies, the President of ACPO and a senior judge. It will support the new Cabinet Committee and be responsible for overall CJS delivery;
- establish a Criminal Justice Council that will improve on current consultative mechanisms;
- strengthen the CJS management framework by setting up 42 local Criminal Justice Boards, reporting to a new National Criminal Justice Board;
- establish a new independent courts inspectorate that will have jurisdiction, for the first time, over the administration of the Crown Court;
- ensure all CJS professionals will be able to securely e-mail each other by 2003;
- ensure all CJS organisations will be able to exchange case file information electronically by 2005, and
- ensure victims will begin to be able to track the progress of their case online by 2005.

**9.1** The preceding chapters describe the reforms underway to improve the CJS. Joining up this work is essential to the success of each individual aspect of our reform programme. Making the whole system work together, however, is a major undertaking in itself. It means linking up the targets, delivery objectives, strategic plans, IT systems and the daily work of every individual working in each criminal justice agency.

**9.2** This chapter sets out how we are building a programme of reform to deliver the seamless CJS needed to bring more offenders to justice and promote confidence in the work of all criminal justice agencies.

**9.3** The successful transition to a fully integrated CJS hinges on getting the technology, co-ordinating mechanisms and structures right. It also relies on working in partnership with the people who work in criminal justice, with their trade unions and professional organisations and other stakeholders. Focusing on making the system better for all those who work in it will also help. Joining up will be achieved by:

- clearer national accountability, performance management systems, and structures that support effective co-operation;
- effective, well resourced local structures and consumer focused delivery mechanisms;
- a sustained programme of IT reform;

- ensuring key decision makers are equipped to work with and implement the planned changes; and
- monitoring and evaluating new measures so that we can be much better than in the past at building on that which works well and dropping or modifying that which doesn't.

## National accountability

**9.4** We are strengthening the management of performance in the CJS, in order to improve service delivery. This involves cutting out duplication, rationalising decision making and replacing complicated reporting structures with clear lines of accountability.

**9.5** Underpinning the new CJS management framework are:

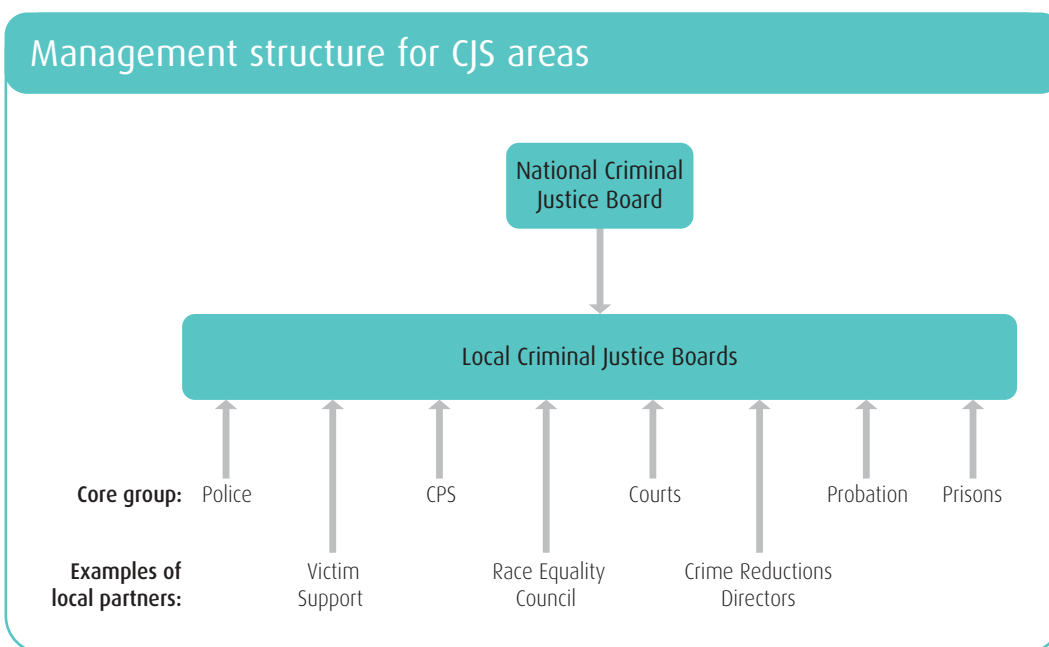
- a Cabinet Committee, chaired by the Home Secretary, which includes the Lord Chancellor and Attorney General, to coordinate broad policy in relation to the working of and reform to the CJS; and
- a new National Criminal Justice Board (to replace the current Strategic Board which supports the Cabinet Committee) chaired by the Permanent Secretary at the Home Office, which will include the Permanent Secretary at the Lord Chancellor's Department (LCD), the Director of Public Prosecutions, the chief executives of the CJS agencies, the president of the Association of Chief Police Officers, and a senior judge. The Board will support and report to the Cabinet Committee and will be responsible for overall CJS delivery.

**9.6** In support of these structures, the existing tripartite Criminal Justice Joint Planning Unit will be answerable to the new National Criminal Justice Board and will:

- establish coordinated CJS business plans and priorities, and ensure consistent messages about delivery are communicated to the CJS Areas;
- work with national and local structures to promote effective working across the CJS, including building relationships to ensure that there is strong two-way communication between the national and local levels; and
- provide dedicated performance officers to all CJS Areas.

**9.7** We recognise the need to listen to the views of those working in the CJS. To do this, we will replace the existing Criminal Justice Consultative Council, whose membership overlaps with that of other groups, with a new Criminal Justice Council. Membership will include representation from the Commission for Racial Equality, the Law Society, victim and witness organisations as well as a 'core' membership of the bar, the magistracy, and the judiciary. Senior academics will also be included.

**9.8** This new Council will act as a consultative and advisory body on the CJS and will provide a voice to a wider range of interests than is currently the case. It will provide an objective, external perspective on the role and workings of the system. The Council will advise both the National Criminal Justice Board and Ministers on criminal justice reform.



## Improved local delivery

**9.9** There are many inter-departmental and inter-agency bodies at national and local level that work with potential uncertainty in their role and/or their relationship with one another. These groups have developed in a piecemeal way over time and often have overlapping membership and terms of reference. They also lack, at times, the authority to commit to collective recommendations or decisions, particularly at local level.

**9.10** Joined up working at the local level has also been hampered by boundaries that make partnership working between different criminal justice agencies more difficult. These boundaries have been altered to create 42 new CJS Areas across England and Wales.

**9.11** To strengthen these new arrangements, we will set up 42 local Criminal Justice Boards during 2002-03, to oversee the new joint-working arrangements between local agencies in each Area. Local Chief Officers from the police, CPS and Probation Services, as well as senior representatives of the courts and the Prison and Probation Services will provide the core membership of these new local Boards.

**9.12** Each local Board will be required to establish advisory and consultative machinery that will involve input from Local Authorities and representation from, for example, the judiciary, magistrates, voluntary groups and members of the community, including victims. In addition, other specialists will be co-opted to tackle particular issues. An example would be someone from the NHS to look at the issue of mentally disordered offenders.

**9.13** The local Boards will be accountable to the proposed National Criminal Justice Board with which they will need to agree local delivery contracts on an annual basis. Local Boards will be responsible and accountable for: local delivery of CJS objectives; improvement in the delivery of justice; the service provided to victims and witnesses; and in securing public confidence. We expect Chief Officers of the local Boards to set clear targets for their staff so that everyone knows what is expected of them in terms of delivering a good performance and how that contributes to delivering a high quality service to their local communities.

## Unified court management

**9.14** In Chapter 4 we set out our intention to legislate to bring the magistrates' courts and the Crown Court closer together, and that collectively, these courts will then be known as 'the criminal courts' when exercising their criminal jurisdiction. This reform will be accompanied by an overhaul of the current fragmented courts administration and management arrangements.

**9.15** At present, magistrates' courts, are administered by 42 independent Magistrates' Courts' Committees largely comprised of magistrates appointed by their peers within the area. The Crown Court, county courts and the appeal courts are administered by the Court Service, an executive agency of the Lord Chancellor's Department.

**9.16** In his Review of the Criminal Courts, Sir Robin Auld found differences in practices, procedures, management and culture to be confusing, divisive and inefficient.<sup>1</sup> Different courts often have different forms and procedures for court users. Organisational boundaries between 43 different court services form an institutional barrier to the effective management of the courts. Wide variations exist in the performance of different Magistrates' Courts' Committees. For example the average time from listing to completion is 37 days in Surrey and 81 days in Bedfordshire.

**9.17** Much has been done to improve joined up working but only so much can be achieved within the current fragmented administrative framework. That is why we intend to legislate to integrate the management of the courts within a single courts agency to replace existing Magistrates' Courts' Committees and the Court Service. This will build on the best attributes of both organisations to work to deliver decentralised management and local accountability within a national framework. The aim of the new agency will be to enable management decisions to be taken locally by community focused local management boards, but within a strong national framework of standards and strategy direction. It will be accountable to Parliament through the Lord Chancellor's Department.

**9.18** We do not seek to set out a blueprint for the new agency – we want that to be developed by those closest to the business in order to suit the needs of the business: people from the magistrates' courts and the Court Service, working together. But there are some clear guiding principles, which we require: integration of management and local flexibility and accountability within a framework of national standards.

**9.19** Currently there is no integrated management of the courts at local level. If we are to have a justice system which is flexible and responsive to local needs that must change. Take, for example, the court estate. Magistrates' Courts' Committees often face tough decisions to close court buildings – in many cases because there is simply not enough magistrates' courts business to justify keeping them open. The Court Service can be in the same position in the same town, or another Magistrates' Courts' Committee can face the same issues a few miles away across the area border.

**9.20** In an integrated system, local managers will have much greater freedom to balance workloads across the civil, criminal and family jurisdictions, making it easier to sustain court services in local areas. This will support our aim to provide the widest possible network of viable local venues, keeping delivery of justice local. Unification will also make it simpler to transfer cases from magistrates' courts to the Crown Court and easier for the courts to engage directly with other criminal justice agencies.

### IMPROVING LOCAL FLEXIBILITY AND ACCOUNTABILITY

**9.21** Local justice is very important. Magistrates and juries are drawn from the local community. It is a great strength of the justice system that members of the community in which the defendants and victims live are engaged in its delivery.

**9.22** The management of the courts also needs to reflect local considerations and have the flexibility to respond to local problems, work with other local partners and be innovative in the way that it works. The new structure will need to ensure sufficient local flexibility and devolved decision making about management issues of importance to the local area.

**9.23** There also needs to be greater accountability to the local community. Many issues dealt with by the courts administration – such as the location of services, or court facilities are of great concern to court users and the community as a whole. At the moment engagement with the local community is voluntary for both the magistrates' courts and the Court Service. Magistrates' Courts' Committees are largely comprised of magistrates appointed by magistrates. There is no requirement for court users, the local community, or Local Authorities to be consulted about many key management decisions.

**9.24** Therefore we expect managers of courts to be accountable to new local management boards which will include representatives drawn for example from the judiciary, the magistracy, local court user groups, victims support groups, Local Authorities and the local community. Precise membership will be decided as the organisational blueprint is developed. We expect the decision making to be decentralised to the local management boards, so that resources can be managed flexibly to meet local requirements. Similarly support arrangements must meet the needs of local managers.

**9.25** But local flexibility cannot be used to excuse wide variations in performance. Local services will need to satisfy clear national standards in performance, financial reporting, and meeting national policy aims. Areas which perform well will earn greater flexibility and autonomy.

## NATIONAL FRAMEWORK

**9.26** The new courts agency will need to operate within a strong, strategic national framework. The strategy, direction and corporate governance principles for the courts will be set at the national level. The Chief Executive and his supporting team will be accountable to Ministers and Parliament for national functions including:

- setting and monitoring performance standards across the courts and stepping in, providing support and taking action when an area is under-performing or performance variations are unacceptable;
- representation of the courts at national level enabling effective dialogue with national organisations like the Law Society and Victim Support;
- responsibility for managing major programmes and projects, like IT, for which there are clear benefits in having a single, large procurement platform; and
- ensuring the provision of expert support to local boards.

**9.27** In addition to criminal work, magistrates' courts deal with a lot of civil and family business. The improvements in the CJS present a good opportunity to make some improvements in processes to link family work in the magistrates' courts more closely with that in the county courts and the High Court. In particular, we will:

- establish a single Family Procedure Rules Committee, to develop rules of court at all levels;
- enable Practice Directions issued by the President of the Family Division to cover family work in all courts; and
- introduce a single fee structure for family work in all courts.

## Modernising procedures

**9.28** Modernisation of the CJS means improving administrative systems and procedures. The unnecessary bureaucracy, form filling and duplication that cause delay and distract front line staff from delivering an accountable and accessible service to the community needs to be removed. But this alone is not enough. We also need to make sure new policy and initiatives do not create any further unnecessary burdens.

### REDUCING ADMINISTRATIVE BURDENS

**9.29** We are working to remove unnecessary bureaucracy through a collaborative project coordinated across the CJS by the Cabinet Office Regulatory Impact Unit. Measures to reduce the burden on police, CPS and courts' staff will be published in the Autumn. This will include efforts to simplify the paperwork that police officers have to complete and measures to reduce duplication in the administration of prosecutions. The Regulatory Impact Unit is planning for the next phase of this work to focus on removing unnecessary burdens affecting probation and prison staff.

**9.30** The Cabinet Office is also piloting a new strategy, the Policy Effects Framework, that aims to prevent unnecessary bureaucracy and red tape arising from new policy in the first place. We will be looking to extend this to CJS policy making areas where appropriate.

### CORONER SERVICE REVIEW

**9.31** Responsibility for the investigation of suspicious and untoward deaths in England and Wales lies with the coroner service. But the antiquated legal framework under which coroners operate has come under increasing strain in recent years in seeking to adapt to the needs of modern society, the needs of victims of crime, and the families of those who have died in disasters and other tragedies.

**9.32** It was for this reason that it was decided last year to conduct an independent, fundamental review of the coroner service, building on the work that had already been done to identify ways to improve the procedures for death certification. The aim is to assess: the purpose of the inquest system; the arrangements for the certification of deaths; the relationship with criminal investigations and other enquiries; and how any new arrangements might best be organised and delivered.

**9.33** The review, which is also addressing the coroner arrangements in Northern Ireland, is due to report by April 2003. Account will also be taken of the findings of the Shipman Inquiry undertaken by Dame Janet Smith.<sup>2</sup>

### Partnership working

**9.34** The new Street Crime Initiative underlines our commitment to working in new ways to tackle crime and reduce offending. We are pulling together all departments and agencies with a stake in streamlining and modernising the service and reducing crime. This has made it possible to identify measures which transcend tradition boundaries, and which if implemented locally as well as nationally, could make the most enormous difference to the effectiveness of the CJS as a whole. In this way, the initiative taken to reduce crime in our streets is proving to be of considerable value in reforming structures and practices as a whole, and therefore having a direct impact nationwide and in the broader task of the service.

**9.35** The need for a partnership approach to addressing the multiple needs of offenders once in contact with the CJS is also apparent. In the light of this, we will examine the ways in which support for the health, education and housing needs of young offenders is currently provided, and how it might be improved in the future, including through better use of existing finance and possible legislation.

**9.36** The success in meeting our pledge to reduce the time between arrest and sentencing of persistent young offenders shows how better co-ordination between CJS agencies can deliver results. Co-location of CJS agencies is a positive innovation in partnership working, which promises to deliver a better service to victims and witnesses, reduce crime and improve public safety.



## Integrated Criminal Justice Centres

Two innovative and integrated Criminal Justice Centres are being developed in Warwickshire. The Centres will speed up justice, give a better service to victims, witnesses and defendants and help local efforts to reduce crime and improve public safety by co-locating all of the county's criminal justice agencies.

Practitioners from the courts, CPS, police, Probation Service and YOTs will be working together with the NHS and voluntary organisations to create new partnership arrangements and modernise the existing single agency approaches. The Centres will deliver joined up justice through improved business processes and IT systems. This innovative approach will improve the quality and timeliness of prosecutions, which will speed up the processing of cases.

Victims and witnesses will receive a better service by receiving help and practical support at all stages of the justice process, especially while they are at court. Cases will be dealt with faster and more efficiently, so the stress of their involvement should also be reduced.

The project in Warwickshire is being reviewed as it progresses, so that the lessons learned can be applied quickly. This will allow us to examine the benefits of co-locating of all local criminal justice agencies and whether to extend this approach to other CJS areas.

## Improving performance management

**9.37** All CJS agencies are required to work towards targets, in some cases jointly, to drive up standards and improve delivery. The five joint PSA targets focus on:

- closing the justice gap (the gap between the number of offences recorded by the police and the number of offences where an offender is brought to justice);
- meeting the needs of victims and witnesses;
- safeguarding the rights of defendants;
- reducing delay; and
- improving public confidence in the CJS.

**9.38** While targets can be very effective performance measures, we recognise that some can generate competing priorities between agencies and others can create conflict and perverse incentives. As a consequence, we are reviewing criminal justice statistics, their definitions and recording arrangements and will be looking at ways of reducing the confusion between them and replacing them with fewer, more meaningful and joint targets.

**9.39** We have established a dedicated CJS Analytical Unit to assist Areas in interpreting performance reports and planning remedial action. The Unit contributes to improved performance information by producing quarterly league tables and quarterly performance reports that enable local data to be compared to the national average.

**9.40** Progressively, the existing performance management framework will be strengthened through:

- Dedicated performance officers in each of the 42 local Criminal Justice Areas. They will support national and local delivery through direct, hands-on monitoring of performance, analysis of problems and early interventions to produce solutions. They will also support local Boards to understand and act on performance data.
- A team of performance advisers at the national level, which will develop expertise in all aspects of criminal justice performance, undertake special studies and support and advise local Boards and their performance officers on what works in improving performance.
- Developing a new management information system to enable Areas to access and use all agency performance information.

## YOUTH JUSTICE BOARD PERFORMANCE MANAGEMENT

**9.41** The YJB has driven up performance in the management and delivery of youth justice in a number of ways. By establishing a performance culture that focuses on outcomes rather than cost and input, the YJB is well positioned to build on its purchaser relationship with prisons and other service providers.

**9.42** Early next year, the YJB will publish 10 guidance notes on effective practice in dealing with young offenders, each of which will include quality assurance indicators. A performance system is also being established for monitors to check performance against the quality assurance indicators. Targets have been set for YOTs for achievement during 2002-03 and performance tables will be published.

## JOINT INSPECTION

**9.43** The role of Inspectorates is crucial to raising CJS performance and supporting transparency and accountability. The more the CJS comes to be managed as one overall system, with consistent measures of performance, the more important it will be that future inspections are conducted and delivered in a cohesive and consistent manner.

**9.44** Sir Robin Auld recognised the potential of joint inspection across the CJS and recommended that joint inspections be placed on a more formal and established footing.<sup>3</sup> We support the recommendation to formalise the role of joint inspection. A new approach on CJS inspections will be developed, with the emphasis on tough joint inspections across CJS agencies, to be done on a thematic or regional basis. This will help to identify and address inefficiencies in the way the CJS works, particularly at the interfaces between agencies, and will support better case management and preparation.

**9.45** The Criminal Justice Chief Inspectors of the CJS (HM Chief Inspectors of Constabulary, the CPS, magistrates' courts, Prisons and Probation) have already established a joint Inspectorates' secretariat to support their activities. The secretariat provides:

- a channel of communication between Inspectorates that will enable improved and joined up practices as well as better mutual awareness and understanding;
- development of coordinated joint inspection projects; and
- support and advice on specific projects that have cross-boundary involvement.

**9.46** We will set up a new independent Inspectorate to look at improving the administrative performance of the magistrates' courts, the Children and Family Court Advisory Support Service and, for the first time, the administration of the Crown Court and county courts. This new body will help to maintain and enhance performance of the courts once their management is unified.

## Delivering joined up information technology (IT) services

**9.47** We are committed to rolling out 'state of the art' IT in the CJS. A new budget of over £600 million will support the modernisation of CJS IT over the next three years, and allow substantial progress towards developing modern case file applications and joining up IT. The money will fund programmes relating to core infrastructure provision, case file and related applications and projects to speed up and facilitate system changes, in accordance with CJS IT priorities.

**9.48** We are working towards meeting three key targets to improve IT systems across the CJS:

- By 2003 secure e-mail will be delivered across the CJS.
- By 2005 all criminal justice organisations will be able to exchange case file information electronically.
- By 2005 victims will begin to be able to track the progress of their case on line.

**9.49** Making the best possible use of IT is fundamental if we are to have a modern, joined up system that delivers fast, effective justice. Sir Robin Auld identified the lack of common IT as one of the main impediments to achieving better overall management of the CJS.<sup>4</sup>

**9.50** With the timely and accurate information that joined up IT will bring will come better quality decisions, whether about bail, charging, the conduct of the prosecution or defence, or the kinds of interventions that are appropriate to address an individual's offending behaviour.

## BETTER CASE MANAGEMENT USING IT

**9.51** Streamlined case management is essential to speeding up justice and fairer outcomes. We are committed to ensuring that the available technology is harnessed to deliver this essential component of a modernised CJS. At present, each agency records the same basic information about a case and the people involved in it, sometimes several times over. To add to this inefficiency, each agency also has its own method of recording that data. Differing ways of recording – whether by defendants, offenders, charges or cases – mean difficulties for agencies in exchanging information. This makes effective case preparation particularly difficult.

**9.52** For the Prison Service, National Probation Service, YOTs and other agencies involved in sentence management, the focus is on individual offenders. There is currently no method of tracking defendants and their associated charges through the system. This means victims, witnesses and others with a legitimate interest in a case cannot easily track its progress, and there is very little information available to manage the performance of the system as a whole.

**9.53** We are already piloting in four magistrates' courts areas a 'what works' information system for sentencers. It provides information showing reconviction rates by offence or sentence type in that area and information from the Probation Service on the availability of community service programmes in that area. We will seek to develop ways and means of keeping abreast of developing thinking on 'what works' and on the effectiveness of particular sentences. We will also monitor these changes in order to identify any adverse impact to any particular racial group.

**9.54** To bring about the modern case management system we want, we must ensure that those working across the CJS are given the fullest support in carrying out their duties. Judges and magistrates will be supported by an extensive training programme to allow them to implement effectively the planned changes. This will not only build on and improve case management skills, develop IT skills, and make the best use of new case management arrangements and sentencing guidelines. It will also help with targeting areas of particular difficulty, such as fraud, bail and organised crime. The Judicial Studies Board will have a much stronger role in magistrates' training, to ensure more consistency in standards across the country, though training will still be carried out locally. Priorities for training will need to be set.

**9.55** We will continue to build on our programme of support for part-time judges, including the expansion of mentoring and appraisal systems in some areas. We will continue the programme of improvements to judicial appointment procedures, as recommended by Sir Leonard Peach's independent scrutiny of appointment processes.<sup>5</sup> Almost all of his recommendations have already been implemented. A Commission for Judicial Appointments was established in March 2001 to maintain a continuing scrutiny of the appointment procedures and deal with complaints about their application, and the use of assessment centres for judicial appointments will be piloted this Autumn.

## 9.56 Harnessing technology to support CJS decision makers is vital for three reasons:

- It will mean decisions around bail, charging, conduct of prosecutions and the kinds of interventions that are appropriate to address an individual's offending behaviour, are well informed. Information that is critical to such decisions may be held by many different agencies and is not always available to those who need it, when they need it, and in the right form;
- It is essential to improving efficiency. As a case moves through the CJS the same information is required by different parts of the system. Without good technology geared towards seamless information transmission, the system becomes bogged down in delay, unnecessary cost, inconsistency, and inefficiency that diverts practitioners from their core work. In addition, inaccurate information can lead to the collapse of a court case or an inability to enforce a penalty; and
- It will mean better quality of service. Users of the CJS, whether victims of crime, witnesses, jurors or CJS staff, expect a responsive service. Exploiting information and communications technology to improve the service is essential to genuine responsiveness, which contributes to better justice outcomes.

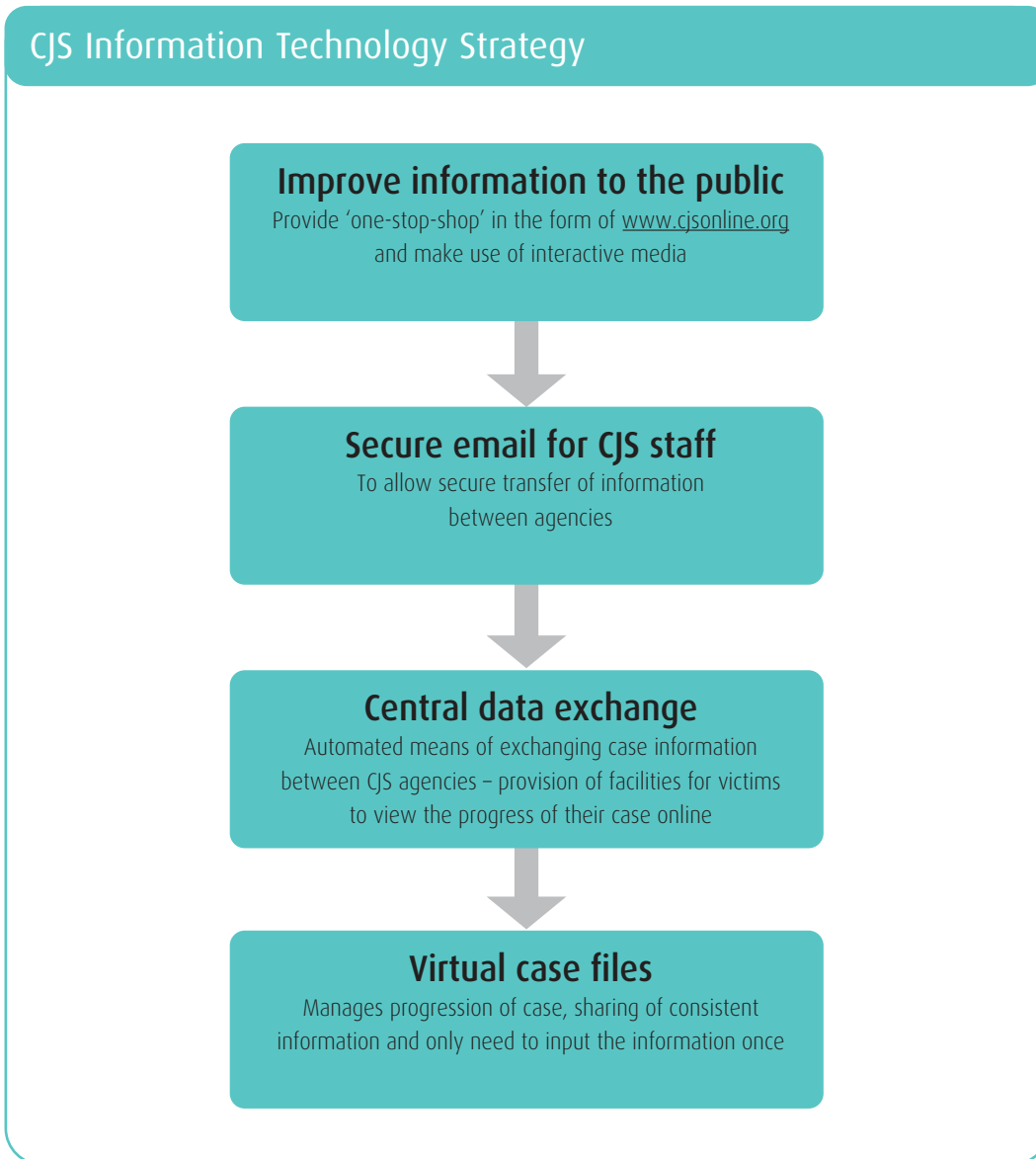
### BUILDING AN INTEGRATED IT SYSTEM

**9.57** Sir Robin Auld proposed building a new integrated IT system.<sup>6</sup> However, whilst recognising some advantages, our preferred approach is to join together the existing and developing IT systems in a staged development, using an 'information walkway' to link individual systems.

**9.58** This alternative approach is consistent with our approach to large IT programmes, as set out in the Cabinet Office report *Successful IT – Modernising Government in Action*.<sup>7</sup> This strongly recommends a modular and evolutionary rather than a 'big bang' approach to IT systems development and integration. Adopting this approach will make sure that money already invested in IT systems will not go to waste, and offers the best balance of benefit, cost and risk avoidance.

**9.59** We have appointed a Minister for Justice Systems Information Technology, whose remit spans criminal, family and civil justice systems and who will chair a new Ministerial Sub-Committee on CJS IT. The sub-committee will oversee the delivery of IT across the CJS, and its effective co-ordination.

**9.60** The Minister will be assisted in this work by a new Criminal Justice IT organisation (CJIT), which will be responsible for designing and implementing a coordinated phased CJS IT Strategy that will deliver on the three key IT targets.



**9.61** We have already started to improve information to the public and practitioners through the launch of two interactive websites:

- <http://www.cjsonline.org> provides a one-stop shop on all the essential aspects of the criminal justice process for the public and a toolbox for criminal justice practitioners.
- <http://www.juror.cjsonline.org> is an audio-visual tour of a typical Crown Court Centre, designed to demystify the process of being a juror. It takes people through the experience of jury service.

**9.62** Investment over the 2000 spending review period and beyond has also been geared towards the continued improvement and expansion of the CJS's computer and information systems capability. Through this investment, it is now possible to lay the foundations for links with the CPS, courts and police in sharing electronic files, allowing the prosecution process to become quicker and more efficient. The tactical programme to take forward the first phase development of 'CJS Services Exchange' is on time and to budget. A demonstrator is being tested and pilots for secure email exchange are in preparation.

**9.63** Pilot schemes are underway to deliver secure transmission of information by e-mail across the CJS by 2003. The pilots include: defence solicitors and counsel in Suffolk exchanging e-mail information with the CPS; YOTs in Essex communicating with the local police force; and barristers using the system to exchange information with Inland Revenue solicitors about a major case.

**9.64** We have also taken the first steps in implementing a central data exchange, which will provide an efficient and, where possible, automated means of exchanging case information between the existing or planned IT systems of the CJS agencies. This means that police, CPS, courts, probation and prisons will be able to exchange case file information electronically and provide victims, with secure access to the exchange, to be able to track the progress of their case on-line.

**9.65** We have commissioned a set of pilot projects to test internet-based technologies to record and disseminate court hearing information to all involved in hearings. This is done in a wide variety of ways – screens in court precincts, the internet, mobile phones, e-mail and pagers. The first pilot is already operating and beginning to prove the real benefits that can be realised, including less wasted time in court, less delay and better service to users of the CJS. The second pilot will go live later this financial year and will test, in live operation, the data exchange technology, which lies at the heart of the Virtual Case File.

**9.66** Step-by-step technological improvements to the central data exchange, coordinated with the use of secure e-mail, will lead to the introduction of virtual case files which will allow criminal justice agencies to:

- manage the progression of a case from start to finish;
- share access to the most up-to-date information, to inform decision-making;
- avoid having to re-key information between systems; and
- access comprehensive and consistent management information.

**9.67** The most pressing task for the CJS is to increase the proportion of offences for which offenders are brought to justice. Getting the whole system to work together better is essential to meeting this aim. It means working better with the resources available, working in partnership at the national and local levels, and making use of technology in smart ways that will deliver the modern, efficient and responsive CJS on which our democracy rests.

## ENDNOTES

- <sup>1</sup> Auld, Sir R. (2001) *Review of the Criminal Courts*, London: The Stationery Office.
- <sup>2</sup> An independent Public Inquiry, chaired by Dame Janet Smith, into the issues arising from the case of Harold Frederick Shipman. Harold Shipman was convicted at Preston Crown Court on 31 January 2000 of the murder of 15 of his patients while he was a General Practitioner at Market Street, Hyde, near Manchester, and of one count of forging a will. He was sentenced to life imprisonment. Police have also investigated allegations that he may have murdered many more patients while he was a GP in Hyde and Todmorden. Dame Janet Smith hopes to deliver a First Report on her findings into Phase 1 to the Secretary of State for Health and the Home Secretary in July 2002. It is not possible at this stage to estimate the date when the final report can be published.
- <sup>3</sup> See 1.
- <sup>4</sup> See 1.
- <sup>5</sup> Peach, Sir, R. (1999) *Independent Scrutiny of the Appointment Processes of Judges and Queen's Counsel*, London: Lord Chancellor's Department.
- <sup>6</sup> See 1.
- <sup>7</sup> *Successful IT: Modernising Government in Action* (2001), London: Cabinet Office.



# The way forward...

The proposals set out in this White Paper are far-reaching, often radical and require a cultural shift. They represent a blueprint for the next decade. We have a challenge ahead and are under no illusion about that, but the case for reform is compelling and we are determined to make it happen. We know what we need to do and a number of important changes are already taking place, in particular, police reform.

Most of the proposals are the result of in-depth and wide ranging consultation, review and analysis, but there are a small number on which we have invited further contributions and these are listed in the Annex.

We believe we have got the proposals right. To make them a reality will require action and commitment on the part of everyone in the CJS, and the belief and participation of the people and communities to whom this service belongs. This should result in a CJS that clearly and consistently puts first the people who suffer the most from crime – the victims – and is never diverted from the principle of ‘justice for all’ on which the system is founded.

# Annex 1

## HOW TO RESPOND TO THE PROPOSALS ON WHICH WE ARE CONSULTING

### Specific proposals on which we would welcome your views

We would welcome your views on the following specific proposals, which are outlined in this White Paper.

#### **1. Trial by judge alone for complex and lengthy trials, and where a jury is at serious risk of bribery or intimidation.**

As we outlined in paragraph 4.31, we would welcome views on whether the court should have the power to direct trial by judge alone in any case that involves such a lengthy and complex hearing that justice would be better served by this alternative. It will be important to ensure that any test governing the exercise of such a power is both workable and effective.

As we outlined in paragraph 4.33, we would also welcome views on whether the option of trial by judge alone should be available in cases where there is a serious risk that the jury will be subject to bribery or intimidation.

#### **2. Whether Crown Courts should retain the discretion to try 16 and 17 year olds and young people when there are adult co-defendants.**

As we outlined in paragraphs 4.37 – 4.39, we would also welcome views on whether to take young defendants out of the Crown Court. One option would be to give the Crown Court discretion to retain serious cases involving 16 and 17 year olds. We are also seeking views on the approach to take in cases where there are adult co-defendants, and they cannot be tried separately because of the nature of the charges. There are several possibilities:

- i. as now, trying the youth with their adult co-defendant in a Crown Court;
- ii. providing for them to be tried together in the strengthened youth court; or
- iii. giving the Crown Court the right to decide the venue for the trial at a preliminary hearing – based on the interests of justice and the maturity and responsibility of the young co-defendant.

The last of these options is the Government's preferred approach.

### 3. New measures to tackle domestic violence.

As we outline in paragraph 8.9, we aim to develop further measures to tackle domestic violence. We would welcome views on the following possible measures:

- extending the use Restraining Orders, over and above those already available under the Protection from Harassment Act 1997;
- making a breach of a non-molestation order obtained from the civil courts a criminal offence, giving rise to the possibility of enforcement through the criminal or the civil courts;
- providing anonymity for victims of domestic violence, such as there is for victims of sexual offences, if this would be likely to improve the likelihood that victims feel able to report offences and disclose what is happening to them with less intrusion to their and their children's privacy; and
- ways of ensuring better liaison between civil courts dealing with actions relating to the family and criminal proceedings for offences, and how the civil and criminal law interrelates. For example, how far can or should civil and criminal proceedings in the same case be coordinated? Can and should remedies available in the civil courts also be available on sentencing in the criminal courts? This is a major project which may be suitable for the Law Commission to take forward.

Any views on these specific proposals should be forwarded to:

JUSTICE FOR ALL TEAM  
Criminal Policy Group, Room 343  
50 Queen Anne's Gate  
London  
SW1H 9AT  
[JusticeForAll@homeoffice.gsi.gov.uk](mailto:JusticeForAll@homeoffice.gsi.gov.uk)

Your comments should be received by **9 October 2002**.

## Rehabilitation of Offenders Act

As we outline in paragraphs 6.32 and 6.33, the Rehabilitation of Offenders Act (1974) has been reviewed and recommendations made to amend disclosure periods so that a better balance is achieved between the need to protect the public from those who continue to pose a serious risk of harm on one hand, and improving the chances that an ex-offender can get a job. We would welcome views on these recommendations. The recommendations are being published separately and copies of the report are available from:

ROA review  
Sentencing and Offences Unit  
Home Office  
50 Queen Anne's Gate  
London SW1H 9AT

Please write with your comments to the same address, or e-mail us at  
ROA.review@homeoffice.gsi.gov.uk

Your comments should be received by **9 October 2002**.

## Departmental contacts

This White Paper covers the work of three government departments.

### Home Office

JUSTICE FOR ALL TEAM  
Criminal Policy Group, Room 343  
50 Queen Anne's Gate  
London  
SW1H 9AT

JusticeForAll@homeoffice.gsi.gov.uk

### Lord Chancellor's Department

Fran Hulme  
Criminal Courts Reform Division  
5th Floor Selborne House  
54-56 Victoria Street  
London SW1E 6QW

Fran.Hulme@lcdhq.gsi.gov.uk

### Crown Prosecution Service

Neil Masters  
Criminal Policy Division  
United House  
Piccadilly  
York YO1 9PQ

Neil.Masters@cps.gsi.gov.uk

# Annex 2

## BUILDING ON *CRIMINAL JUSTICE:* *THE WAY AHEAD*

We published *Criminal Justice: The Way Ahead* in February 2001. The key reforms set out included:

- **An improved policing service** – with an enhanced detective capability, a new joint central body to set out a service-wide approach to technology, record numbers of officers, experimental accreditation of non-police contributions to community safety, easier ways for the public to get in touch with the police, and a better career management process for the police.
- **More effective prosecutions** – with increased investment in the CPS, a specialist cadre of prosecutors to deal with organised and serious crime, and a new consolidation of the criminal code. Options to be explored included improving the running of the Criminal Courts with specialist hearings, for example for drugs offences or domestic violence, extended business hours to cut delay, and online information for the public.
- **Punishments to fit the criminal as well as the crime** – informed by the review of sentencing by John Halliday, then nearing completion. This included exploring new, more flexible community sentences providing sentencers with a menu of options to choose from, according to the need for punishment, crime reduction and reparation.
- **Putting the needs of victims and witnesses at the heart of the process** – with court familiarisation visits and improved court waiting facilities, the introduction of Victim Personal statements, a new role for the CPS in keeping victims informed about the progress of cases, consultation on a new Victim's Charter, including a Victim's Ombudsman, and the opportunity for victims to report minor crime online.
- **Better care and rehabilitation in and after prison** – with funding for extra prison places, more investment in employment placements, basic skills training, offending behaviour programmes, drug treatment in prison and by 2004, a new Custody to Work programme. And after release from prison, more effective reintegration from custody into the community, through new 'Custody Plus' and other sentences.

This White Paper builds on that vision, and articulates the themes set out in *The Way Ahead* for the whole CJS one year on – setting out the key actions already in place or taking place, and what we plan to do next, to fulfil and build on the promises in that vision. Our radical programme of police reform was set out in *Policing a New Century: a Blueprint for Reform* (December 2001).

# Glossary

**Acceptable Behaviour Contracts (ABC)** – Acceptable Behaviour Contracts are informal. A police officer and a representative of the Local Authority housing department meet with the young person and their parents and together they agree a contract specifying how the individual should behave, for instance stating that they should not be abusive towards others.

**Action Plan Order** – The Action Plan Order is a three month community sentence designed to provide a short but intensive and individually tailored response to offending behaviour, so that factors associated with the offending can be addressed as well as the offending itself. The Action Plan Order is available where a child or young person (10-17) is convicted of any offence other than one for which the sentence is fixed by law. It provides an early opportunity for targeted intervention to help prevent further offending.

**Anti-Social Behaviour Orders (ASBOs)** – Anti-Social Behaviour Orders (ASBOs) are civil orders made by a magistrates' court on the application of the police or Local Authority. They prohibit the individual from certain acts or from entering particular areas, and often include prohibitions on inciting or encouraging others to commit specified anti-social acts. Breaching an ASBO is a criminal offence.

**Arrest Referral Schemes** – Partnership initiatives between police, Drug Action Teams and local agencies aimed at identifying problem drug users at the point of arrest and referring them into treatment or programmes of help.

**Association of Chief Police Officers (ACPO)** – The Association of Chief Police Officers exists to promote leadership excellence by the chief officers of the Police Service, to assist in setting the policing agenda by providing professional opinion on key issues identified to the Government, appropriate organisations and individuals and to be the corporate voice of the Service.

**Association of Police Authorities** – The Association of Police Authorities was set up on 1 April 1997 to represent police authorities in England, Wales and Northern Ireland. It is an autonomous body working in partnership with the Local Government Association.

**Attorney General** – Has specific statutory responsibility to superintend the discharge of the duties of the Director of Public Prosecution and the Director of the Serious Fraud Office. The Attorney General is a peer or a Member of Parliament for the party in power and holds ministerial office.

**Attrition** – See Justice Gap.

**Audit Commission** – The Audit Commission was established in 1982 to take responsibility for Local Authority audits. Its staff are civil servants who audit the accounts of all Local Authorities except those who choose to be audited by approved commercial accountants.

**Auld Review** – Lord Justice Auld’s *Review of the Criminal Courts* of England and Wales, published October 2001. <http://www.criminal-courts-review.org.uk/>

**Bail Information Scheme** – This is a scheme whereby independent, verified information is gathered on the circumstances of the defendant/prisoner including on risk of harm to the public, either by the local probation service or the prison establishment to assist the court in making decisions on bail.

**Bail Supervision and Support Schemes** – These are run by the Youth Justice Board and are designed to provide a good level of supervision and activities for young people on bail. The aims are to stop offending on bail, reduce the number of young people remanded to custody and ensure young people attend court as required.

**The Bar** – Barristers, collectively.

**Basic Command Unit** – A standard police operational unit, usually a Superintendent led district or division within a police force area.

**Best Value** – The duty of Best Value, introduced in the Local Government Act 1999 requires authorities to set themselves demanding targets for service improvements, and to report to local people on the level of performance achieved and the manner in which services are delivered.

**Case Preparation and Progression Project** – The Government has established a Case Preparation and Progression Project to bring together all the participants in the pre-trial process and deliver a reformed, modernised process for case preparation and progression at all stages of the CJS, from charging to sentence. The overall aim of the project is to provide a smoother, more efficient passage of cases through the courts, which reflects and meets the needs and rights of all participants. It will include the disclosure process.

**Central Jury Summoning Bureau (CJSB)** – We have established a new Central Jury Summoning Bureau (CJSB) designed to improve the management of the jury process. This has led to better management of the process and new web-based services to make it easier for jurors to respond online and provide more information about their role in the trial process.

**Children’s Fund** – A £450 million Children’s Fund to help tackle child poverty and social exclusion was launched on 15th November 2000. The Fund is managed by the new Children and Young People’s Unit, which works across Whitehall departments.

**Code for Crown Prosecutors** – The Code is issued under section 10 of the Prosecution of Offences Act 1985 and gives guidance on the general principles to be applied when making decisions about prosecutions. The Code is a public document and is available on the CPS Web site: [www.cps.gov.uk](http://www.cps.gov.uk)

**Codification** – A written code bringing together in one place all existing criminal law, including offences, evidence, procedure and sentencing.

**Commissioner on Public Appointments** – The independent Commissioner for Public Appointments monitors, regulates and provides advice on departments’ appointment procedures for executive non-departmental public bodies and NHS.

**Commission for Judicial Appointments** – Responsible for a continuous audit of the processes and policies for making and reviewing judicial appointments, for handling grievances and appeals resulting from the application of these processes and policies, and for making recommendations to the Lord Chancellor for improvements and changes.

**Commission for Racial Equality** – The Commission for Racial Equality is a publicly funded, non-governmental body set up under the Race Relations Act 1976 to tackle racial discrimination and promote racial equality. It works in both the public and private sectors to encourage fair treatment and to promote equal opportunities for everyone, regardless of their race, colour, nationality, or national or ethnic origin.

**Communities Against Drugs (CAD)** – A funding stream whereby Crime and Disorder Reduction Partnerships are awarded funds to work with the Police and Drug Action Teams to develop action against drug markets and drug related crime, and to strengthen communities to resist drug use.

**Community Legal Service (CLS)** – The Community Legal Service (CLS) provides the framework for local networks of advice and guidance services and is an important part of the Lord Chancellor's Department's greater involvement in the wider social agenda. Delivered through local partnerships now covering over 99% of people in England and Wales (100% by March 2004), the aim of the CLS is to improve access to good quality legal help and information so that people can resolve actual or potential disputes and enforce their rights effectively. The emphasis is on early preventative intervention. The partnerships usually consist of local authorities, solicitors and voluntary and community organisations such as Citizens Advice Bureaux.

**Conditional Cautioning** – A proposal that the CPS may in certain borderline cases decide that the public interest and the interests of justice may be better served if a defendant, who is admitting responsibility for the offence, agrees to be given a caution with conditions that may be to compensate the victim or to undergo treatment or training. The scheme is an alternative to prosecution. Failure to comply with the conditions could result in prosecution for the original offence.

**Connexions Service** – Connexions is the Government's support scheme for all young people aged 13-19 in England. The service aims to provide integrated guidance and access to personal development opportunities for this group and to help them make a smooth transition to adulthood and working life.

**Correctional Services Accreditation Panel** – The Correctional Services Accreditation Panel defines the standards to be met in the content and delivery of accredited programmes in prison and probation – 'What Works'. These are specific structured courses designed to address the factors that give rise to offending, such as thinking or social skills. Most programmes also include an element of helping to increase victim empathy, so that offenders can understand the impact of their behaviour on others.

**Correctional Services Board** – Chaired by the Minister for Community and Custodial Provision, the heads of the Prison Service, National Probation Service and the YJB sit on the Board. It is responsible for setting the over-arching strategy for these three services.



**Court of Appeal** – The Court of Appeal forms part of the Supreme Court of Judicature and exercises the power to hear appeals over all judgements and orders of the High Court and most determinations of judges of the county courts.

**Cracked Trial** – A trial that has been listed for a not guilty hearing on a particular day but does not proceed, either because the defendant pleads guilty to the whole or part of the indictment, or an alternative charge, or because the prosecution offer no evidence.

**Creative Partnerships** – Creative Partnerships work in the most deprived areas, giving teachers and school staff the support they need to bring drama and art into the classroom.

**Crime and Disorder Reduction Partnerships** – The 1998 Crime and Disorder Act established partnerships between the police, Local Authorities, probation service, health authorities, the voluntary sector, and local residents and businesses, and places new obligations on Local Authorities, the police, police authorities, health authorities and probation committees (amongst others) to co-operate in the development and implementation of a strategy for tackling crime and disorder in their area.

**Crime Reduction Programme (CRP)** – The CRP is a £250 million programme running for 3 years from April 1999 and which is taking an evidence-based approach to reducing crime in England and Wales. The CRP is comprised of a series of diverse initiatives each supporting a range of projects on the ground. Those projects which are being undertaken by local agencies will be monitored by dedicated teams based in the Government Offices for the regions.

**Criminal Cases Review Commission** – The Criminal Cases Review Commission is an independent body established under the Criminal Appeal Act 1995. The Commission's role is to review and investigate suspected miscarriages of justice in England, Wales and Northern Ireland and to refer a conviction, verdict, finding or sentence to the appropriate court of appeal when it considers that there is a real possibility that it would not be upheld.

**Criminal Defence Service (CDS)** – The Criminal Defence Service provides criminal defence services to those suspected or accused of crimes through a mix of contracts with private lawyers and salaried defenders.

**Criminal Injuries Compensation Authority** – The Criminal Injuries Compensation Authority (CICA) administers the Criminal Injuries Compensation Scheme under which blameless victims of violent crime can get compensation from the State. It is a Non-Departmental Public Body, sponsored by the Home Office.

**Criminal Justice Council** – The proposed Criminal Justice Council will function as an expert consultative and advisory body with a wide ranging membership drawn from across the CJS and outside.

**Criminal Justice System (CJS)** – The criminal justice system in England and Wales is made up of several separate agencies and departments which are responsible for various aspects of the work of maintaining law and order and the administration of justice. The main agencies of the CJS include:

- Police Forces
- The Crown Prosecution Service
- The Serious Fraud Office
- Magistrates’ courts
- The Crown Court
- The Court of Appeal, Criminal Division
- The Prison Service
- The National Probation Service

The Home Office, Attorney General’s Office and Lord Chancellor’s Department are the three main government departments with responsibility for the CJS, setting the policy framework, objectives and targets.

**Criminal Justice Unit (CJU)** – A single administrative unit, co-locating Police and CPS staff in order to maximise efficiency and eliminate duplications. Following the Glidewell Review in 1998, the police and CPS in parts of the country have been working together in CJUs preparing cases for the magistrates’ courts. Co-located CJUs reduce duplication and delay, improve working relationships and offer police investigators ready access to early legal advice by CPS lawyers. Co-located CJUs are usually located in a police station.

**Criminal Justice: The Way Ahead** – Command paper by the Home Office (CM 5074 2001) outlining plans for criminal justice reform, specifically preventing and addressing offending and reforming the CJS.

**Cross-Cutting** – Any measure that applies to more than one organisation or agency.

**Crown Court** – The Crown Court has an unlimited jurisdiction over all criminal cases tried on indictment and also acts as a court for the hearing of appeals from magistrates’ courts.

**Crown Court Rules Committee** – The Crown Court Rules Committee makes the rules that regulate the practice and procedure of the Crown Court.

**Crown Prosecution Service (CPS)** – The Crown Prosecution Service headed by the Director of Public Prosecutions was set up in 1986 to prosecute criminal cases started by the police throughout England and Wales. It is answerable to Parliament through its superintending minister, the Attorney General.

**Custody Minus** – Custody Minus is a prison sentence suspended for two years while an offender completes a demanding set of activities in the community, such as unpaid work, offender behaviour programmes, drug treatment and so on. Any breach of the community part of the sentence will lead to immediate imprisonment.

**Custody Plus** – Custody Plus will consist of a maximum period of 3 months in custody followed by a compulsory period of supervision in the community within an overall sentence envelope of no more than 12 months. During the period in the community, the offender will be subject to rigorous requirements, which will be designed to address the particular factors that underlie their criminal behaviour and cause them to reoffend. The Pre-Sentence Report will set out the individual needs for each offender and ensure that components of the community sentence are tailored to the individual offender.

**Deferred Cautioning** – Deferred cautioning focuses on adult drug users who are arrested for the first time for possessing small amounts of Class A or Class B drugs usually for personal use and for whom a caution would normally be the appropriate action. The offender is not cautioned at once but placed on police bail, and the decision whether or not to caution is deferred for several weeks to allow them to get help from a drug agency. If the offender engages with the agency, and shows good progress, the police would take no further action.

**Designated Case Worker (DCW)** – Non lawyer member of the CPS, who has undertaken an accredited training course and is designated by the DPP to review and present straightforward cases, including early guilty pleas in the magistrates' court.

**Detection** – 'Detected' crimes are those that have been 'cleared up' by the police. For any crime to be counted as detected there has to have been a notifiable offence that has been committed and recorded, an identified suspect and sufficient evidence to charge that suspect. Also the victim has to have been informed that the offence has been 'cleared up' (i.e. with the suspect charged, summoned, cautioned or reprimanded, or the police, for various reasons, taking no further action).

**Director of Public Prosecutions (DPP)** – The head of the CPS appointed by the Attorney General. The DPP, through the CPS is responsible for the conduct of all criminal prosecutions instituted by the police and he may intervene in any criminal proceedings when appropriate.

**Disclosure** – The pre-trial procedure whereby the prosecution shows to or informs the defence of all the material that has been gathered during the investigation which is relevant to the case but is not intended to be used at the trial. The material is referred to as 'unused material'.

**Discontinuance** – Discontinuance is a statutory function of the CPS enabling the prosecutor to stop a prosecution, after it has started, when there is either not enough evidence for a realistic prospect of conviction or the public interest does not require a prosecution. It is available in all cases in the magistrates' court at any time before the defendant has pleaded guilty or the trial has started and, in some cases only, in the Crown Court before the Indictment has been brought. In reviewing and deciding whether to discontinue a case, the prosecutor will be guided by the principles set out in the Code for Crown Prosecutors. Review of a case is a continuing process and the Crown Prosecutor must take account of any change in circumstances

**District Judges** – Professionally-qualified members of the judiciary. District Judges (Civil) sit in the county courts and deal with most of the business of those courts; District Judges for magistrates' courts, (previously known as Stipendiary Magistrates) hear cases in magistrates' courts either alone or alongside lay Justices of the Peace, and can assist in particular by hearing the lengthier and more complex matters.

**DNA Database** – The national DNA Database helps to achieve more effective detection and prosecution of cases. The Database allows forces to take DNA samples from offenders for all recordable offences, whereas before most forces concentrated their limited resources on sampling offenders for burglary, sexual and violent offences. So far we have expanded the DNA Database to 1.5 million offender profiles.

**Domestic Violence Unit (DVU)** – This unit will bring together expertise from the Departments with the key responsibilities in reducing domestic violence – the Home Office, Health, Education and Skills, the Office of the Deputy Prime Minister, the Lord Chancellor’s Department, and the Crown Prosecution Service. Working on a genuinely cross-cutting basis, the Unit will support Ministers in driving forward key programmes to ensure that our public services – health, education, housing, and the CJS – work together more effectively in a common commitment to bring down the levels of domestic violence in Britain today.

**Double Jeopardy** – The current rule against double jeopardy is a safeguard for acquitted defendants whereby a person cannot be tried twice for the same offence.

**Drug Action Teams** – Multi-agency groups set up to co-ordinate local action on drug misuse. They bring together senior representatives of agencies including health, local authority, police, probation, social services, education and youth services and the voluntary sector.

**Drug Testing** – The Criminal Justice and Court Services Act 2000 gave police the power to drug test detainees in police custody and courts the powers to order drug testing of offenders under the supervision of the probation service. The testing is restricted to specified Class A drugs heroin and crack/cocaine. The new powers currently apply to those over 18 charged with trigger offences (these include property crime, robbery and specified Class A drug offences). These powers are being piloted in 9 sites.

**Drug Testing and Treatment Orders (DTTOs)** – The DTTO is a community sentence that requires the offender: to undergo treatment and other programmes designed to break the drugs habit and stop reoffending; be tested regularly for illegal drugs; and attend regular court reviews of his or her progress.

**Educational Supervision Orders (ESO)** – These are applied for by a Local Education Authority to place a child of compulsory school age who is not being properly educated under the supervision of the Local Education Authority.

**Either-way Offence** – A criminal offence that can be tried in either the magistrates’ court or in the Crown Court. Usually, they are offences that may be, but are not always, serious or involving dishonesty. Magistrates’ courts can decline to hear an either-way offence if they consider they do not have power to sentence appropriately. A defendant has a right to elect a Crown Court trial for either-way offences.

**Electoral Commission** – The Electoral Commission is a public body which was set up in November 2000 under the Political Parties, Elections and Referendums Act 2000. It is independent of the Government and is not connected to any political organisation.

**Evidence in Chief** – The initial evidence given by a witness for the party who called him or her, before being cross-examined by the other party.

**Excellence in Cities** – A programme to raise standards and to change parental expectations of city education in six of the largest conurbations – London, Manchester/Salford, Liverpool/Knowsley, Birmingham, Leeds/Bradford and Sheffield/Rotherham. A total of £350 million is being invested over three years.

**Extended Court Sitting Hours Project** – The aim of this project is to find the most cost-effective and flexible means of meeting the commitment in *Criminal Justice: The Way Ahead*, that courts in crime hotspots should sit into the evening and at weekends, if this would have an impact on delays, deter local criminals, improve access to justice and help reassure local communities.

**Family Liaison Officers** – A police officer who is responsible for maintaining communication with the victims family.

**Final Warning scheme** – In June 2000 this scheme replaced repeat police cautions for young offenders (aged 10-17) with a statutory scheme which limits police discretion in pre-court decision-making so that usually only two minor offences can be dealt with outside the judicial system. Intervention programmes are provided by YOTs to prevent reoffending.

**Forensic Science Service (FSS)** – The Forensic Science Service is an executive agency of the Home Office. The purpose of the FSS is to serve the administration of justice principally by providing scientific support in the investigation of crime and expert evidence to the courts. It aims to do so with efficiency, effectiveness and economy.

**Halliday Report** – John Halliday’s report of a review of the sentencing framework for England and Wales, *Making Punishments Work*, published July 2001.

**Her Majesty’s Inspectorate of Constabulary (HMIC)** – For well over a century HM Inspectors of Constabulary (HMIs) have been charged with examining and improving the efficiency of the Police Service in England and Wales.

**Higher Court Advocate (HCA)** – An employed lawyer entitled to appear as an advocate in the higher courts, that is the High Court, Crown Court and Appellate Courts.

**HM CPS Inspectorate (HMCPSI)** – An independent statutory body to promote the efficiency and effectiveness of the CPS casework and supporting management functions through a process of inspection and evaluation, the provision of advice and the identification and promotion of good practice achieved through a process of inspection of the 42 Areas and Head Quarter’s functions.

**Home Affairs Select Committee** – The committee with a membership selected from the House of Commons appointed to inquire into and report on Home Affairs matters on behalf of the House.

**Home Office (HO)** – The Home Office is the Government department responsible for internal affairs in England and Wales. The purpose of the Home Office is to work with individuals and communities to build a safe, just and tolerant society enhancing opportunities for all and in which rights and responsibilities go hand in hand, and the protection and security of the public are maintained and enhanced. In particular the HO is responsible for the law relating to criminal procedure, evidence, offences and sentencing and for the Probation and Prison Services.

**Homesafe** – Institute of Home Safety. The aims and objectives of the Institute are: to encourage the development of the highest standards of approach to home safety education and training; to promote professional liaison and exchange of knowledge; to co-operate with other bodies; and to provide a representative body of opinion in home safety matters.

**Home Secretary** – The Secretary of State for the Home Department in charge of the Home Office, who is responsible throughout England and Wales for law and order generally and for a variety of other domestic matters.

**Independent Police Complaints Commission** – Gives greater reassurance that complaints will be investigated openly, fairly and effectively.

**Indictable Only Offence** – An Indictable-only offence is a category of criminal offence that can only be tried in the Crown Court. Indictable-only offences include offences such as murder and manslaughter.

**Individual Support Order** – These will apply to young people with ASBOs, and they require the young person to undertake education-related activities.

**Ineffective Trial** – A trial that is unable to proceed on the day that it was scheduled to start. The reasons for this are various, including the non-attendance of a prosecution or defence witness, the failure of the defendant to appear, either the prosecution or the defence not being ready for trial, or a court room or judge not being available.

**Intensive Supervision & Surveillance Programme (ISSP)** – ISSP is the most rigorous, non-custodial intervention available for young offenders. It is targeting 2,500 of the most prolific young offenders a year who are responsible for a quarter of all youth crime. Young offenders on ISSP can be subject to intensive monitoring for up to 24 hours a day, seven days a week, if necessary. They are also subject to a highly structured programme of activities for 25 hours a week for 3 months. Core elements include education and training, interventions to tackle offending behaviour and reparation to victims. It is available for convicted young offenders and to prevent persistent young offenders on bail from committing more crimes whilst on bail.

**Intermittent Custody** – Intermittent custody is a sentence that consists of a prison sentence served intermittently (for example weekends) together with a period of supervised activities in the community, which continues throughout.

**Judicial Studies Board (JSB)** – The Judicial Studies Board provides training and instruction for all full-time and part-time judges in England and Wales in the skills necessary to be a judge. It also has an advisory role in the training of lay magistrates and of chairmen and members of tribunals.

**Justice Gap** – The gap that has developed between the number of crimes committed and the number of criminals convicted by a criminal court.

**Juvenile court** – See entry for ‘youth court’. The Criminal Justice Act 1991 altered the name of the ‘juvenile court’ to the ‘youth court’ and raised the age limit to include young people aged 17.

**Law Commission** – A body established by the Law Commission Act 1965 to take and keep the law under review with a view to systematically developing and reforming it.

**Law Society** – The professional body for solicitors in England and Wales.

**Learning Support Units** – Learning Support Units have been set up in schools to help to keep young people in mainstream education.

**Local Authorities Secure Electronic Register project (LASER project)** – LASER project is to ensure that the Central Jury Summoning Bureau has access to up-to-date records for the purpose of calling juries.

**Local Authority Secure Units** – These are licensed by the Department of Health, and provide welfare as well as criminal justice placements. The Youth Justice Board manages contracts with these homes to provide placements for remanded and sentenced juveniles.

**Local Criminal Justice Boards (LCJBs)** – 42 Criminal Justice Boards (LCJBs) which will deliver the key objectives and targets of the National Criminal Justice Board at the local level. Chief Officers from Police, Probation, Courts, CPS and Prisons would form the core members of the local Boards.

**Local Crime Reduction Partnerships** – See Crime and Disorder Reduction Partnerships.

**Locks for Pensioners** – Up to £12 million has been allocated for providing improved home security for low-income pensioners living in England and Wales.

**Lord Chancellor** – The head of the judiciary, a government minister and Speaker of the House of Lords.

**Lord Chancellor’s Department (LCD)** – The Lord Chancellor’s main departmental role is to secure the efficient administration of justice in England and Wales. Broadly speaking he is responsible for:

- The effective management of the courts.
- The appointment of judges, magistrates and other judicial office holders.
- The administration of legal aid.
- The oversight of a wide programme of Government civil legislation and reform in such fields as human rights, freedom of information, data protection, family law, property law, defamation and legal aid.

**Lord Chief Justice** – The chief judge of the Queen’s Bench Division of the High Court. He ranks second only to the Lord Chancellor in the judicial hierarchy.

**Lord Justice of Appeal** – A judge of the Court of Appeal.

**Magistrates' courts** – The principal function of magistrates' courts is to provide the forum in which all criminal prosecutions are initiated and most decided.

**Multi-Agency Public Protection Panels** – Multi-Agency Public Protection Panels monitor and manage dangerous and high profile offenders in local communities across England and Wales. Police and probation form the heart of the panels, but we shall be bringing other agencies and lay representatives into them.

**National Criminal Justice Board** – The body to be responsible for providing expert advice and support to the Cabinet Committee and for managing and improving delivery of the CJS aims and objectives. Membership is drawn from the 'core' Criminal Justice Agencies. Responsibility also for overseeing and directing the work of the local Criminal Justice Boards (see definition above).

**National Neighbourhood Watch Association** – The National Neighbourhood Watch Association (NNWA) is the national charity that supports, promotes and represents local Neighbourhood Watch groups in the UK. The NNWA aims to make neighbourhood watch a centre of excellence for community safety, by reducing crime, opportunities for crime and the fear of crime and by enhancing good citizenship and community spirit.

**National Probation Service** – The National Probation Service was created by statute and has 42 local probation boards, charged with providing probation services in their area subject to the direction of the Secretary of State, and a National Probation Directorate led by the National Director within the Home Office. The Service carries out several key functions within the CJS, including the preparation of reports for the courts to assist them in deciding on the most appropriate sentence, supervising offenders given community sentences, supervising offenders on release on licence from prison and giving victims of relevant information about prisoners sentenced to 12 months or more for violent or sexual offences.

**National Victims Advisory Panel** – A panel drawn from diverse communities and representatives of victims' groups and others affected by crime. Initially the Panel will inform and advise us on the implementation of the new National Strategy for Victims and Witnesses. Once this is in place, the Panel may act as the Victims' Commissioner's Advisory Body. Both will play a pivotal role in helping us, and all the criminal justice agencies, develop and monitor policies that seek to improve provision for victims and witnesses.

**Open All Hours** – Open All Hours was a HM Inspectorate of Constabulary Thematic Inspection report on the role of police visibility and accessibility in public reassurance (2001).

**PACE** – Police and Criminal Evidence Act 1984. PACE and the Codes of Practice set out police powers and procedures for arrest, detention and interviewing of those suspected of having committed criminal offences and for gathering and handling evidence.



**Parenting Orders** – The order is designed to help and support parents or guardians in addressing their child’s anti-social or offending behaviour. Parenting Orders are designed to help parents keep their children out of trouble and can ensure their child goes to school every day and does not stay out at night unattended. Parents can also receive practical advice on tackling challenging behaviour. Parenting Orders are not designed to punish the parent, but to provide help and support.

**Parliamentary Commissioner for Administration** – The Parliamentary Commissioner for Administration (also called the Parliamentary Ombudsman) deals with complaints from members of the public that they have suffered injustice because of maladministration by government departments or certain other public bodies. He also deals with complaints about problems in obtaining access to official information.

**Parole Board** – The Parole Board for England and Wales exists to make risk assessments to inform the decisions on the release and recall of prisoners with the ultimate aim of protecting the public and successfully reintegrating prisoners into the community.

**Persistent Offender Project** – The Persistent Offender Project is a 3-year project aimed at catching, bringing to justice and rehabilitating offenders who are responsible for a disproportionate amount of crime. It is the first step towards the Government’s manifesto commitment to ‘double the chance of a persistent offender being caught and punished by 2011’.

**Persistent Offender Task Force** – The Persistent Offender Task Force is responsible for delivery of narrowing the justice gap and the persistent offender target. The Task Force comprises senior representatives from services and agencies across the CJS (ACPO, APA, CPS, Court Service, NPD, YJB, HO) and from HM Treasury and No. 10 Delivery Unit.

**Police Bureaucracy Task Force** – The Home Secretary has established a Task Force under the leadership of Sir David O’Dowd, the retired Chief Inspector of Constabulary, to identify ways to achieve to reduce the burden of bureaucracy on the police.

**Police Federation** – The Police Federation of England and Wales is the representative body to which every police officer below the rank of Superintendent belongs. It was established by the Police Act 1919 to provide the police with a means of bringing their views on welfare and efficiency to the notice of the government and the police authorities, as it is forbidden for the police to join trades unions.

**Police National Computer (PNC)** – The national computer that records police information on those arrested and prosecuted for crimes.

**Preparatory Hearing** – A special type of hearing, established by statute, which is currently available to assist in the management of certain fraud trials and other complex and lengthy cases. It constitutes the start of the trial, but takes place before the jury has been sworn in.

**Pre-Sentence Report** – The Pre-Sentence Report (PSR) is prepared by the Probation Service (or Youth Offending Team for young offenders) to aid the sentencer when the sentence or the offence in question can be either a community penalty or custody. After the offender has been found guilty, the court will be adjourned specifically for preparation of the report. It is copied to the defence lawyer and the prosecutor.

**Pre-trial Hearing** – This is a non-statutory hearing held before the trial begins to assist the management of the trial.

**Procurator Fiscal** – The Procurator Fiscal is responsible for charging and prosecuting persons in Scotland suspected of having committed criminal offences.

**Institute for Public Policy Research** – An independent think tank which produces research and policy papers.

**Pupil Referral Unit (PRU)** – PRUs are legally a type of school with the main objective to provide temporary education for pupils who cannot attend a mainstream school. The focus of the PRU should be primarily to get pupils back into a mainstream school as soon as possible. PRUs deal with proportionately more disadvantaged and disaffected pupils. PRUs can be inspected by Office for Standards in Education (OFSTED) although the inspection regime differs to that of mainstream schools.

**Quality Protects** – Quality Protects focuses on working with some of the most disadvantaged and vulnerable ‘at risk’ children in society; those children looked after by the councils in child protection system; and other children in need. It sets standards and monitors compliance.

**Rape Crisis Federation** – The Rape Crisis Federation was launched in October 1996 and exists to provide a range of facilities and resources to enable the continuance and development of Rape Crisis Groups throughout Wales and England. The Rape Crisis Federation is the umbrella body for some 30 rape crisis centres across England and Wales which support female victims of sexual crime. It provides support services to its member groups and contributes to the development of policy on rape and sexual crime.

**Reducing Burglary Initiative** – Eight schemes to cut domestic burglaries in Yorkshire and Humberside have received funding worth £1,157,298. The schemes have helped to protect more than 52,000 homes across the region. The initiative is part of the latest phase of the Government’s £50 million reducing burglary initiative and over 125,000 homes in the region have now benefited from its work.

**Referral Orders** – Will be the primary sentence for young people coming before the court with no previous convictions, who plead guilty and do not warrant a custodial sentence or an absolute discharge. A Youth Offender Panel will agree a programme with the young person to tackle the underlying causes of their offending behaviour, including reparation and to repair the harm done.

**Regulatory Impact Unit (RIU)** – This is a Cabinet Office unit that works with other government departments, agencies and regulators to help ensure that regulations are fair and effective.

**Reported Evidence** – Hearsay. Evidence of the oral statements of a person other than the witness who is testifying and statements in documents offered to prove the truth of what was asserted.

**Resident Judges** – Resident Judges are appointed for each Crown Court centre. The Resident Judge acts as leader of the full- and part-time judiciary assigned to the centre, offering support and guidance. A Resident Judge also provides links between Circuit judiciary and (a) senior judiciary (b) the court administration.

**Restorative Justice** – Restorative justice schemes bring together all parties (offender, victim, friends, family, community representatives and others) with a stake in a specific offence to resolve how to deal with the aftermath of the offence and any implications for the future. It can help offenders to understand that their offending behaviour is not just against the law, but also has a damaging effect on their victims, themselves and on their communities. It also gives more of a voice to victims and communities by bringing them into the process and involving them in the solution.

**Safer Communities Initiative** – The Safer Communities Initiative addresses crime and disorder in communities, and is based on the recognition that crime tends to involve repeat victims, persistent offenders and be geographically concentrated in so-called ‘crime hotspots’. The Safer Communities Initiative will invest £20million in 2002-2003 to address crime and disorder in local communities. Under this initiative a number of schemes such as pub-watch and approved tenancy schemes to tackle anti-social behaviour have been established. Other innovations include mobile police stations and burglary projects.

**Safer Schools Partnership Scheme** – The Safer Schools Partnership Scheme is being established initially in the 10 police force areas with the highest levels of street crime. A full time police officer will be based in a selected secondary school and its feeder primary schools. The aim is to identify and work with those children and young people at high risk of victimisation, offending and social exclusion and support school staff in dealing with incidents of crime, victimisation or anti-social behaviour.

**Scanning Analysis Response Assessment (SARA)** – SARA has been used for some time in problem-oriented policing (POP) as a methodical process for problem solving. It is of use to crime reduction practitioners in any field as applying the process can ensure that a crime problem is effectively identified and tackled, avoiding any waste of time and resources if only part of the actual problem is identified.

**Secure Training Centres** – These hold remanded and sentenced young people aged 12-17 and provide a constructive regime which focuses on education, vocational training, and tackling offending behaviour. STCs are operated by private contractors under Private Finance Initiative contracts managed by the Youth Justice Board for England and Wales.

**Sentencing Advisory Panel** – The Sentencing Advisory Panel is an independent public body charged by the Home Office with encouraging consistency in sentencing throughout the courts of England and Wales.

**Sentencing Guidelines Council** – The Sentencing Guidelines Council will set guidelines for sentencing the full range of criminal offences. It will be chaired by the Lord Chief Justice. Members of the Council will be drawn from the Court of Appeal as well as from the High Court, the Crown Court and the magistrates' court. The Council will have a responsibility to publish its guidelines in a way that is easily accessible to the public as well as to the judiciary and other legal practitioners.

**Sex Offender Order** – Introduced in the Crime and Disorder Act 1998, sex offender orders are applied for at Court by the police in order to restrict the behaviour of eligible offenders who are considered to present a risk. According to their risk, conditions of the order prohibit offenders from, for instance, going to certain places or contacting named people or children. Breach is a punishable offence with a maximum of 5 years custody.

**Social Exclusion Unit** – The Social Exclusion Unit was set up by the Prime Minister in December 1997. Its remit is to help improve government action to reduce social exclusion by producing 'joined up solutions to joined up problems'. Most of its work is on specific projects, which the Prime Minister chooses following consultation with other Ministers and suggestions from interested groups.

**Special Constables** – Special Constables work part-time and on a voluntary basis alongside the regular police force. They are supported and supervised by their regular colleagues and have the same legal powers. Special Constables provide a vital link between the police and community. The visible presence of extra uniformed officers on the beat helps reassure local people and reduce their fear of crime.

**Splash scheme** – Splash schemes operate in disadvantaged areas to provide constructive activities for young people during school holidays. Splash has been working with 13-16 year olds in 2002 during February and Whitsun half term holidays and Easter and Summer school holidays. 114 schemes were operated during February and Whitsun and 132 during Easter and Summer. The programme is being extended to 300 estates in the ten highest crime areas, and will also target 9-12 year olds.

**Street Crime Initiative** – Launched on 17 March 2002 the Initiative is designed to identify and implement ways of effectively tackling street crime. It involves targeted policing operations backed by cross-government and inter-agency activity to deter potential offenders and bring those who do offend to swift justice.

**Summary-only offence** – A summary-only offence is an offence that can only be tried in a magistrates' court. Most traffic offences are summary-only, as are minor offences against public order.

**Superintendents' Association** – The Association is the sole representative body of superintending ranks who are members of police forces in England and Wales.

**Support after Murder and Manslaughter** – A self-help organisation for the families and friends of murder and manslaughter victims. Also gives talks and advice to interested organisations and agencies.

**Sure Start** – Sure Start is a new inter-departmental government strategy aimed at children under four and their families. The aim of Sure Start is to work with pre-school children to promote their physical, intellectual and social development – particularly those who are disadvantaged – to ensure they are ready to thrive when they get to school.

**Trial Unit (TU)** – Operational unit of the Crown Prosecution Service responsible for the preparation and presentation of Crown Court prosecutions. Trial Units complement Criminal Justice Units which handle magistrates’ court cases, and also often have a police presence to ensure speedy and effective communication across the police operational structure.

**UNISON** – UNISON is Britain’s biggest trade union with over 1.3 million members. Members work in the public services, for private contractors providing public services and the essential utilities. They include frontline staff and managers working full or part time in local authorities, the NHS, the police service, colleges and schools, the electricity, gas and water industries, transport and the voluntary sector.

**Vehicle Crime Reduction Team** – A team aimed at reducing vehicle crime by 30% over five years from 1999. Members comprised a cross-section of people from motor manufacturers and dealers, insurers, Home Office, Department of the Environment, Transport and the Regions, Driver and Vehicle Licensing Agency (DVLA), the police and, importantly, motorists.

**Victim Enquiry Officers** – Victim Enquiry Officers, who work within the Probation Service, have the responsibility of ensuring that the views and needs of victims are consistently taken into account when decisions about release from prison, and the conditions imposed on that release, are made.

**Victim Personal Statements** – Statements that give victims an opportunity to inform the court and other criminal justice agencies of the effect of the crime on them so as to better inform decision making.

**Victim Support** – An independent charity that helps people cope with the effects of crime. They also aim to promote and advance the rights of victims and witnesses in all aspects of criminal justice and social policy.

**Virtual Unified Case File** – Virtually Unified Case File (VUCF) will provide users across the CJS with seamless access to case information, regardless of its location.

**Witness Liaison Officer (WLO)** – Witness Liaison Officer (WLO) for each Crown Court centre to provide a focal point for liaison with the other criminal justice agencies and the Witness Service on a case by case basis

**XHIBIT** – XHIBIT enables the Witness Service to keep Crown Court witnesses informed of case progress via e-mail and text messages and provides public information screens. For more information see <http://www.courtservice.gov.uk/>

**Youth court** – A magistrates’ court exercising jurisdiction over crimes committed by juvenile offenders and other matters relating to children under 18.

**Youth Inclusion Programmes** – This inter-departmental programme is managed by the Youth Justice Board and aims to prevent offending by young people through a range of activities including sports and other recreational activities. The programme is targeted at the 50 most disaffected 13-16 year olds in 70 disadvantaged neighbourhoods across England and Wales. The programme aims to reduce arrest rates in the target group by 60 per cent; reduce recorded crime in the area by 30 per cent and achieve a one-third reduction in truancy and school exclusions in the young people concerned by 2002.

**Youth Justice Board for England and Wales (YJB)** – The YJB is an executive Non-Departmental Public Body (NDPB) established by the Government in September 1998 to provide national leadership and co-ordination to Youth Offending Teams and the youth justice system as a whole. The Board also advises the Government on youth justice service provision, standards for service delivery and the performance of the youth justice system.

**Youth Offending Teams (YOTs)** – YOTs are multi-disciplinary teams responsible for delivering at the local level community based intervention and supervision for young offenders. The teams also work with those young offenders at risk of offending. There are 154 teams in operation across England and Wales.

**Youth Offender Panels** – A new sentence introduced in April 2002 for young offenders convicted for the first time and pleading guilty involves referral to a Youth Offender Panel led by trained members of the local community. The panel agrees a contract with the young offender that includes reparation to the victim and a programme of activity to address the risk of reoffending.

With thanks to the Thames Valley Police and  
the National Probation Directorate  
for the cover image.

Printed in the UK for The Stationery Office Limited  
on behalf of the Controller of Her Majesty’s Stationery Office  
ID 101666 07/02.











Published by TSO (The Stationery Office) and available from:

**Online**

[www.tso.co.uk/bookshop](http://www.tso.co.uk/bookshop)

**Mail, Telephone, Fax & E-mail**

TSO

PO Box 29, Norwich, NR3 1GN

Telephone orders/General enquiries: 0870 600 5522

Fax orders: 0870 600 5533

E-mail: [book.orders@tso.co.uk](mailto:book.orders@tso.co.uk)

Textphone 0870 240 3701

**TSO Shops**

123 Kingsway, London, WC2B 6PQ

020 7242 6393 Fax 020 7242 6394

68-69 Bull Street, Birmingham B4 6AD

0121 236 9696 Fax 0121 236 9699

9-21 Princess Street, Manchester M60 8AS

0161 834 7201 Fax 0161 833 0634

16 Arthur Street, Belfast BT1 4GD

028 9023 8451 Fax 028 9023 5401

18-19 High Street, Cardiff CF10 1PT

029 2039 5548 Fax 029 2038 4347

71 Lothian Road, Edinburgh EH3 9AZ

0870 606 5566 Fax 0870 606 5588

**TSO Accredited Agents**

(see Yellow Pages)

and through good booksellers

ISBN 0-10-155632-2



9 780101 556323