

JUVENILE JUSTICE REFORM IN ENGLAND AND WALES

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I think the first thing to say is that the reform of the youth justice system has been a big political priority in my country over the last 4 or 5 years. I don't know if any of you follow politics in the United Kingdom, but in 1997, we had a new government of the Labour Party, lead by Mr. Tony Blair, and this was after a long time in opposition, and in fact he made his reputation in part because of his policies on crime, and he invented a slogan or a saying, 'Tough on crime, tough on the causes of crime' which sums up the Labour Party approach. They think that we should be quite harsh on criminals, and punish them and so on. But they also recognize that the roots of criminality and crime lay in social conditions, in the depravation, poverty, bad housing and so on. And they are trying to change the way in which people live, in their lives, to make it less likely that they would be criminals too. There was a specific interest in the youth justice system. The government said, 'if you look at all the people in prison, all of the adults in prison, most of them started to commit the crimes when they were children.' So if we can make it that this part of the system works better, it would be a good, a very good investment because we would be reducing the number of adult offenders.

When Tony Blair went to the elections in 1997, he produced a little card with 5

pledges, 5 things that he said that the government were going to do. They were about reducing the waiting time for people going to hospitals, or reducing the number of children in classes, making class sizes in schools smaller, but one of them related to young offenders, it was about reducing the length of time it takes for young offenders to be detained with the youth justice system, to have a shorter time from arrest to sentence. For persistent young offenders, and you may say that it is a strange thing for a political party to say: "We are going to do this change" it seems like a rather minor thing, but it shows it has been politically a very important issue in our country. And I will say a little bit about why that is in a minute. What that has meant is that one of the first pieces of legislation, the first laws that the new Labour government brought in to be enacted.

With the Crime and Disorder Act there is another important act, the Youth Justice and Criminal Evidence Act. They brought it one year later in 1999 and I will be talking about that in my third lecture, because that introduces some very interesting new ways of dealing with first time offenders...offenders who appear in court for the first time, ways which borrow heavily from New Zealand and other systems. I will not talk about it today as I'm going to concentrate on measures which for the most part are in the Crime and Disorder Act.

What the Crime and Disorder Act tries to do is to put into effect a new philosophy. And it is a philosophy I suppose which could be summed up by the term 'early intervention'. It is based

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on an idea that we know what makes it likely that children will become offenders. We know the kinds of factors: these are children who have problems in their families, these are children who are failing at school, these are children who are at an early age get involved in drugs or alcohol misuse. These are children who get involved in gangs at an early age. So, in principle, if you can do something about those things, than you will make it less likely that they would continue to offend. So you need to intervene early, to do things, to try change the way which young people behave. Now I say that because that philosophy was really in contrast to the old philosophy.

The old system, if it had a philosophy, was something like this: "Well most children commit crime—a little bit of crime, and most of them as they get older they grow out of it." What is more, if they get involved in the system, that makes things worse. This philosophy was very much influenced by labeling theory, the idea that if negative labels are attached to somebody, they live up to them. If you give a dog a bad name then he would behave badly... that kind of idea. So the old philosophy was very much diversion, keeping people out of the system.

The new philosophy is to get a bit into the system. Now I think that might be something we want to come back to and discuss later because I think it is quite an important question—the general orientation that the juvenile justice system has. For my own view, the old system was really only saying, 'don't put people in to the criminal system, let's do things through social welfare through education, through other forms of intervention.' But the problem is that those things will not be done, those problems as well, those needs were not matched through the social welfare

system. So it was left open for the criminal system to come and deal with, that is really what is happened in our country I think.

So there is a new philosophy and there is finally a new infrastructure, and by infrastructure I mean bodies and organizations and people to do things with young offenders. At the local level there are youth offending teams. So every area of the country has to have by law a youth offending team, and the Crime and Disorder Act law sets out who is in a youth offending team: a police officer, a prevention officer, somebody from the Health Department, a social worker, somebody from the Education Department. Some youth offending teams have additional people, some have maybe a youth recreation worker, some have somebody who knows about housing and accommodation. But the idea is it is a multidisciplinary, multi-agency approach. Because it is the only approach that can tackle the roots of offending behavior. So there are a hundred and fifty-four, I think, youth offending teams in England and Wales, and at the center there is the Youth Justice Board which is for the first time exercising leadership over the system. So what we now have in effect is a national system, locally delivered, so youth offending teams are local agencies but they are coordinated very much more strongly from the center than was previously the case.

I want to say a little more about the philosophy because the crime and disorder act introduced a new aim for the youth justice systems. So in the law the principal aim for all of the agencies and organizations in the system is preventing offending. It is not punishment, it is not education, it is not welfare, it is preventing offending. Now what that means in practice—well, unfortunately

the position is a bit complicated because we still have other aims and principles which are involved in the youth justice system. So under quite an old law, there is still a requirement that the youth court takes account of the welfare of children appearing before it, in the whole idea that having a separate youth court is based on that children have special needs, special welfare needs that need to be taken into consideration. There is also, a principle of proportionality. I am not sure how easy that one would be to translate, but the idea that intervention measure sentences particularly should be in proportion to the seriousness of the crime. So, in order to send anybody to prison, adults or juveniles, a court must be satisfied that the crime or the offence is so serious that no other penalty will do. And to qualify for a community sentence, the court has to be satisfied that the offence is serious enough.

We basically have in our law 3 kinds of sentences: custodial or prison sentences, community sentences, and at the bottom end-fines and charges which are less serious. The thing that divides them is the seriousness of the offence. And there is a 3rd principle which is growing in importance in England and Wales, but in fact throughout the United Kingdom, which is restorative justice. The government in the UK talk about the system trying to, well having three aims of instilling responsibility in young people, restoration paying back to the victim and reintegration, they call these the “3 R’s.” We have a joke in English, this won’t work very well. People talk about the “3 R’s” ‘Reading’ ‘Writing’ and ‘Arithmetic’ well, “writing” and “arithmetic” don’t begin with the letter “r” so that’s the joke bit. But anyway within the youth justice system there are these 3 words which begin with “r”; “Responsibility” “Restoration” and

“Reintegration” which are all seen to be very important. The point I want to make is that each of these principles does not sit very comfortably with the others. If you are about “preventing offending”, only about “preventing offending”, you will do what is needed to prevent somebody offending whatever the seriousness of the crime, so say somebody has done a very minor crime—he has stolen something from a shop of very small value. But when investigations are made there are all sorts of problems in a child’s home life and he is in a gang or is about to be, or he is sniffing solvents or involved in drinking too much. You would say well, he needs a lot of intervention because he is in a high risk situation, but we have the proportionality principle which says ‘hang on a minute, he only stole a bag of sweets from the shop’. So how do you in your system manage to find a response which satisfies the proportionality requirement and preventing offending requirement?

If you read the Beijing Rules about the United Nation’s Standards Minimum Rules for Juvenile Offenders they talk about sentences needing to take account of the offenders and circumstances of the offender, but we say in England it begs the question, ‘which is the more important of these principals?’. You have this welfare principle, you have restorative justice so it is quite a complicated, messy picture and in addition to reducing delay it is not really a philosophy question but it has almost been exalted to the level of a philosophical requirement, the government are very keen that the system works quickly, partly because they had on their card—they will reduce delay, but they think that speed through the system is a very important factor.

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I want to say just a word about the background to the changes. In 1996 there was an important report called "Misspent Youth" this is a bit of a pun, a bit of a joke in English because we refer to young people who behave badly as having a misspent youth. They have spent their young years badly. This report was ordered and it reviewed spending by government public spending and their report was saying that the money which is spent in the youth justice system was being spent very unwisely, and being wasted and so on. So the title "Misspent Youth" was a bit of a joke, obviously not a good joke. But this report was very responsible for this question—high lighting that question of delays, how long it takes to deal with youngsters in the system, it was very critical of the fact that lots of children went through the criminal justice system but nothing much was done to them. At the end they would get a fine or discharge. Nothing was done to change their behavior, and it was critical of the fact that nobody knew really what was happening in the youth justice system, that there was very little measurement of the impact, of interventions on children. And it wasn't really a system at all. So this report which was very critical, was a part of the reason that the reform programme was undertaken.

The second background report that was important was produced in 1997 by the inspectors at the prisons. In England we have an independent inspector who visits all of the prison establishments throughout the country, at the moment he is a man who used to be the general in the armed forces. And it is very interesting that he had never been in a prison, I think, before he took this job, but he was very critical of the conditions that he found in many of the prisons in England, and I think his view was that

we do not treat people like this in an army, and there are very similar young men often in prison. Anyway he produced a report about the juvenile establishment, that was very highly critical and called for major reforms.

The third point isn't really a point because I am afraid to say that the British government has not really taken very much account of the United Nations Convention on the Rights of the Child. As you will know, the country has to submit reports every 5 years, I think. Last time the United Kingdom submitted the report it was criticized by the Commission on the Rights of the Child, particularly over the low age of criminal responsibility which is 10 years old, and the low age at which courts can send young offenders into custodial establishments. Well, both of those things continued to be the case. The government has not made any reforms, on account that, I am sad that the government would say, that it respects the spirit of the U. N. Convention, because although the age of criminal responsibility is 10, the way in which the criminal justice system deals with young children is very much modified from the way it deals with adults. It is not really the same sort of system at all.

What has been much more important in terms of the context for change in the youth justice system has been public and media concern about crime. I do not know if you remember this, but in 1993 there was a terrible case, in which two 10 year old boys murdered a small baby in Liverpool, which is a city in the north of England. It was a very shocking crime, and it was one of those 'how could they do such a terrible thing?'. Ever since then, it has been this way, juvenile crime is often in the news papers, and it is often said that there are children out of control, who

have committed lots of crimes and the system needs to get tougher, and what I am afraid of is that government ministers listen to that rather than the U. N. Convention on the Rights of the Child, and that is the political reality in which these things work.

The reformed youth justice system has 6 key objectives, and I want to just briefly start by saying why it's got these objectives. The first of these questions spread through the system—why is that important, well, there are number of reasons for having a long delay between being arrested and being sentenced. It is obviously a time of uncertainty for a young person, it is a time of uncertainty perhaps for a victim if there is a trial; and maybe quite a lot of stress all around which should be kept at a minimum. There is a risk of course that some children will offend before the trial, if they are not locked up in an institution, if they are given bail. Then the longer they are in a period of uncertainty, there are some children who say 'well I am going to be sentenced for this crime anyway' so I might as well do a couple more. And it would be rolled up into one sentence, so they sometimes go on what we call a "spree," a number of crimes, because they think they have nothing to lose. Having a long time between being arrested and being sentenced, means that for some children, they simply have forgotten what it is that got them into trouble. These children often, if they are young, maybe do not go to school, they might not have a very strong sense of time, they live very much in the present, they can not remember what it was they did 3 or 4 or 5 months ago and obviously having a speedy, a speedy response means that you can take action early to try to do something about the offending, to try to take some measures quickly that would keep youngsters out of trouble.

The second key objective is about getting young offenders to take responsibility and by that the idea is that the government criticizes the previous system for being too lenient in the sense that, they called the white paper, one of the white papers that proceeded the legislation, "No More Excuses." They felt the system was making too many excuses for children who commit crimes, or it wasn't their fault, it was their parent's fault, or it was a school's fault or society's fault. So the idea of a new system is that it is a proper level of responsibility or accountability. If children do realize what effect they have on their victim, they are less likely to offend perhaps. And of course society demands increasingly that children do accept some proper level of responsibility for what they have done. And there will be those of you who, with young offenders, think that a lot of young offenders try to not take responsibility I think it was an American sociologist criminologist Maxwell, who talked about techniques of "neutralization". He used this phrase to describe the way which offenders, if you talk to them they would say that "Well that wasn't my fault, he was asking for it," "he had insurance, it was so and so's idea, I was just going along with him" all of these things will be familiar to prevention officers and social workers every day. So the idea is that a proper level of accountability and responsibility for young offenders is needed in the system. Third, the idea of tackling risk factors, as I had said, lots of lots of research has identified the general factors that suggest that somebody will become an offender, it is true that there are a lot of youngsters who will get involved in minor crimes maybe once or twice, as an experimentation. But I am talking about factors that predict more chronically persistent or serious delinquency, and those factors are related as I said to the families, schools and so

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on. But obviously the presiding factors will depend on the individual. So the idea is that the system should have in place, at the local level, the resources to be able to tackle both individual risk factors for young offenders who are coming to the system.

The fourth objective is “proportional punishment.” I mentioned the question of proportionality, obviously it is important that the general public have confidence in the system, that it does deliver something in the way of punishment. Research that the government has conducted shows that the youth court was the part of the criminal justice system that the general public had least confidence in. They were not happy with the way the youth court was operated. Now in fact the public are not very well informed about the facts of the youth court or any other courts actually. People tend to underestimate the severity of the system and part of my work to try to change public attitudes to punishment is simply to try to get the public better informed about the facts and evidence because at the moment we have a public who is very ignorant in our country, about how the current system works. But some levels of proportional punishment are obviously important.

Fifth, reparation. I mentioned this question of getting young people to take responsibility. Obviously reparation provides a prospect of a better deal for the victim of juvenile crime. Certainly in our system, both for adults and juveniles, the victim has not been a very important player, until very recently, it has been a very minor consideration. But the idea that juveniles who commit a crime should be paying back in some way, has become an important thing, and the final objective is about reinforcing and strengthening parental responsibility, the responsibility the parents have for

the children. As you will know the research shows that poor parenting, parents who are inconsistent—one minute very strict, the next minute very relaxed with their children—tend to produce children who do not really know when they could behave well, when they could behave badly. So providing some guidance, support and also some threat to parents to try and help them to become more effective parents is an important objective.

OK, first of the objectives, “Speed through the system”. In 1997, the average time from arrest to sentence was 142 days, so over 4 and half months, and the government, as I said, wanted to have that time reduced. That figure is now 83 days, so there has been a lot of progress made in reducing delay. In fact the vast majority of cases now are done much more quickly than not. In our system, the most serious cases can be sent to the Crown Court so cases of murdering another, grave crimes, can be transferred to be done in a more serious adult court, and those cases can take a very long time.

I mentioned those 2 boys who murdered the baby in Liverpool, they were tried one year after they had been arrested. That is exceptional but there will often be 6 or 7-month delays in those Crown Court cases. What has been achieved in the Youth Justice Board has been an important part in achieving this end to what we call “judgment culture.” If you had come to Britain 4 or 5 years ago and sat in the youth court which doesn't look unlike this building; Actually, we could arrange to have this youth court and you would sit in the back of the youth court and watch what was going on, you would not see a case sentenced, you would see lot of cases coming through and magistrates would say we will put it off for 3 weeks, because either the legal

representatives, or the social worker would say, or the prosecutor would say, 'we are not ready to proceed with this case'. So that was a culture of simply putting off and putting off, and sometimes the prosecutor would say: "Oh, this boy has committed another crime since then" and we want to deal with these crimes together, so we will put it off and put it off. That has changed and now there is much more emphasis by the police, by the crown prosecution service the independent prosecutors, by the courts, in terms of getting these cases dealt with quickly. And what was meant is that priority is given by those agencies to juvenile cases. You might say, well if priority is given to juvenile cases then less priority is given to adult cases. And I think the government say "yes that is right, because if we get it right with juveniles we will be saving ourselves problems in the future".

This emphasis on speed through the system has clashed, has been in conflict with some other priorities and particularly with "restorative justice" it is difficult to go quickly. If you want the system to involve the victim of the crime, then you need to take time with the victim. We had an example where, when I was working for my last organization, "NACRO," the National Association for the Care and Resettlement of Offenders, we were running a programme which provided reparation orders which is a new sentence I will talk a little bit about later. One of our workers was asked by the court when there was an opportunity for the victim to be involved when they wanted reparation directly, wanted the offender to do something to them, and the worker said: well I don't know we hadn't had chance to talk to them yet. So the court said: 'Can't you phone up them now and ask them'; and our worker said: "That is not very good practice to ring up

and say: 'Hello, I heard you have been a victim of a crime. Would you like the offender to come around and clean up your garden? Or do something for you? That is not the right way to do these things. And if you do it the victim will say 'no! I want to know more I need time to think about it'. The result is that the victims are not involved as much, because of the priority attached to speed the system.

Taking responsibility, that was the second of the objectives, but one of the elements was that the government reacted to remove what was the legal doctrine called *doli incapax*, which would be interesting for lawyers but perhaps not so much for others here. Until 1998, for children under the age of 14, I said the age of criminal responsibility is 10 but until 1998 there was a safe guard, there was a protection, the prosecution had to prove that the child knew what they were doing was seriously wrong, before they could be convicted, because obviously the child of 10, 11, 12 might not really know what they were doing. But the government took a rather dim view of that, and said well they are old enough to know what is right and wrong, at the age of 10, so we will scrub that protection, we will take away that safe guard. So when the United Kingdom reports to the United Nations Commission on the Rights of the Child next year they will have to say that, I am afraid, we have not risen the age of criminal responsibility, in fact we have removed one of the safeguards we had, in terms of *doli incapax*. I expect that the United Nations Commission on the Rights of the Child will not be very impressed with that particular change.

More important is a new scheme for reprimands and final warnings, and in the printed version of the paper there is

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quite a detailed appendix which describes the reprimand and final warnings scheme. Before that was introduced we had a system that was called police cautioning. The police would give offenders a caution, which was like a warning but that system was not a statutory system. That was just a practice that was grown up by the police, and consequently there was a lot of inconsistency about how it was done. There were a lot of stories, whether they were true or not, about some children who had 5 or 6 cautions, it was supposed to be only used once. But there are stories that there are some young people who offended and have got cautions and they offended again, 2 or 3 weeks later and they got another caution. But in fact there was only a very small number but this became one of those things that happened, the public got the idea that all these children are being let off. Well in fact cautioning—police cautions—really grew during that year when I was talking about when labeling theory was influential. In fact, 10–15 years ago, people tried to caution a lot of children, because the aim was to keep them out of the system. Anyway the current system is much more rigid, much more laid down in the law. So, basically, at first, when you commit a crime and if it is a minor offence, say stealing from a shop, which is quite common among children, you are likely to get a reprimand and that means you are warned, your parents come to the police station, a record is made of that, but no further action is taken. If your first offence is a serious one, you can be prosecuted immediately, and if it is a medium one you can get a final warning immediately. If you already had a reprimand, and you committed an offence, then you can have a final warning and that is a most serious matter because after a final warning you get no more chances. What happens now

is that in a lot of cases, as well as simply being warned by police officers, about your future behavior, you are actually sent to the youth offending team who make an assessment of your case. You maybe get involved in some kind of programme, to try to improve the way you behave. In some parts of the country we have introduced restorative conferencing at this stage of the process, so that if you have maybe stolen something from somebody, stolen a bicycle from somebody, you get a final warning. If you are in a part of the country which operates this system a meeting might be called, in which the person, a victim whose bicycle was stolen comes, the child comes, the parent comes. The child says they are sorry and offers to do something to put that right. And if they do that, that is the end of the matter. In other areas they maybe assess the child's needs, and if he has some problems, then maybe some effort to do some work is done to try improve it. So the final warning is the first stage in the system where action is taken to try to prevent future offending.

What the Crime and Disorder Act also does is put limits on the youths getting conditional discharges. This is one of the sentences that is available in the youth court and basically it means that nothing will happen to you providing that you stay out of trouble for the period of the discharge. So if you get a conditional discharge, for 1 year, you don't have to do anything, all you have to do is stay out of trouble, if you commit another crime, you can be sentenced both for the new crime and for the old crime. So it is a kind of chance, and the government said, well if we want these young offenders to take responsibility it does not seem very sensible to go all the way to the court. The court says we are giving you another chance. So there are limits on the way the

court can use this. If you have a final warning in the previous 2 years you cannot receive a conditional discharge. What that means in practice is that you can receive one of the orders.

An important part of getting young offenders to take responsibility is through the sentences that the youth court can impose. I thought it might be useful just to say a word about the range of sentences that are available in youth courts in England and Wales. When the government reformed the youth justice system it did not repeal all the existing legislation and change it completely. It just added a new layer on. So, we have a lot of different sentences, some of which are very similar to other ones. Some people from other countries think that it is a very strange way to behave.

I mentioned the system in Scotland, and I just say one thing about that. They have a tribunal court the children's hearing or children's panel, which deals with most cases of juvenile offenders in Scotland, but they only have one effective sentence of supervision. They can make the supervision requirement on the juvenile, and they can introduce, within the box of a supervision requirement, anything they think needs to be done. That, I think, is the approach in many countries.

In England and Wales we have developed all these different kinds of specific court orders. The person who asks the question. "Will the young people understand the system" I think it is unlikely that many young people properly understand the youth justice system, I think many of the people who work in it struggle to understand it, because it is quite complicated, all these range of options. On the left we have discharges, I mentioned, the conditional discharge,

there is also the absolute discharge, which is very rarely used for cases when somebody is guilty but it is a very, very minor crime and it is often technical, technically an offence. Fines, in England and Wales parents can be made responsible for paying the fines of juveniles, and in fact in the cases of under 16s, children under 16—parents should be made liable for paying fines. There are also things called "bind overs". Parents can be bound over to take proper care and control of the child. A bind over is like a suspended fine, you are bound over for some money, 100 pounds say. If the child behaves badly you can forfeit or lose that money. There is a compensation order available. Compensation orders are supposed to be available throughout the system, for juveniles and adults. The reparation order effectively allowed the court to order the juvenile to do unpaid work, either for the benefit of the community, or for the individual victim of the crime. We have, for about 30 years, had the sentence of community service for adults and young people down to the age of 16, and in some respects the reparation order is a kind of junior version of community service, or the possibility of paying back something to the specific victim is a distinctive part of reparation orders.

Community penalties, community sentences are sentences for which the court has to be satisfied are offences serious enough to need a sentence like this and at the top there is a new sentence, the action plan order, which is a 3 months intensive sentence designed to try and really shake the youngsters lifestyle, so they change the way they behave. So the member of the youth offending team will work very hard for 3 months to try to get to the bottom of why the youngsters are committing the crime and to try to do something about it. I

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mentioned that there were limits on the courts' use of conditional discharges. Up to 3 or 4 years ago, a large number of young offenders got conditional discharges, now they either get a reparation order or an action plan order. And many of them, when is it introduced, will get a referral order. The government's idea that we will intervene earlier and we will do more to change the behavior, is really enshrined in these sentences. The other sentences on the right hand column are ones that have been available for a while. The Crime and Disorder Act has made some changes to them. The attendant center, that is a sentence that requires juveniles to go on Saturday afternoon for 2 or 3 hours at a time for a period of up to 36 hours, they are organized by police officers, And the idea is they get 3 or 4 hours of instruction and discipline from police officers, there is a supervision order, and supervision order plus requirements, so you can head straight for a supervision order which places you under the supervision of a member of the youth offending team or requirements, conditions can be added to the supervision order. Requirements that you refrain, that you do not do certain things, that you do not go to certain places, you do not talk to certain people, they may be conditions that you actually do certain things, you undertake certain activities designed to try keep you out of trouble, whatever that is. Counseling, group work, therapeutic work, sport and leisure activities, the supervision order is a main way in which youth offending teams construct a programme of measures to try to meet the needs of the offender to stop them getting in trouble, for the more serious offenders.

Three orders only are available for 16 and 17 year olds in the youth court: the community rehabilitation order, the community punishment order, and

community punishment and rehabilitation order. You may not recognize those terms, I don't really recognize them, because, they have only been the names for orders since April I think. The community rehabilitation order used to be known as a prevention order. The government decided that people did not understand what prevention meant. So they decided to call the prevention order a community rehabilitation order, they decided that people did not understand what community service was so they decided to call it community punishment and there is one other which used to combine, prevention and community service, so that is now a community punishment and rehabilitation order. The government were going to change the name prevention service to community but they decided not to do that, so we still have prevention service in England and Wales. There was a lot of debate about the name of this service.

I want to take just a minute to say a little about the prevention service in our country, because obviously it is mostly important for adult offenders, but they do play an important part, they are one of the members of youth offending teams, and particularly for 16 and 17 year olds. In the youth court, prevention officers play an important role. The prevention service has undergone a lot of changes over the last 2 or 3 years, it is not just a youth justice system that has been reformed, the government has undertaken to arrange quite major changes to public services over the last 3-4 years, and as some will know the government of Tony Blair was reelected a couple weeks ago and he has promised to do even more to modernize public services. So there will be even more changes, but there are 3 main changes to the prevention service which are worthy

of perhaps mentioning, the first of which called the modernization programme. Until April, there were about 50 prevention services around the country, which were in a way independent and local. They reported to local communities. That is all changed now, we have a national prevention service, so there is one person who is appointed by the government, who is in charge of the whole prevention service. So it is like a prison service, in that respect, so if something goes wrong maybe somebody who is on prevention, does some terrible act, the minister can call one person and say: what is going on here? I think that is a part of a desire to have a much more centralized nationalized service to introduce more consistent programmes and so on.

The second change has been a much greater emphasis on enforcement of orders. Research was under taken, which shows that of those prevention officers who were supposed to take offenders back to court if they were not compliant with the orders, they were not doing as much as they should, so some offenders were getting away with not attending and not participating, and the government rightly said it is no good, it is not good for public confidence, it is not good for the offenders, so there is much more emphasis now on enforcement, but I think it is an example of the pendulum swinging the other way. And we may end up with prevention officers who are more like prevention officers in the United States, where the job is really only about enforcement of orders, and they carry guns. The slogan of one prevention service, I think in California is, "Surveil them, nail them, jail them". It means "watch them", "wait until they go the wrong way" and then "jail them" so that is not a vision of prevention service that I particularly look

for. So I hope that is not the way we are going.

The third change of the prevention service is this— a major emphasis on what is called 'effective practice'. It is known as the "what works initiative" and this is based loosely on the North American system—mainly research that shows that certain programmes with offenders can produce good results in terms of reducing re-offending. This is a big deal for the prevention service, there is a lot of money and effort and training going on. These programmes which are quite psychological, there are lot more psychologists in the prevention service— if you want to get on in the UK in the criminal justice system become a psychologist at the moment. For my taste these programmes are too psychological, they are about trying to change the way offenders think and behave. And they sometimes do not take enough account of the environment in which offenders are living. So you can have a very good scheme for teaching an offender, the consequences of their actions and to know what is the right thing to do and what is the wrong thing to do. But if that youngster has no proper place to live, is sleeping on the floor of a friend's house, has no income, is being offered drugs, then those programmes are not going to work. So you need to make sure that you are attacking the problem in a whole way. But I think the idea of doing effective things, rather than doing the ineffective is a very good idea.

One of the other ways in which the changes are trying to tackle the question of responsibility is by a new custodial sentence. It is called the Detention and Training Order. It can last between 4 months and 24 months on the whole and the idea is that it is served half in detention and half under supervision in

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the community. A lot of sentences for juveniles and adults have had elements of supervision after release, but I have to say in practice this has always been the part of the system that has been very weakly implemented, when somebody comes out of prison, they don't get a lot of supervision or help. Another problem in our country was that, people who work in custodial establishments, such as prison officers or social workers were on a really very different track from people who worked in the community. Often they would be working with the same young people, there was very little in the way of joint work or planning. The idea of the Detention and Training Order is that it is a similar sentence, it is one sentence without joining. So within a few days of a young person getting the detention training order there is a planning meeting held at the institution which involves the youth offending team and with the plan for what to do with the young person lasts through the sentence in a secure detention part and also in the community part. How well that is happening in practice I do not know.

One of the problems with the training order is that it appeared to be very attractive to the sentencers, so the number of young people who are receiving this sentence has grown. Because in theory it is obviously a much better idea, if are going to send somebody to custody, it is much better, and you plan their release from day one, and when they are released back to the community, there is a place at school, there a place to stay, some supervision with their family and all of that. And of course if you are in a court, if you are a magistrate, that appears very attractive, because the Youth Justice Board says we are making these institutions much better than they used to be. And there is some progress being made, that of course makes the

sentence attractive, and it is an age-old problem for penal reform and change how you improve conditions in custody without making custody so attractive that more people go and you can not continue the improvement, because you have too much crowding, and too many people, and trying to get out from that circle is quite important.

The other custodial sentence that is still available is long-term detention for those youngsters who commit grievous crimes. I mentioned two boys that were convicted of murdering the baby in Liverpool. They were 11 by the time they were sentenced. They received what is an automatic sentence of detention "at her majesty's pleasure" which is effectively a life sentence, it does not mean that they spend their whole lives locked up, and in fact there has been a great deal of litigation, and a great deal of public debate about precisely how long these boys should serve. I think this week the parole board, which is a body that decides when long term prisoners should be released is considering the case of these two boys. They will probably be given new identities when they are released, and there is some talk that they may be given new lives in other parts of the world. I do not know but that's by the by. It shows how much public concern there has been about this case. But there are long-term detentions for other grievous crimes and the law, I think, compared with other systems around the world is very tough in our country for youngsters who commit serious crimes. By grievous crimes we mean any crime broadly that in the case of the adult carries 14 years imprisonment or more. In fact, 1 or 2 other offences as well, but that means that an offence like robbery, which carries the maximum life imprisonment, you can as a juvenile get any thing up to life imprisonment for a robbery. Robbery

obviously covers a huge range of different kinds of crimes, from armed robbery where people are hurt, through to somebody taking something off from somebody on the street. In London we have had a real spate of theft of mobile telephones. I don't know if you have this problem in Japan. I don't think so, because it seems that you do not really have crime here in Japan, but you have a lot of mobile phones. In Great Britain, in the cities, there has been a big problem of children stealing mobile phones from each other and sometimes threatening each other. Now if they are caught they can be charged. If they said, "give me your mobile phone or I will hit you," that could be robbery and so, some of these boys are getting quite long sentences for that. So, that's a little about custodial sentences,

Moving back to the framework that I talked about, we went to the third of the six objectives. I have already talked about the final warning intervention. The idea when someone gets a final warning it isn't just a police officer saying don't you do that again. It is actually referred to the youth offending team, who say, who look at the case and say, "right, is this youngster going to school, how are they doing with their mother and father, is there any problem with drink or drugs?" They are actually making some kind of assessment, and if necessary doing something. Maybe it is not a great deal because remember the proportionality question, we are not talking about great intervention here, but we might be talking about a number of sessions designed to try to improve the way the boy thinks about going to school, or control his temper, or some advice about drinking and drugs and health education. At least there is some intervention.

Obviously, multidisciplinary youth

offending teams in themselves are a way of tackling the risk factors, by having somebody from the Education Department, and somebody from the Health Department, that provides the opportunity for the experts from those fields to be able to try and ensure that the youngsters are getting the services that they need. Now this leads into the question of whether those services were provided directly by youth offending teams, and this is an issue I think that's coming up in a workshop group that I will be involved in. Certainly my view is that if a child has a right to be educated, which they do until 16 in our country, then they don't lose that right by being an offender. What we do now is that a lot of offenders are out of school, they maybe don't want to go, they maybe have been excluded from the school, but it is no reason for the schools to wash their hands of their responsibility for these children, and by having somebody from the Education Department in the youth offending team to teach the kids to read, write or geography or science or whatever, they are there to get a child a place in school, where they can properly learn those things. Similarly the person from the Health Department isn't there necessarily to provide psychiatric intervention, they are there to get that service. So that is an important distinction. Of course those people may do some direct work with the individuals, but I think it is important there are gateways to the mainstream services for these boys and girls, rather than setting up some shadow service which would be very much worse—that is the idea anyway.

The third item on here is ASSET. ASSET is the name of the assessment tool or assessment form that the Youth Justice Board has developed. It is part of an initiative which YJB has created, but

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basically the exception is that ASSET is used on all young offenders or certainly all that go to court. It is a bit too time consuming to undertake at the final warning stage, so we are developing a smaller version of it. But the idea is that there is a systematic assessment of the needs and the risks that an individual poses. There is a particular concern about drug misuse in our country, a lot of young people misuse drugs. Fortunately it's mostly cannabis, marijuana, soft drugs, there are a small number who use hard drugs, amphetamines or ecstasy or there are smaller numbers still who become involved with cocaine or heroine, highly addictive opiates and so on. Obviously involvement with drugs very often means a link with crime because needing to pay for drugs means you need to have money, and youngsters will often not have money. There is also the problem with a lot of youngsters who drink too much alcohol, there are a lot of alcoholic drinks which seem to be targeted at young people particularly. The idea is that every youth offending team will from this year have a worker who will be responsible for trying to ensure that youngsters are screened, are assessed specifically for this question of drugs misuse, and where appropriate, some services are put in place to deal with that. New projects, effective practice, better detention facilities, these are all part of a package of reforms to try to tackle risk factors, that the Youth Justice Board is doing quite a lot about.

Perhaps I have said enough about the whole proportionality question, but one thing again I will mention now are intensive supervisions and surveys. As programmes these are new kinds of projects that will be established this year by the Youth Justice Board in local areas. I mentioned that the conditions in custodial establishments, we are trying to

improve them, they are still really not very adequate, the reconviction rates for young people coming out of custodial establishments are about 85% reconvicted within 2 years. So more than 8 out of 10, nearly 9 out of 10, which is very, very high. We, the Youth Justice Board, also did some research which found that there were some young people of any age who were being sentenced or remanded in custody, because there was nothing in the local area that provided intensive enough supervision.

Even with the youth offending teams and infrastructure I have talked about, there are some young people who need very much closer supervision and monitoring. The intensive supervision surveillance scheme will provide 2 things: very intensive programmes, this may provide actual education, this will be for children who can't for whatever reason go to local schools, so this scheme may well actually provide direction during the day, education during the day, they will have a restorative component, they will work on offending behavior, but they will also have a surveillance component, that will comprise what is called intelligence-lead policing, so the police will keep a very close watch on those individuals who are subjected to this. Or it will be supplied with electronic monitoring, so the young offenders will wear a bracelet on their ankle which emits an electronic signal and this is a way of enforcing curfews. So if the youngster agrees to the scheme and part of the rules are he has to be at home from 7 o'clock every week day, then the electronic bracelet is the way of knowing whether he will keep that curfew. We have also another technological system called voice verification, in which an imprint of the voice of the young person is taken, and then they are phoned at home, and they have to answer some questions which are different every day. And you

know where the person you are talking to is at the time you want. That is, in a way, a better way of enforcing curfews, because it does not require wearing the bracelet on the ankle. It also enables you to monitor if the young person is wherever they are supposed to be during the day, at school, keeping appointments with so and so at work, going to see a psychologist or whatever, it provides a way of keeping track of where the young offender is. The idea is, this is a very close monitoring and supervision, very likely to be more criticized, that question about whether practitioners support these changes, some practitioners do not like this so much. My argument is if I had a choice of going to prison or having an electronic tag, I would have an electronic bracelet. So why should I not allow this choice to others in that position, and as long as it is used on people who would go to prison, then it is fine, the problem with these intensive alternatives is that they are sometimes not used to replace the prison population, but to supplement the community treatment population, so you do not reduce the prisoners. That is something we will have to watch very closely.

The final objective was about parenting and parental responsibility, again this has been a slightly controversial subject, because the idea that parents should be, have to account for offences committed by their children, some people find in conflict with basic principles of law. Basically the Crime and Disorder Act allows the court to place a parenting order on parents. And the parenting order has 2 components and 2 elements, first of all, it requires the parents to take proper care and control of the child, and secondly it can require the parents to participate in a course of guidance, a session designed to try to improve their parenting skills, and what is controversial about this is that

they can be required to do this, and if they do not participate, they can be fined, and if they don't pay the fine, they could automatically be imprisoned. It has never happened, but it is a possibility in theory. I was initially quite against forcing parents to do this, I think there is a lot to be said for developing these courses on a voluntary basis, and trying to provide support and help to parents, but I have changed my mind because I have talked to some parents and I have seen evidence that some parents say that they would not have attended if they had not been forced by the court and they have found the classes very helpful. The Youth Justice Board has been funding some projects, parenting projects, and we have a little bit of evidence about how they are working. There are 3 final orders which have some relevancy to parental responsibility, the first—local child curfews—this was a measure that was introduced in the Crime and Disorder Act which allowed the police and the local government to apply to central government to institute a local curfew in a particular area and that would mean that anybody under the age of 18 would not be allowed out the homes on the street after the certain time unless they are accompanied by an adult. Now, as far as I know there have not been any of these yet implemented. I think I made a mistake with the ages initially, the local curfew was introduced for children under the age of 10, and the government has recently extended it not to 18 but to 16, so it would be interesting to see whether these are used, and if they have any impact. They are used in certain cities in the United States, they have been used in Scotland, and some people say that have had a great impact on public order in terms of crimes committed by young people. Other people said that it is a great infringement into civil liberty, not being able to leave your house at certain times.

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So we have that discussion to come.

Obviously the link with parents is that if one of these schemes is in operation and the child is found to be out after the curfew, then the parents will be summoned to the police station and required to make some kind of undertaking that this would not happen, but if it happens repeatedly the expectation is that there would be an investigation by the welfare authority into the possibility of proceedings if the child is not being properly supervised. Similarly the child safety order was an order that was introduced for children in respect of children under the age of 10. I said that the age of criminal responsibility was 10, but obviously there are children under 10 who do things that if they are over 10 would be described as crimes I guess, or at least they take things from shops, they behave badly in certain ways, the government have introduced an order which the youth offending team or the social services departments can apply for to the court, in these circumstances, and it allows some work, some measures, some programmes to be introduced to even these younger age groups of under 10 year old children. Now there have only been a very small number of these orders made, because in practice there are other measures available under the child welfare law to deal with these problems. So in a way I think it is unnecessary.

Finally, and again this has been quite controversial in our country, the government has introduced something called an antisocial behavior order, and this is really a kind of legal injunction where somebody is behaving badly, where they are, I think the term in law is "causing alarm harassment or distress to somebody," perhaps they are up till late at night making a lot of noise, over and

over again, and they won't let any body sleep, they might be out drunk every night in public housing, threatening people as they go home, and everything has been done to change that, and application can be made for an antisocial behavior order which would allow the court to say, 'right you must not go to this place, we are making the legal rules that you stay away from this particular public housing area, or this particular part of town, between these hours or this period of time.' This has been used on a number of juveniles in Britain, particularly juveniles who have committed quite a lot of crimes. But there has not been evidence to be able to use criminal law to convict them, often they might be serious things, and everybody seems to know that it is a particular boy who was doing all of this, but nobody, perhaps they are too frightened to give evidence, perhaps nobody really is prepared to say or whatever. What it means is the injunction is broken if this person continues to behave that way and can then be sentenced in the case of adult custody and in the case of juveniles automatically put in secure accommodation. It is controversial that this law is framed in a very general kind of way, and there are some human rights lawyers who do not like the way it is drafted in such a general way which allows such a wide range of behavior, to be thrown into an encompassment of measures of somebody losing their liberty. And obviously there are implications for parents of children who are made subject of those orders.

In conclusion, I hope what I have described is a quite wide ranging reform. But really the implementation in practice is the key to whether it will work or not. There is more change on the way, because there is this important change to how the first time offenders in court adapt to it.