

## INVOLVING COMMUNITY IN YOUTH JUSTICE

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This word “community” is used a lot. We all talk about “the community.” We talk about community penalties or community treatment or community sentences or community punishment. We sometimes don’t really think what we mean by community. Often we just mean it is the opposite of institutions. So the title of this course is about best practice in institutional and community-based treatment. So it simply means you have institutions and you have the community. It also has another meaning which is really about involving ordinary people, ordinary members of local communities. Not police or social workers or probation officers, but ordinary citizens who do not necessarily have any formal or official role.

Now, in my country, most of the work with young offenders that is done in the community is, in fact, done by professionals who are paid. I talked about the youth offending teams which are made up of police, social workers, probation, health, education. These are people who are paid to do these jobs. They are not really community members in that sense. What I want to talk today about is the experience in the U.K. of involving ordinary people in youth justice in dealing with young offenders.

Before I do that, I want to say a little bit about the involvement of ordinary

community members in the criminal justice world—in the wider activities to do with crime—because I think it is important to set it in context. For example, there is, in the United Kingdom, a lot of community interest in the reduction and prevention of crime. And we have a big movement, a bit organization called Neighborhood Watch. I don’t know if you have this in your country. Some of you will. Some of you won’t. In England it was set up in 1982 and it has grown very rapidly. And it is organized at a street or neighborhood level and it is ordinary citizens who come together and agree that they will watch over their community to see if there is any crime going on, if necessary, to report to the police. They will encourage each other to take care of property—to lock their cars, to make sure they lock their houses and take other kinds of measures. And this is a big movement in the United Kingdom. There are more than 150,000 Neighborhood Watch schemes covering up to 10 million people in the U.K. And there are about 55 million people all together. So they claim that it is the biggest voluntary movement in the United Kingdom: Neighborhood Watch.

There is another important community organization which we have heard a little bit referred to. It is very big in the United Kingdom, called Victim Support. Victim Support was set up about 25 years ago and provides practical advice, help and assistance to victims of crime, to witnesses, their families and their friends. And it also has a role in raising public awareness about issues to do with crime and to promote the rights of victims. There are about 13,000 trained

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volunteers who visit and contact victims of crime. So, a few years ago, where I was living, my house was broken into and things were stolen. And within one day, I had a telephone call from a volunteer who rang up and said, "I understand that you have been burgled, your house has been broken into. Are you feeling alright? Is there anything that I can do to come to help you?" And I said, "No, that was fine. That was okay." But for some people who get very upset and traumatized by crime, it is a very important role. So that is an important community involvement, I think, in the system.

The third kind of involvement I want to mention is what we call in England and Wales "magistrates." Lay Magistrates. A lot of criminal offenses are dealt with not by professional judges, but by lay magistrates who are ordinary members of the community. They have training. But they deal with the vast majority of the less serious crime. It is the first tier of our court system. It's made up effectively of volunteers, magistrates. This is an office that goes back many hundreds of years. In the middle ages, the king used to appoint what he called "justices of the peace," local people to take responsibility for law and order at a local level. We still have this office of magistrates. I think there are about 25 or 26 thousand magistrates up and down the country. And a proportion of those magistrates deal with young offenders. We have a special youth court which is made up of youth court magistrates and they receive additional training to do the work in the youth court.

I want to mention, in this paper, the fact that, in the United Kingdom, we have a large number of voluntary organizations, civil society groups, non-governmental organizations who are working in this field. I think in some

countries this civil society sector is well-developed and, in other countries, less well-developed. A lot of these organizations may have their origins with faith groups, with churches, with other kinds of religious motivations. Some of them are charities. many of them do practical work to help prevent crime, to help offenders and so on. So there is a wide range of organizations. An organization I used to work for, for many years, called NACRO, the Nation Association for the Care and Resettlement of Offenders, that was one such voluntary organization. I was paid. I had a paid job with this organization. But the people who had set up the organization were volunteers. The trustees, the directors of the organization were doing it in their own time because they thought it was work that needed to be done. So I just want to say that is the context in which I talk about community involvement because I think, in the United Kingdom, we have a good tradition of volunteering.

There was an article in the Japan Times newspaper on Saturday about volunteering in Japan and how this was beginning to increase, particularly after the earthquake in Kobe 5 or 6 years ago when a lot of people gave up their time and effort to go and help with that disaster. And since then, a lot of private companies allow employees to do some months volunteering work of one kind or another. Now they, in this article, it said that in Japan, 25% of people say that they have done some voluntary work in the previous year. In the United States, it is 50%, in the United Kingdom, about 45%. I do not think these are very meaningful figures because there is no clearly-agreed understanding of what we mean by volunteering. I think that it is important whether, in different countries, there is a culture of community involvement or

whether people say, "Well, it is up to the government to do these things. It is up to the state or it is up to private companies." In England, we call this, I think, the third sector. So you have the government, you have private businesses and you have a third sector, which is civil society groups. My own view is that they are very important for a healthy society to have a healthy sector in which people can involve themselves in the issues that interest them, that they are concerned about. Obviously, dealing with offenders is one such issue.

Turning to the specific question of dealing with offenders, of course, those of you that know about the history of, for example, the probation service, will know that this started as voluntary work. In the United States, a shoemaker in Boston decided one day that it was ridiculous that people were going off to prison, so he said, "I will take somebody home with me and supervise him, look after him, give him a place to live. If he does not behave well, he will go back to the court." And the court said, "Okay." Twenty years later, in England, a printer took home with him, an alcoholic offender and said, "I will look after this man and make sure that he doesn't get into trouble. If necessary, he will go back to court." This is the origin of probation as we know it. So the voluntary involvement, community involvement has a long history. It was very impressive to meet and hear about the system of voluntary probation officers. I think it is one of the very distinctive things about the Japanese system of criminal justice to have so many—50,00 I think—voluntary probation officers doing this important work.

We, in the United Kingdom, do not have that in quite the same way. But we do have a lot of interest at the moment in

trying to recruit ordinary members of the community to work with offenders, to befriend them and to try to help them. We call this system "mentoring" or "coaching." I think, in its modern form, it began in the United States. It is interesting because a lot of private companies in business use mentoring, by which they mean junior employees are given a more senior member of staff who looks after them, who helps them to get involved in the organization, to understand how things are going and to further their career. It is the same idea that somebody who has more experience in life is able to help somebody who is young and vulnerable and so on. So there is a lot of mentoring going on in the United Kingdom now.

I want to talk about a programme that the Youth Justice Board has been funding. You'll remember in the last lecture, I talked about the range of projects and programmes that the Youth Justice Board were funding. One of these is a set of mentoring projects. The Youth Justice Board has funded 39 schemes. I will just say a little bit about what the evaluation of these schemes has shown.

It has been shown that most of the offenders who get mentors are minor offenders. They are not the most serious. This is obviously the case because, if I was a member of the community, I would not necessarily want to be a mentor for somebody who had very violent crimes or who had a lot of crimes. It is interesting that 5% of the children who had a mentor, in fact, had 10 or more previous convictions, which is a lot, which means that they are quite persistent, quite chronic offenders. Most of the children were in the age range 13–16. There were about, in these 39 schemes, there have been about 1400 referrals. 1400 cases have been sent to the scheme to say,

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“These are children. We want to find mentors for them.” And just over 1100 mentors have been recruited from the community. There are 565 active cases. So there are 565 cases going on at the moment. 167 have been completed successfully. 175 have broken down, have not worked out. Now the average time that is set for a mentoring relationship in the UK is one year. Usually a mentor will see a child once a week for a year, period. So when I saw these figures, I was disappointed at the high numbers of breakdowns. But I think, as we have said before, we are sometimes talking about difficult young people.

Some of the issues that have arisen from the evaluation of the mentoring programme. First of all, recruitment. What these projects have found is that it is more difficult to recruit mentors, more difficult to get community involvement as mentors in areas where there are richer people. In the more affluent, in the more prosperous areas, it is more difficult to recruit people. This is very interesting because, later, I will be talking about the referral order, which is a new order in which members of the community are invited to become involved. There it is the other way around, it is easier to get people from the more prosperous areas to become involved in the Youth Offender Panels and less easy to get them involved in mentoring. I think the reason is that the more middle-class, prosperous people, they like to be involved in decision-making, but they do not like to, actually, we say in English, “get their hands dirty” with the actual work. It is easier to make the decisions than it is to put the decisions into practice.

There are some interesting ideas that the projects have used to try to recruit different people, different marketing ideas. For example, they put

advertisements in local newspapers. They have put details about the mentoring scheme in the salary slips of local government employees. So, people who work for local government, when they get their money at the end of each month, they get a little slip that says how much they have. Also in there is a little thing saying, “Would you like to be a mentor to a young offender?” So maybe they are in a good mood when they get their money and they think, “Oh, maybe I will pay something back to the community.” I don’t know. There are talks given to particular groups of people targeted, or particular groups who might be interested—some of these civil society groups and organizations whose members might be interested in doing it. There is use of local radio and local newspapers.

Some of the other issues that have arisen in mentoring in the United Kingdom, this question of police checks. We have, I think, already had some discussion about the extent to which it is a good idea to use people who perhaps have been in trouble themselves to work with young offenders. They can sometimes be very good. If they have been a young offender and have put their lives straight, then they can be very good mentors and very good because young people are more likely to listen to somebody like them who has been in trouble than they are to listen to someone like me who has never been in trouble. But, of course, this is a risk—well, I have not been in serious trouble anyway. There are risks attached to such programmes. Of course, you cannot use people who have had offenses against children, sexual offenses, these kinds of things. So you need to check their records with the police. And I don’t know what it is like in your countries. But, in our country, this is a very slow process. So you send some names off to the police and maybe some

months later they will say, “no” or “yes.” In the meantime, when they have had their salary and they have said “Yes, I want to be a mentor” and they are interviewed and then nothing happens for several months because they are being checked and checked and some of them lose interest. They go and do something else. So that is a small practical question. But for community members, if you want to involve them, you have to think about it from their point of view. Sometimes the bureaucracy, the systems that we have to have can get in the way of how the community would want to do things, how ordinary people—they would not always understand.

It is a similar question about the right level of supervision and support to offer mentors. How much should you be checking up on them? If you are a probation officer on the Youth Offending Team who are running the programme, you have your volunteers seeing these children, should you ask them for reports every week? Every month? Every six months? Should you arrange meetings for them? This is a difficult balance because the people like to be able to do the thing that they want to do themselves. Sometimes they might run into difficulties. So you need to find a way which offers them support to do the work properly, but does not over-intervene and allows them to be members of the community. This is a theme which I will return to when I talk about the Youth Offender Panels. There is a danger, when you involve the community, that you want to turn them into professionals because it is easier to deal with professionals than it is community people. So you train them and you support them and you supervise them. And then, suddenly, they are not really like the community that they are supposed to be. They have become more

like you. They have become an additional member of the Youth Offending Team. If it is to work, you actually want them to be as they normally are. So getting the balance is very important.

Finally, there is this question of contingent mentoring. In the United States, the research shows that contingent mentoring is the most effective. This means that, if I am a mentor for a boy and I say to him, “Okay, I am going to see you next Saturday and I will take you swimming. But I will only take you swimming if you go to school every day and you do your homework everyday. I ring up the school on Friday and they say, ‘Yeah, he has been in school and he has done his homework,’ then I will meet you on Saturday and take you swimming.” So I ring up on the Friday and they say, “Well you did not come to school on Thursday” or “He did not do his homework,” then I have to say, “I’m sorry, we don’t go swimming.” The idea is that you build in the reward of the mentoring relationship and link it to improved behavior. I think this is quite difficult in practice because mentors want to befriend the young person. They will not always obey the system of contingent mentoring. They will not always obey the rules because they will want to take the boy swimming on Saturday whether he has done his homework or not. So there is a question about that. Also, these are boys, mainly, sometimes girls, but boys who, of course, do not do what they are supposed to do. So I haven’t looked in detail, but I suspect some of the breakdowns in the relationships have been because of this, contingent mentoring. The boys have not done what they were supposed to do so the mentor says, “Well, what is the point of continuing?” and he finishes. Well, there is no point in having a perfect contingent mentoring scheme. But no mentor ever

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meets any child because they do not do what they are supposed to do. The whole system then fails. So you have to keep this in balance.

Just two more things. The Youth Justice Board is extending the mentoring programme in two specific areas where we think it is important. One is in improving literacy and numeracy—teaching children to read and write and arithmetic and mathematics because the level of basic skills among young offenders is very very low. It is one of the indicators in our country of the likelihood of being a persistent offender is these are children who have not learned to read or write well. They have a reading age, a reading level much lower than they should have. Mentors can help them to improve those basic skills.

The second area we are extending this to is with ethnic minorities. I mentioned that in the United Kingdom there are—not large—but there are, in certain parts of the country, quite large ethnic minority populations from the Caribbean, from South Asia, from other parts of the world. And these are youngsters who have not been treated very well by the criminal justice system. There is over-representation of these groups, particularly Afro-Caribbean boys in prisons. So there is a lot of interest in trying to develop alternatives to custody for these groups. So we are trying to recruit older people from the minority communities to act as mentors for minority youth. That is a big target for the Youth Justice goal.

I want to mention three other areas of community involvement in Youth Justice. The first is what we call “appropriate adults.” It is probably true in many of your countries that young people, when they are arrested, cannot be questioned

except in the presence of their parents or another adult. Of course, you try to get the parent to come. But sometimes they won't or they can't. Many areas now have recruited panels of people who act as appropriate adults. Their role is to ensure that the young person understands what is going on; and they can intervene. They can say to the police officer “Hang on a minute. I'm not sure he/she understands this. I want to talk to them.” This is separate from any legal representation. It is possible to have legal representation in a police station when you're being questioned. But it is not a very high percentage of children who have legal representation at that stage. They have to have an adult with them.

The second thing I want to mention are what we call, rather confusingly, “Boards of Visitors.” And these are ordinary members of the community who visit prison establishments in order to check upon the welfare of people in prison and to hear complaints from prisoners. There are 135 boards of visitors, one for each of the prison establishments in England and Wales. I mentioned last time, there are 13 prison establishments that take the juvenile. So each of those will have a panel of Boards of Visitors. Each of the panels has about 15 or 20 people on it. Some of them are local magistrates. Some of them are just local people. They are appointed by the government. They are community members, but they have to apply because they are given wide access to the prison establishments. In fact, I think they are even given keys to be able to go at any time of the day or night to visit or check. It is an important, I think, function of the local community to check upon those people who are detained in those communities. Because, although they are in prison, they are in custody, they are detained, they are still citizens. Their rights have not been taken away. It

is important that there is a mechanism, a means in the local community for ensuring that they are treated carefully and properly. There has recently been a report by the government on the roles of Boards of Visitors. The recommendation is that the name is changed to something like Independent Monitoring Panel to make sure the role of monitoring the conditions and monitoring how people are treated in these establishments is properly communicated. "Boards of Visitors" sounds like they are just visiting, "Hi. How you doing?" and they go away. But it is stronger than that. It is confusing because we separately have something called "prison visitors" who are ordinary people who simply go in and they are simply befriending prisoners who have perhaps not got families. And perhaps they bring them food or they come and talk to them. That is different. Boards of Visitors are a more formal part of the arrangement.

Finally, there are similar kind of visitors for police stations. We have ordinary members of the community who go and can visit police stations to check that people who are detained in police stations are not being badly treated. This does not just apply to juveniles. This is for the whole age range. But I mention that because I used to be, many years ago, I was a lay visitor to police stations. So I used to visit the local police stations to check that people were being detained in accordance with the rules.

So those are the main current ways in which the community can become involved in youth justice in the United Kingdom, I think. I want to turn now to the new development, the new sentence that is currently being tried out in 11 areas of England and Wales, called referral orders. We have borrowed quite heavily from the New Zealand system of

Family Group Conferencing in developing this new system. We have also borrowed from the system in Scotland, which is in the north part of the United Kingdom which, as I had explained, has a separate jurisdiction, a separate set of legal systems and they have a more informal way of dealing with young offenders. So we have created a hybrid system, a new system called referral orders. It will work like this. It will be an order that is made by the youth court. It will be mandatory, it will be automatic for cases where young people have no previous conviction. So it is their first appearance, the first time that they are guilty in the youth court. They have to plead guilty. There are three exceptions to this automatic referral order.

First of all, if there is an absolute discharge given—which means that it is such a minor thing it is really a technical breach and nothing at all happens. Or it is so serious that the young person has to immediately go to custodial detention. Or, if the young person has a mental health problem and they can be given a hospital order to be detained in hospital, that very rarely happens. But other than those exceptions, the referral order will be the sentence that is made. It lasts between 3 and 12 months. When the court makes the order, it decides how long the order should last, really depending on how serious the offense is. That is the main consideration. So the more serious ones, 12 months. The less serious ones, 3 months. But it is important to note that it is only for people who plead guilty. So, if you are appearing in the youth court and you say "I didn't do it" and there is a trial and you are found guilty, you cannot then go down this referral order road. The reason is that we think it is important that the young person, from the beginning, accepts that they have done the crime. So it is a

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slightly different emphasis from New Zealand where, I think, young people can go back into the Family Group Conference when they have been found guilty, even though they were saying before that they hadn't done it. In our system, you have to say "guilty" from the word "go," from the start.

What the referral order means is that you are required to attend a Youth Offender Panel. So we have created a new tier of decision-making, a new kind of way of determining, a way of deciding how to deal with these young offenders. So the court hands over the case to this new thing, the Youth Offender Panel. And, rather confusingly, we call this in shorthand, the YOP. So we already have the YOT, the Youth Offending Team. And now we have a YOP, the Youth Offending Panel. So it is very confusing for everybody. It is particularly confusing because it is the responsibility of the YOT to set up the YOP. So the Youth Offending Team is responsible for organizing the Youth Offender Panel. They are responsible for recruiting the community members who are going to be on it. They are responsible for organizing the meetings, for training the members, for sending out information, for arranging it. If this was a Family Group Conference, this would be for the Youth Offending Team to do.

Perhaps the most important distinction with the Family Group Conferences is that the community members are perhaps the most important and new part of this system. The idea is that there will be in each Youth Offender Panel two members of the local community, two ordinary people, one of whom is the chair. So the Youth Offender Panel meeting is chaired by an ordinary member of the community. There has to be one other member of the community there. The idea

is that the Youth Offending Team recruits a pool, a group of community representatives to act as panel members. The idea is to recruit a broad range of people. There is a minimum age of 18 to be a panel member. But we do want young people. We do want some people who are 19, 20, 21, 22. We don't just want community elders. We want people who are closer in age to the young people they are dealing with because we think that the young people may take more notice of someone closer. Now this is an important cultural question which varies from country to country: how much respect and how much people take account of older people. I'm afraid, in our country, a lot of young people do not take much notice of what older people say or are perhaps more influenced by people closer to them. That is a generalization. I am not a sociologist. But I think it is perhaps an important difference with some systems. I think there is a minimum age for being a voluntary probation officer in Japan which, no? But most of the voluntary probation officers are somewhat older, I think, than probably mentors or community panel members would be in the UK. So they can be as young as 18.

We have said that if you have had a previous minor offense, that will not be a barrier to being a member of the Youth Offender Panel. I was involved in a group which was developing a guidance for how we recruit the community members. I remember I had a big argument with a police officer who wanted to say that nobody with any criminal offenses should be involved in this and I said I thought it was important. I managed to win a little victory. So a previous minor offense does not act as a barrier.

Really, what we are looking for in community members are personal qualities to bring to this work. We want



people who are interested in questions of citizenship and questions of how young people develop. We want people who are on the whole now, of good character although they may have had some trouble in the past. We want people who can communicate well, who can understand well and make good judgements. We want people who have a good temperament, who are not going to lose their temper or shout or anything like that. We want people who are reliable and who will make the commitment because the kind of commitment we are talking about is maybe 2 or 3 hours a week for 40 weeks a year. That is the expectation of a community panel member. So it is quite a heavy commitment to do one or two cases a week 40 weeks of the year. You have to be clear that you're going to be available. If you have a lot of other commitments, you may not be able to do that.

So the community members are the key part of the Youth Offender Panel. Obviously, as in the Family Group Conference, the young person and their parents have to be there. The victim has to be invited to the panel meeting and, as in New Zealand, the young offender and the victim can bring a supporter with them. One of the interesting other difference, I think with the New Zealand scheme, is that there are no lawyers in the Youth Offender Panel. That is not technically true. If the young offender's father happens to be a lawyer, then he is allowed to come. Or you could perhaps bring a lawyer as a supporter, but that is discouraged, really. Because the idea is that we want direct participation by people. Be do not want people to speak through representatives. And there is a bit of an argument in the UK at the moment because the United Kingdom has signed something called the European Convention on Human Rights, which is a big human rights convention which,

amongst other things, gives a right to legal representation in judicial proceedings. So you have a right to do that. But the youth justice board and the government are arguing that these are not judicial proceedings. The judicial proceedings is the court that has made the referral order. The Youth Offender Panel meeting is part of the execution of the sentence. It is not proceedings. But there are some people who are arguing that question. So maybe there will be a case to decide this. In a way, if lawyers are allowed into it, it rather defeats the object of having this new panel system because it is supposed to be a very different kind of way of dealing with things.

Finally, the idea is that the Youth Offender Panel should be held within 15 working days of the referral order having been made, which is a very demanding target—very tight, given the importance of the preparation and everything. You'll remember I talked about the government's emphasis on speed, speeding cases through the system. So they did not want to introduce a new measure which brought back delay. This idea that the cases are dealt with quickly is still important. So they have set this target, the expectation is 15 days.

So the aim of the Youth Offender Panel is to agree a contract. I will not talk in detail about how the panel works. But in some respects it is similar to the Family Group Conference methodology. The idea is that, at the end of the meeting, there is a contract that is signed by the young person and the chair of the Youth Offender Panel. That contract should have 2 elements. One is, how is the young offender going to make reparation for what they have done? How are they going to pay back either the victim or the community for the wrong they have done?

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The second element is what are we going to do to stop the youngster committing the crime in the future? What sorts of measures are going to be taken? So the contract might say that the young person will do a certain number of hours of unpaid work in the community, community-service kind of placement, plus they will attend special classes designed to help them learn how to control their temper or about helping them to reduce and give up drinking alcohol or to help them with some other aspect of their offending to improve their attendance at school, sessions with their parents to improve relationships at home, a whole range of different sorts of measures to try to deal with the problems that underlie the offending.

Again, I think, two differences from the New Zealand model is that there will be two more meetings of the Youth Offender Panel. There will be a review meeting to see how this is going. This is a contract. So, you signed the contract so you have to do it. So there is a meeting about half way through because the contract will specify by and when this work has to be done. You will remember that the referral order has been set from 3 months up to 12 months. So that provides the length of time within which the contract has to be completed. Then at the end, there will be a meeting reconvened to see how things have been done. If the young person has not completed the contract, then the case can go back to court, and the court can sentence them as though it was the beginning of the process again. So in a way, it is all on the young person to do what has been agreed. If they do complete the contract, then they do not have a criminal record. Their criminal record is taken from the books. So that is an incentive for the young person to do this, so that they will not get a criminal record. It is possible for the young person to ask

for a Youth Offender Panel to meet again if they want to change the contract. If they, after a while think that it is unfair or they don't think that it is right or their circumstances—their parents are moving house or there is something going on—and it is possible to vary the terms of the contract with another meeting.

In terms of a model, the Youth Offender Panel is within a kind of shell of the referral order. There is always the threat of going back to the court to deal with the case if the thing doesn't work out. And I think that is because, in Britain, we are a bit nervous of how this will work. This is a new kind of system for us. I personally hope it works very well because I think it is really good. There are some people who are a little skeptical, they do not think it will work and they think that the traditional court system is better. So we are going carefully to see whether it works.

Okay, I'll just quickly say something about the rationale—why, specifically, in Britain we have introduced this. In a way, the reasons for introducing this are similar to the reasons in New Zealand. But I think there are some particular issues in Britain. Part of it is about giving victims more of a say, giving victims the right to have an explanation, to have an apology, to have restitution or reparation. Part of it is about getting an offender to be able to take responsibility, but also to have a chance to give their input, to contribute their ideas. Part of it is for the community to express their concerns and to engage with the problems. So I think, in Britain, we think of the youth justice system as having three components, like a triangle—the offender, the victim and the community. These are the three interests that need to be satisfied properly in a system of juvenile justice.

Now, in principle, some people say the ordinary youth court should be doing these things. We are about to introduce, in Britain, a system for giving victims the opportunity to make a statement through—or at least have their views about the impact of the crime given to a court. So there is a way, in the normal courts, for some victim impact information to get into decision making. If you go to a youth court, the magistrates will ask the young offender what they think. They will normally just grunt. They will normally not say anything. But there is, in principle, the mechanism, the way for the young offender to contribute their thoughts. As I mentioned, magistrates are members of the community. So some people will say, “Well, we already have a system which meets the needs of the offender, the victim and the community well.” But when you look at the system of the youth courts closely, you will see that it does not work in that way. What specifically the Youth Offender Panels are providing is a system that is much more direct. You will remember that I talked about one of the government white papers was called “No More Excuses,” that the old philosophy was that we were always making excuses for young offenders. Before the Labour government came into power, the Home Secretary, the minister in charge of all this went to sit in a youth court to watch what was going on. He did not like what he saw because the young person was sitting there and the lawyers were doing all of the talking, the professionals. The young person who committed the crime was simply not engaged, not involved. So the idea is to make it more direct. The young person has done the crime, they should be more directly involved in the proceedings. In consequence, it should be more informal to encourage participation because the reality is we are often talking about people who have not had the best

education, they are not the best at speaking. If you put them in a very formal setting and say “Speak! Tell us what you think,” they would just find it too difficult. They cannot do it. So you need to create an informal setting. You need to have a dynamic setting. By that I mean a kind of forum in which fresh ideas emerge during the proceedings in how to deal with this problem. It isn’t often in the court, the social worker or probation officer had written a report saying, “This is what we think should happen to this young person.” It is all agreed and it is, as we say in England, a stitch up. It is all kind of agreed by the professionals and then everybody goes off. The idea here is that the actual meeting of the Youth Offender Panel could create some new ideas that had not been thought of before for how to deal with this.

The idea is that a young person is more likely to comply with measures that he/she has had a part in determining, a part in deciding in a discussion than complying with something that has been imposed from on high by a court. So the Youth Offender Panel is not a court sentencing, it is a panel agreeing. And this is a very different kind of mode of decision-making. I think part of that is to do with the kind of people that we hope will become community members. I will talk after the break about the early research on these Youth Offender Panels. One of the community panel members told the researchers, “Magistrates that live in big houses in nice areas and are visualized as being officials, young people can see that we, the community panel members are normal and live in the same areas that they do and experience the same problems.” Well, I will tell you that picture is not entirely true because the evidence is that a lot of the community panel members are still middle class, more prosperous, affluent people. But the

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idea, and this is an idea that we are struggling with, is to try and make it decision-making by people who are more similar to the offenders. I think that is an important distinction. So those are the four key items I think in our context, in Britain, more direct, more informal, more dynamic and more problem-solving. Those are differences from the youth court system which the panel will replace.

I mentioned that we are testing pilot schemes in eleven areas of England and Wales. The pilot started last summer. There has been one evaluation report produced earlier this year. The plan is that the referral order and youth offender panels will be introduced across the country from next April. So April 2002 will be the national implementation, the national rolling-out of the programme. So already all of the areas in preparation for next April are beginning to think about the questions of recruiting the members of the community and so on.

So what is the early experience of these pilot schemes? Well, first of all, on this question of recruitment and representation of the panel members, the evaluation has found that, because there was a big rush to get enough community members ready, they have not worried so much about whether the panel members are representative of the community. Ideally, you would have people who were representing the bigger community. But, in practice, they have been so worried that they would not have enough community members to run the panels, they have not worried so much about the quality, the representative nature of the people. As I said, there has been more difficulty in recruiting people from poorer backgrounds. Most of the community panel members are women rather than men. I will come back to talk about some issues, at the end, to do with this.

Second thing is that a training programme for community panel members was developed by the Youth Justice Board. We asked a university to produce a training manual for community members. And it was for the local Youth Offending Teams to do the training of the community members. The training is six days, which has taken place at weekends. So over six weeks, the community members came to a training course. That is quite a lot of training, I think. Some people say it's too much. This question of whether we are too worried about community members just being themselves, so we want to train them into little professionals. In the pilot schemes, the training course is also acted as the way of selecting out people who are not suitable. The system will be different when the programme is national because there will be a process of interviewing the people who want to become panel members, to see if people are suitable. But, in the pilot areas, because time was short, people were invited to come on the training. And if, during the training course, they behaved in a way that suggested that they were not very suitable, then it was suggested that perhaps they should do something else with their volunteering. Their community involvement could be some other kind of activity, but not with young offenders. One of the problems with the training has been that it has raised expectations of the community members, which have not always been fulfilled in practice. So there are two specific issues that I will talk about later. One about the kind of information that is made available to them in the meetings, and the second is about the attendance of victims.

It is interesting, the researchers ask the community members why they wanted to do this because it is quite a big commitment to give up 2-3 hours a week

for 40 weeks a year. Some of the community members said it was their own experiences as a young person. They had not necessarily been in trouble, but perhaps they had some difficult times as a teenager and they wanted to try and help. Some people said they were worried about the crime problem in their area and they wanted to do something about it. Some people said it was related to a job that they had previously done. Perhaps they had previously been a probation officer. Some people said it was a way of getting some experience because it might allow them to do a job in the future in this kind of area. So those were the main kind of motivations, the main reasons why people wanted to do this.

The positives of what the community panel members said were that they did feel that it was important work that they were doing. One or two of them said that it was the most important thing that they had ever done in their lives and they were very excited by it. They felt that they were valued and that they were well-supported by the Youth Offending Team. In the panel meetings, they were on the whole impressed by the contributions that the parents had made in the sessions. I think they had expected the parents to maybe be a problem. But they had been very impressed with how concerned the parents had been and the kind of care that the parents on the whole were taking of the young people.

The disappointments—this question about information. The evaluators found that they were disappointed about the level of information they got before the panel meeting. And I want to come back to this question in a minute because I think it is quite important when we're talking about community involvement, how much information they should have about the individuals. They were

disappointed that the number of victims was small. And they were disappointed that the kind of things that they could put in the contract, the kind of activities, the kind of programmes were a smaller number than they wanted. They were disappointed at the range of programmes and the breadth of programmes. So they would be in the panel meeting and they would talk to the young person and maybe the victim and the parents. And they would think, "What this boy (or girl) needs is a programme which would help them find work on a Saturday morning" or "improve their skills in this way" or "will occupy them after school on Tuesdays" or "will get them involved in soccer because they are very interested in that." They were disappointed that there weren't these things there. They could say "This is what we want," and the Youth Offending Team would say, "Well, I'm sorry, we do not have the ability to do all of these things." Sometimes they might see that there was a special problem, that they needed a course on drugs to help them become more aware about drugs or to have some special treatment. These programmes aren't there. I think that was an overwhelming finding, that the community members were disappointed in that.

Now, from my point of view, I think that it is important to try to turn that disappointment into action because it is no good the community members just saying "Oh, there are not enough facilities. There are not enough activities. There are not enough things for these young people to do." They must try to exercise influence to increase those things—whether that is influence through their personal efforts or their personal contacts (through their families or friends) or whether it is through lobbying politicians to spend more money on these areas or asking for more

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resources or more programmes. But it would be no good if you just had the community members sitting there complaining, "Oh there is not enough things for young people in the area." In a way, that is what the youth court magistrates already do. They make those complaints. But the idea of having the community members is to engage them in the problem and to say, "This is your responsibility as members of the community, as representatives of the community, these young people who are committing offenses, we need to sort that out as a community. So we need to be looking at ways to improve the range of things. So, hopefully, it will create a kind of dynamic, a process in which there is greater investment, a greater number of things available for young people to do.

So the early evidence from about 300 panels, less than half were managed to be held within the 15 days of the referral order being made, which is not surprising, I think. This is a new system and I think 15 days is too short to do all the preparation that is required to run a good panel. Two-thirds took place after 5pm. I put that statistic down because it shows that there is some flexibility about the timing of these meetings. The idea, if you are going to involve the community in any kinds of activities, you have to take account of the demands. It is no good if the Youth Offending Team likes to have the meeting at 10 o'clock in the morning. People have jobs. So a lot of the meetings are in the evenings. Some at the weekend. I think, if you are going to involve ordinary people, you have to take account of ordinary people's lives. And that is the reality. Half last more than 40 minutes. And some of them may last 2 or 3 hours. They don't last as long as the New Zealand conferences on the whole. Some of them only last half an hour. We are talking here about 1st time offenders,

so there may be a theft from a shop or something like this. So it is the first time someone has stolen a shirt or something like this. There is not necessarily a lot to do in that kind of case. So some of them are quite short. Some of them which are more complicated obviously last longer. The most worrying, from my point of view, statistic is that victims attend in only 10% of cases. So in about 30 or so panels out of these 300, victims came, which is very low. Much too low. I have been asking for some more detailed research on why it is that the victims have not wanted to come. I have already talked about the question of speed and the importance attached to doing things quickly. But, as you will see, as I said, only half of the panels were held within 15 days. So it is not simply a question of speed. I think it is a question of skill. There is not the skill yet in our country to be able to talk to victims in a way which encourages them to become involved without pressuring them to become involved. It is very important, of course, not to put pressure on a victim. "You must come to this panel. It is your duty to come to this panel." That is wrong. That would be wrong. They have not done anything wrong themselves. They have been the victims at this point. But, if you just say, "Well we got this project. Come if you want," they'll say, "No, I don't think I will." So you have to find a way of, I think, interviewing and talking to them so that they will think, "Yes, this is something that I could get something out of. And maybe it is a part of my responsibility as a community member. I don't really want to do it, but I think..." At the moment, we do not have the experience or skills to do that very well. And we are trying to build that up and trying to identify what training is needed in this whole question of dealing with victims in a way which encourages them to get involved in restorative processes.

What is good news is that contracts are agreed in almost all cases. So in 99% of cases, the contract is agreed in the panel meeting, which is good.

I want to just end by talking about some of the emerging issues, some of which are specific to this question of Youth Offender Panels, but some of these issues have a broader importance when you are talking about involving communities in Youth Justice or indeed Criminal Justice. The first question is a specific one and it is one that has come up in the conference and training already. It is this question of what we call “proportionality.” As I said, there is not a lawyer in the Youth Offender Panel. One of the functions of the lawyer in the New Zealand conference is to ensure that the contract or the agreement in New Zealand is proportional, is fair, is not too heavy in terms of the young person but is not too light in terms of what they have done. So, in New Zealand, as I understand it, that function is the function of the lawyer or the Youth Advocate. So they can say “Hang on a minute, this is too much.” We don’t have that. All we have as a safeguard is the fact that it is an agreement. So, if the young person doesn’t like it, they don’t have to sign it. They can say, “No I would prefer to go to court.” Because if an agreement is not reached and a contract is not signed, then the case goes back to the youth court. And the young person might say, “I don’t like to have to do all this work, I would prefer to go to the youth court.” And if they went back to the youth court, they may just get a fine. They may get a small sentence effectively than what comes out of the panel. The fact is that 99% of cases do end in a contract being signed. Some people may say, “well, there is pressure put on the young person in these.” What you are talking about, and I have heard of

children’s rights lawyer talk about this and say “this is a terrible system because you have one child and you have a room full of adults. And there is nobody there for that child.” You cannot rely on the parent to be there for that child because sometimes the parent is the most critical of the child of everybody. So this is not fair to the child. Now, one of the possibilities would be to change to system to produce some kind of safeguard. In Scotland, where they have a similar kind of system, they do have somebody called a “safeguarder” who safeguards, who protects the rights of the child. But, at the moment, we don’t have that. So that is an issue that has come up.

There’s also another side to this. I mentioned that the referral order itself can be for as short as 3 months and as long as 12 months. But that is not a very wide range because these are dealing with all cases of 1st time offenders, 1st time court appearances. Now that could be riding a bicycle without lights, it could be very minor offense like this. Or it could be a very serious offense. Now, in the most serious, the court can send the person to custody, to detention. But, on the whole, youth court does not like to send, particularly 1st time, offenders to detention. So we have a wide range of offenses but not such a wide range of penalties. So 3 months to 12 months is not a huge range. So there is then the question, “Should the contract of the Youth Offender Panel be related to the seriousness of the crime?” Well, you would think that is—possibly that should be. But the law says the contract is about two things. It is about making reparation and you could say “Well, the more serious the crime, the greater the reparation needs to be.” So, yes, there is some proportionality there. But it is also about preventing offending. What is needed to prevent this young person from

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committing a crime again? Sometimes that would be related to the seriousness of the crime. But sometimes not. It is a different question of what you need to do to prevent the person. Now the difficulty with all this proportionality is if panels start to get into these discussions, somebody says, "Ah, I know what we need to help us with this! We need a lawyer in here to help us decide these difficult questions about proportionality." Lawyers are the people we don't want in the panels because we want the direct participation. So this is emerging as an issue in the panels—how much should the community members, the chair of the panel be concerned about this question of proportionality. or should they say "Well the proportionality question has been dealt with by the court. The court has said 3 months, 6 months, 9 months, 12 months. So now we forget about proportionality. We concentrate on repairing the harm preventing offending." That is my view. But there are other people who have different kinds of views in this. So this is an emerging issue.

The second specific issue is this victim attendance question. And I talked about this already. We do need to get the numbers higher. There will be some offenses for which there is no real victim. And one of the questions that is important in restorative justice and important in the whole victim-offender area is what to do when the victim is a shop or an organization rather than an individual person. And in these cases, in my country we are talking about quite a lot of cases where people have stolen things from shops. That is quite a common offense by young people. We call it "shoplifting" or "shop theft." Now, say a boy has gone into Marks & Spencer's, which is an English shop, and taken a shirt—well, he probably wouldn't go to

Marks & Spencer's. This is a Marks & Spencer's shirt. He wouldn't want to wear a shirt like this. But he goes to a T-shirt shop and takes a T-shirt with "Adidas," that would be more like it, something like this, and he is caught and a Youth Offender panel is arranged, who comes as the victim? Well, it is difficult to find somebody from the shop who will be prepared to come because they have a shop to run and it is not important for them. They have not really been the victim. Okay, they have lost a shirt. Okay the profits of the company will come down a little bit because of the loss of a shirt. But it is not real individual harm or loss to an individual person. Now, if someone from the shop comes, the security guard or the manager of the shop, what do they say? Do they say, "The profits of my shop have gone down because of your crime?" Because the boy will then say, "I don't really care about the profits of your shop. So what?" And I think there is a real issue about whether restorative justice victim attendance works when you have a corporate victim. It works much better when there is an individual who has really suffered something. Then the whole philosophy comes into play. It is only my view that it can be a bit false to try and get somebody to feel shame and sorrow because of the effect on a security guard in a shop or the manager. So you understand the point I am trying to make. So I am more concerned about victim attendance in the case of individual harm. That is, I think, where we should try to concentrate our efforts. We should not worry so much if the attendance for these cases of the shops or offices is low.

Final emerging issue, specific issue is about the impact on custodial sentencing. You'll remember that I said the youth court, in a serious case, can send somebody straight to detention if



somebody has probably done a serious burglary, broken into somebody's house or set fire to something or hurt somebody seriously, they would probably go into custody immediately. The problem is that the court, in making that decision, only really has two choices. It has referral order or detention. The court has no control over the Youth Offender Panel. The Youth Offender Panel decides what is the contract. So they may not trust that the Youth Offender Panel will come up with a contract that is sufficient to mark the seriousness of the crime. If someone has already had a crime, they cannot go to the referral order. They just get dealt with by the youth court. But then the youth court has available a whole range of sentences that I talked about before: supervision orders and probation orders, attendance sentences. But, strangely, for 1st offenders, there are just 2 things, really. That means that young people may be more likely to go to prison and these places when the referral order comes in than they are now. So that might be a slight problem for the system. It has not been anticipated, but people suddenly realized, after this system was introduced, that this was one of the consequences that might occur. So we need to watch carefully whether that is the case.

Okay, so what are the final emerging issues? Well, I talked about this question of how representative the panels are. One of the panel members told the researchers, "We are basically middle-class panel members dealing with working class communities." So "we are basically prosperous people dealing with poor people." Now, the idea of the youth offender panel is that it should not be like that, that we should be recruiting people from all over society to deal with offenders. How we do that is one of the big challenges for us. And I think it is

partly this question of maybe 6 days training for panel members puts off certain people who don't want to give up 6 Saturdays to go and learn to be a panel member. Maybe that is too demanding. Maybe they have not got the confidence to put themselves forward for these kinds of activities. So I think we need to look at all of that. On this question of representativeness, this is a question that does have wider implications. If you are talking about community involvement, you need to consider this whole question of whether the people you are involving properly represent the community. And I'm thinking about men and women, different minority groups, different social classes, a whole way in which society is made up.

Similarly, the second question that I raise here links with the YOT (the Youth Offending Team). One of the community members said, "I ignore the YOT staff and I am determined not to be a puppet on a string." Some community members think that they are just there for "window dressing," as we say in England. They are just there to make the thing look as though it is participation, but really the decision is made by the YOT. And some of the community members are concerned about that. Another said, "I think that we will be able to do the panels without the YOT. In fact, I think it would be easier without them." This is the whole question of, if you do have community involvement, the relationships with the professionals and how that works. Some of the professionals are suspicious of the community members. They do not really trust them to do a good job, they are worried. They see that this is the job that they used to do, being taken away and given to ordinary people. Some of them think, "That's not right. I want to continue to do that." Now I don't think it is possible for the Youth Offender Panel

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to operate without the YOT because the Youth Offending Team is preparing all of the meetings, it is recruiting & training the members, it is providing the information.

I want say a little about this question of the information because I think that, in a way, sums up one of the issues between professionals and the community. I mentioned before that the youth justice orders produced this ASSET assessment tool. When the community members were receiving their training, they had a session about the ASSET tool. And the YOT said, "Whenever a person commits a crime, we fill in this form and find out all about their backgrounds and so on." So when they came to do the panels, they expected that they would get this form about the child, but they don't. They just get a short summary of the information about the case. There have been some practical problems because they did not receive the papers long enough in advance to read them. I think a lot of systems have these problems. That is not to worry so much about because we can sort that out. But I think there is a real issue about how much you tell ordinary people. So say a child has been subject to sexual abuse when they were younger. Is this information that should go to the community panel members? Of course, they sign confidentiality agreements, but still, there are some professionals who worry about this information getting too far out. Of course, you would not give this information to all of the participants in the meeting, the victim. Or should you? And I think there is a real question now over where information should go because, if a victim of a crime understands that the offender has behaved in the way they behaved because they have had a very bad experience, that is not an excuse, but it might help them to understand why they have been a

victim. Is it fair on the child to put all this information to people who are not professionally trained and so on? So I think this whole question of information and safeguards about information is quite a difficult professional and moral question that needs to be looked at.

The third point is safety. One of the panel members said to the evaluators, "It is very nice saying that it is community. But the reality is that some people can retaliate. So I would prefer to do panels outside of my immediate community." By retaliate, what she meant was that she was afraid that an offender who she had seen and dealt with in the panel might recognize her in the street and say, "You are the woman who made me go and do all this community work and I don't do it" and he might take some revenge on her. I think this is an important factor to take into account. It is easy sometimes to talk about the community as though it is a happy place in which everybody gets on very well. But there are conflicts and one needs to take account of the reality of community life. It may be that people who are living very close to the area where the offenders live may not be the best people to do it. I think if panel members are expressing those concerns, they need to be taken account of. They need to be listened to.

And finally, there is a question of extending this system to other offenders. Without a new law, it has to go to Parliament. But it could ask Parliament to agree that the system could be extended beyond 1st time offenders to other kinds of offenders, maybe some offenders who have already committed one crime. So it becomes more like the New Zealand system, more and more the way in which young offenders are dealt with. It also allows the government to change the kinds of offenses. So it might

say that it is not really suitable for offenses like riding a bicycle without lights. It is a waste of resources to have a youth offender panel for a very small crime. Let's find some other way of dealing with that. So that the kind of range of offenders and offenses can be changed. My view is that, if it starts to work well, and to work well we need more victims and we need to know how many of the contracts are properly completed—and it is too early to know how many of these contracts have been completed by the young offender—but if victims come and are satisfied and the contracts are completed, I think it is potentially a good model to be extended throughout the system.

problem for that community. When people are solving problems, there is not so much room for emotions because it doesn't help you solve the problem. I think the whole system of criminal justice, particularly for young people, needs to have that injection of practical realism and sense. The Youth Offender Panel is a model for doing that. If it does work, it can help to produce a better system for the young people, for the victims and for the communities where they live. Thank you very much.

I think that it's very important to finish by saying why I think it's important. It is to do with this whole question of why we should involve the community. As you know, I am involved in a project which is about public attitudes in this area towards offenders and towards crime. What the evidence, in my country is, is that, if you ask people what they think about crime and punishment, they will say "The system is not harsh enough. We need a lot more punishment. Offenders are getting away with it." But, if you give them details of a real case, of a real offender, a real human being who has committed [a crime], when they start to see the details about the backgrounds, where they live, the kinds of circumstances in which they have been brought up, the pressures on them, they start to think and say, "Well maybe punishment is not going to solve this problem." What the Youth Offender Panel does is move people from having an emotional reaction about crime—we all don't like crime and we must stop it—it is not an emotional reaction. It is a practical problem that they have to solve. They are representing the community in solving a