

## ***'Criminal Justice'***

### **A speech by Rt Hon Iain Duncan Smith MP, Chairman of the Centre for Social Justice**

#### **Opening remarks:**

I extend my welcome to you all, and my particular thanks to several people. I am grateful to Martin Howe QC for chairing the courts and sentencing review, and to working group members Victoria Elvidge, Simon Pellew, Malcolm Thomson, and Tom Stancliffe. The working group was expertly advised by Rob Allen, Professor Anthony Bottoms, Dame Helen Reeves, His Honour Judge John Samuels QC, Enver Solomon, and Judge Daphne Wickham. My thanks also to Gabriel Doctor at the Centre for Social Justice (CSJ) for his support work throughout the process.

My gratitude also goes to our other criminal justice chairmen Ray Mallon and Jonathan Aitken, for leading their reviews to publication earlier this year.

The launch of today's report concludes our landmark review of the criminal justice system. Commissioned in November 2007, three independent working groups have undertaken root and branch analysis of criminal justice policy across England and Wales.

As with every report I commission at the CSJ, I asked only two things of the chairmen. To listen, and then using their experience and the experience of the working group they chaired, to report it as they found it.

This ensured our 143 policy recommendations are evidence-based and experience-led. Working groups undertook domestic and international visits, hosted public hearings with frontline practitioners, victims and offenders – including evidence from over 100 organisations – and each commissioned a public poll of 2,000 people.

## Why a review of the criminal justice system?

Crime, and the fear of it, affects us all:

- Just 25% of us have confidence that the Government is tackling crime and violence – compared with almost 50% in Germany, France, Italy and the United States.

Yet the criminal threat is not to our personal safety alone.

- Since 2001, youth justice expenditure has risen by 54% in real terms.
- Policing expenditure by 50%.
- Prisons by 30%.

- And since 1998 total public order and safety expenditure has increased by 49% in real terms.

If, as expected, crime rises during the present economic recession, spending pressure will increase. But as our reviews demonstrate, this mismanaged investment has rendered our justice system more complex, more chaotic. And we *literally* cannot afford more of the same.

Notwithstanding these concerns, my main reason for commissioning this work emerged as I visited Britain's most deprived communities. While crime – particularly the fear of crime – impacts us all, it is most acute in our poorest areas. The middle classes fear crime but the most burgled, assaulted, raped and the most impacted by anti-social behaviour are the people who live on these estates.

These communities, typically dominated by social housing, are characterised by several common themes:

- Entrenched breakdown of the family.

- Generational worklessness.
- Poor education.
- Widespread addiction to drugs and alcohol.
- Severe personal debt.
- And violent street gangs.

People in such areas are five times more likely to be a victim of robbery than people in our wealthiest areas. They are twice as likely to be victims of violence, and other common crimes.

They are also five times more likely than their wealthier counterparts to perceive high levels of anti-social behaviour.

And it is from these communities that many offenders also originate.

Drug dealers intimidate clients in the alleyways and on the stairwells, feeding on dependency.

In these communities, street gangs – often led by school-age children, brandish weapons as a badge of honour and use their ASBOs for influence.

Residents hear violence and abuse through the walls.

Neighbours disappear for several weeks, only to return reinforced with a prison discharge grant – unchanged, undeterred.

This is happening today, now, across our inner towns and cities. Recall our horror at the tragic deaths of Damilola Taylor, Rhys Jones, Gary Newlove, Baby Peter and Fiona Pilkington. Remember our anger when Karen Matthews kidnapped her own daughter for financial reward.

These cases are a window into broken lives and broken communities. Our justice system picks up the pieces of this social breakdown on a daily basis.

### **Dealing with dysfunctionality:**

Even brief consideration of the figures backs this up:

- 75% of crack and heroin users claim to commit crime to feed their habit.
- The most recent British Crime Survey (BCS) found victims of violent crime believed their attacker was under the influence of alcohol in at least half of all incidents.
- 70% of young offenders come from lone parent families and 25% are young fathers.

It is worth noting that the prison population has passed 84,000 this year, the highest number in prison since records began. I can't help recalling Tony Blair attacking the last Conservative Government over their 'high' prison figures – at that time the prison population was 68,000 – Tough on Crime, maybe but what about the Causes of Crime:

- A third of prisoners went through the care system.
- More than half have the reading and writing age of an 11 year old child.
- 70% have two or more mental health disorders.
- The same percentage was unemployed before entering custody.
- And a third were homeless.

Poverty and deprivation do not excuse crime, nor are they its only causes. In every case the offender makes a choice to break the law, and deserves to be punished accordingly. The 'tough life' story is no comfort to any victim, and nor should it be.

Yet, such dysfunctional personal backgrounds cannot be ignored. Where would any of us be after such a start in life? If the current Government had been genuinely committed to tackling the causes of crime, this is where they would have concentrated efforts.

Instead, next year, an incoming government will inherit a social mess:

- We have one of Europe's highest rates of family breakdown.
- We have western Europe's highest teenage pregnancy rate.

- 1 million children have an alcohol addicted parent.
- 65,000 school children play truant every day. We know there is a close correlation between truancy and criminal behaviour. A study of young offenders within the prison service found that 86% had truanted from school and two thirds described their educational attainment as nil. A 2007 study by Professor John Pitts also noted that 70 per cent of X-it participants, (a youth project providing an exit route for gang members), were formally excluded from school and had been either poor or non-attendees.

Social reform, as outlined in our report *Breakthrough Britain*, would get right to the heart of these entrenched problems and stop this conveyer belt to crime.

Utilising grass-roots voluntary sector organisations would help to save families, move people into sustained employment, move addicts to recovery and introduce young people to aspiration. Reforming the benefits and care systems, and taking early intervention seriously, would make a radical difference.

That is what tackling the causes of crime would look like.

### **Dysfunctionality meets dysfunctionality:**

As I read today's report, and the others we have published on criminal justice, I am struck by the sense that whilst most crime is committed by those coming from dysfunctional backgrounds, once they commit those crimes they seem to become enmeshed in an underperforming criminal justice system.

It is a system in three distinct parts: police and the Crown Prosecution Service (CPS), prisons and probation, and the judiciary. But it is one where despite the need for all three to be working to the same agenda, too often on investigation one is confronted by the simple and stark truth that they are not.

Our criminal justice system has become strangely dysfunctional. It is beset by a myriad of centralised and controlling Government targets which far too often seem to contradict each other, and leave no room for the application of common sense. This has in turn created a revolving door as those who enter the system return time and again.

It is small wonder that the professionals, police officers, prison and probation officers, magistrates, and crown court judges, have, as our reports show, become frustrated by their inability to deliver for the communities they serve.

***Centralised and target-obsessed:***

Leadership in the justice system has been heavily centralised in recent years. In every community the Home Office seems to want to sit as Chief Constable, the Attorney General's Office as Chief Crown Prosecutor, and the Ministry of Justice as Judge, probation officer and prison governor.

Over the last few years Whitehall seems unable to trust those charged with running the criminal justice system. Whilst such intrusion is resisted by the more independent professionals, the pressure on each officeholder becomes greater and their job is made more difficult as they are inundated by targets set at the centre.

Local magistrates' courts are closing and those remaining are being moved away from local communities to regions.

Large prisons are favoured over local community-based establishments. Until recently the Ministry of Justice insisted on ploughing ahead with its terrible Titan prison programme, (ended after our prisons report attacked the proposals.)

Since 1997 more than 35 pieces of criminal justice-related legislation (some amendments) have passed before Parliament – compared to an average of one per decade for most of the last century. And in this time, an additional 3,600 offences have been introduced of which more than 1,000 carry a prison sentence.

The former Lord Chief Justice, Lord Phillips, wrote this during his tenure:

*“The work of all who sit in the criminal jurisdiction...has been rendered infinitely more arduous...by a ceaseless torrent of legislation, adding complexity to substantive law and to the sentencing exercise.”*

And in evidence to the CSJ Sir Robin Auld, former Lord Justice, said this:

*“I’m so glad I don’t sentence now. It is so unsettled. And underneath it all is a lack of resources.”*

The impact of mass centralisation is best illustrated by the myriad of Whitehall-set targets, detrimentally dictating the daily practices of local frontline officers.

Police officers describe an 'arrest or ignore' culture, created by 'Offences Brought to Justice' targets. They are discouraged and under-resourced to intervene unless to achieve a formal disposal. When they do arrest they face mountains of desk work – securing a guilty plea consumes more than seven police resource hours.

The average full-time police officer now spends only seven hours a week on street patrol, a fifth of their time. This means a force would need to employ five officers to put just one on full-time street patrol.

The success of the now overly-bureaucratic CPS, the body responsible for charging suspects and prosecuting criminal cases investigated by the police, is measured largely on the proportion of successful prosecutions. This means it is highly risk-averse about proceeding with cases recommended by police forces. As a result the CPS often works at cross-purposes to police colleagues, who are driven by a need to bring offences to formal justice, which causes significant tension, as one police officer we spoke to highlighted:

*“We had a prolific and priority offender smash up a booking shop. The CPS wouldn’t charge because there was no CCTV. There were witness statements. He was seen by us. That afternoon he was released and raped a 16 year old girl behind the same shop. That’s the kind of thing that gets to you.”*

Such centralisation also hinders the judiciary. Headline-grabbing politicians demand the judiciary get 'tough' and lengthen disposals. But as the prison population rises from the resulting sentence drift and higher breach rates, they see their decisions automatically cut in half by government decree, and watch those prisoners they got 'tough' with released even earlier via the back door, as an emergency measure to ease chronic overcrowding.

Take very short prison sentences for example – often only handed down because community orders are even more toothless. They are *the* primary cause of churn, and fuel the chaos of overcrowding.

As *The Times* reported recently, sentences of six months are reduced to six weeks, and those of 28 days are being waived. Even more farcical is a 42 day sentence handed down on a Friday. 42 days are automatically cut to 21 days, and cut again by 18 days due to emergency early release schemes. But because prisoners are not released over a weekend, the offender is actually set free that day with a discharge grant and no time to serve.

The community and custodial rehabilitation courses that do exist, too often target 'starts' and 'exits', instead of outcomes and change.

Because of central targets, prisons fail to tackle drugs in fear of being branded drug-ridden. And as revealed recently, senior officers are transferring difficult prisoners for a few days while Inspectors visit.

Central targets reduce probation officers to 'box-tickers' as they wrestle overcrowded caseloads, instead of letting them build relationships and manage local offenders.

All this centralisation undermines local justice. It stifles common sense and removes professional judgement about what's best for local people. Accordingly, crimes are now seen as acts against the state, not against victims and local communities.

### ***A revolving door:***

Its second broad failure makes our communities less safe – the criminal justice system is a revolving door.

This is caused, in large part, by the definition vacuum in which the system is managed. For too long policy-makers have been unsure what the justice system is for. This failure to understand the *why* of it has long undermined the *how* of it.

At the CSJ we are clear about the three core purposes of the criminal justice system.

The system exists first to bring to justice and punish people who have committed crime.

Secondly, and in turn, it should protect the public by removing from communities those deemed a danger.

Thirdly, and woefully neglected for too long, it should rehabilitate offenders.

The impotence of sentences, and their rehabilitative interventions, is nothing short of a national crisis. Presently, within two years more than half of those on a community order will have re-offended. Two thirds of those released from prison will have done the same – and this excludes offences dealt with by cautions, and any others which go undetected.

As most crime committed isn't officially recorded, true levels of re-offending will be considerably higher.

These people are clogging up the prison estate. Almost half of all sentenced adult prisoners have 15 or more cautions or criminal convictions. And what is more, such preventable failure on re-offending costs our society more than £11 billion a year.

The scandal of this failure is that solutions are out there. Countless voluntary sector and faith-based organisations, already changing lives and slashing re-offending, struggle every day to swim against the 'Whitehall knows best' tide.

Indeed, one of the most disappointing outcomes of the NOMS experiment has been the underinvestment and petty marginalisation of some innovative voluntary sector groups. I think of a case highlighted by our prison review earlier this year. A small organisation that wishes to remain anonymous, which for many years has been delivering demonstrably effective rehabilitation to prisoners and families, has been routinely blocked, stifled and threatened by unfathomable levels of suspicion, caution and bureaucratic control. And so every day becomes consumed not by rehabilitation, but by organisational survival within the prison itself.

Cases like this are all too common across social policy.

## **An agenda for reform:**

So what of our response? Is reversal possible? Our agenda for reform shows it is.

We must begin by taking the causes of crime seriously. And this begins with social reform in our poorest communities, to challenge this depressing cycle of breakdown and dependency.

### ***Courts and sentencing***

More immediately, today's report makes key recommendations to place local decision-making and trust back at the heart of our courts and sentencing system.

- It calls for any early release schemes to be stated clearly up front, at the point of sentencing, so that courts are no longer undermined or the public misled on actual time an offender is expected to serve.

- There should be widespread judicial access to offender welfare payment information, to effectively utilise financial penalties, and tackle anti-social behaviour.
- It recommends giving judges a serious alternative to prison by strengthening community orders with unpaid work, as well as the power to structure shorter sentences – but abolish those of one month or less served as a primary response to crime.
- We need to quicken the delivery of justice. The average 20 week delay before sentencing on summary non-motoring offences, much longer for more serious offences heard at the Crown Court, fuels community dissatisfaction.
- The system should utilise more appropriate diversion schemes for those who need treatment as well as punishment – such as offenders with severe mental health disorders or addictions.

- We need to free the Probation service, the backbone of the justice system but crushed by the NOMS experiment, from box-ticking and re-establish widespread home visiting.

Yet this reform should be undertaken alongside other essential recommendations made by our police and prison reform reviews.

Let me remind you of some of their key recommendations:

### ***Police reform***

- Policy-makers must re-connect the justice system to the communities it serves. Elected Crime and Justice Commissioners should direct strategy and hold agencies to account.
- Police officers should be incentivised to treat the streets as their office – free them from a cumbersome and counter-productive targets regime, and maximise resource hours.

- Instead of meeting Key Performance Indicators the police should be free to use discretion and Restorative Justice (RJ). Develop a 'commitment to intervene' on things such as anti-social behaviour, for these are the brave instincts which first inspired them
- Make PCSOs more effective by training them comprehensively to use their powers of citizen's arrest.
- We need robust drug enforcement to protect communities and support recovery from addiction.

### ***Prison reform***

- With regards to offender management, frankly NOMS should be recognised for the wasteful disaster it has been.

- Instead establish a local network of Community Prison and Rehabilitation Trusts (CPRTs), consisting of local authorities, employers, voluntary sector organisations and professionals to commission relevant interventions and manage resettlement.
- A new, more effective and cost-efficient prison academy model should be utilised for estate expansion, to drive down re-offending.
- We need a new role for victims through an effective victims' fund, Restorative Justice conferencing and a voice in policy-making.
- We should make the most of the voluntary sector in breaking down community barriers, offering hope to young people, and rehabilitating offenders.
- Faith-based organisations delivering life-change should be supported, not squeezed out.

- We must get to grips with drug and alcohol abuse in prison. In particular the imbalance that means most prisoners can't access abstinence-based addiction treatment, must be redressed. Meanwhile, drugs flow like a river through our prisons, small wonder there is so much addiction amongst prisoners – we seem to have given up.
- And we need to take the resettlement of people with a criminal record seriously. They could be your neighbour or mine. They need access to appropriate accommodation and employment. Their families, where they exist, should be supported.

### **Conclusion:**

These headlines barely scratch the surface. I urge politicians of every side to delve into the detail of our package of 143 recommendations, spread across the three publications.

At its heart is a balance between the need for justice and punishment, and the importance of rehabilitation. Victims and communities must come first, for that is who the system should primarily serve. But in order to put them first and make our communities safer in the long-term, we must tackle offending behaviour too.

An economic crisis such as this one is an *opportunity* for reform, not a threat to it.

Frequently Government Ministers in search of a good headline have initiated rushed and too often piecemeal change, which has impacted adversely on the criminal justice system. The result has been an over-centralised, rigid, bureaucratic, and inefficient system in which the professionals who deal daily with the most difficult elements in society have little or no faith. The passing of more and more draconian legislation doesn't make us a more law-abiding society. Only social reform allied to a criminal justice system which protects the public, punishes wrongdoers and tries to take people off the treadmill of crime can do this.

Our criminal justice system, once the envy of the world, appears to far too many working in it, and others outside, as dysfunctional in character and cumbersome in practice. What these three reports show is that the system of dispensing justice in Britain today is now in desperate need of reform.