



Ministry of **JUSTICE**

Lord Chancellor and Secretary of State for Justice

Rt. Hon Jack Straw MP

Punishment and Reform

Royal Society for the Arts, London, 27 October 2008

INTRODUCTION

Good morning.

And thank you Mathew for having me back at the Royal Society for the Arts.

I see this morning very much as a Part II to the lecture I gave here in March.

Then, I discussed the role of courts (particularly community justice), and the reform required to move criminal justice from a bureaucratic system to a public service. I talked about the need for a change of culture, of attitude, about lifting the veil which sometimes keeps justice from view: explaining more, hiding less.

In this sequel, I want to pick up on some of those themes, and to look at how we treat those who break the law; a defining responsibility of any government. As Churchill famously said “one of the most unfailing tests of the civilisation of any country”.

In so doing I want to answer a question which goes to the very heart of how we shape the criminal justice system, which is: whom ultimately should it serve?

But, first, two points by way of context.

This government promised to be tough on crime and tough on the causes of crime. We have been.

Since 1997 this government has invested in the justice system to an unprecedented extent. We had to.

A decade and more of record investment was required to breathe life back into a system which had too many deficiencies. Radical cultural and structural reform of the police, of prisons, of probation, of the courts, of youth justice was needed to repair what was once badly broken

And it has worked. This is the first administration since the War to preside over a sustained and significant fall in crime - down a third; even so there is no room for even a shred of complacency, violent crime remains a cause for concern and something we are working relentlessly to tackle. But overall our record since 1997 is unquestionably a good one: 14,000 more police on the streets; adult reoffending down 23%, youth reoffending down 19%; the chances of being a victim at the lowest levels since recording began in 1981; 30% more prison places, with 60% more violent and dangerous offenders locked up, and for longer, than in 1997.

The measures we are introducing further to protect communities and reduce crime which I will come on to later, should be seen in this light.

LANGUAGE

Second, I want to consider the language we use to describe the criminal justice system. Opaque language can be as much a barrier to public understanding and confidence as justice going on behind closed doors, and for the same reason – both undermine understanding.

In particular I want to consider two words: both of which seem to have grown unfashionable, both of which need to be reclaimed.

They are 'punishment' and 'reform'.

They are straightforward words. Their meaning is clear. But their significance goes beyond semantics: punishment and reform is the very basis of the criminal justice system.

No-one in the system should hide behind jargon.

We should not shy away from the fact that the sentences of the court are first and foremost for the punishment of those who have broken the law, broken society's rules. The Criminal Justice Act 2003 lists "punishment of the offender" first. And the word appears in plenty of other statutes as well.

And with reform. The word implies an obligation on behalf of the offender to make an effort to make amends. Yes, the criminal justice system needs to give people the chance to turn their lives around – but these chances should be balanced by a responsibility on the offender to take them. The criminal justice system does not exist to do what a parent, a teacher, a social worker could not.

To use such language to describe the Government's approach does not signal a return to some Victorian notion of crime, its causes and its remedies.

And this doesn't mean treating offenders inhumanely.

I would never sign up to that.

But it does mean being crystal clear about what the public expect the justice system to do on their behalf – to punish those who have broken the law. Nor am I proposing that there is a binary choice – either or. But it is about not being afraid to use words which effectively describe what we want the justice

system to do, and to go back to the sort of plain English we all understand: offenders, sentencers, victims and communities.

PUNISH AND REFORM IN PRISON

Let me now go on to look at what punishment and reform means in the context of prisons.

It has been a remarkable achievement of the past decade that the conditions within prisons have been transformed. They are more decent, more humane, more constructive, far more sanitary, and considerably more secure.

It is well worth reminding ourselves - and I am certain that there are some of you in this room who can remember what they were like - of quite how different prisons are today. 15 years is not so long ago that slopping out ended, and with it went the pervasive, foul and degrading stench of excrement which was the environment in which prison staff had to work, and prisoners had to live.

It wasn't so long ago that escapes were so prevalent that Private Secretaries, I'm told, wouldn't bother to inform the Secretary of State after each incident, but rather would tot them up and let him know at the end of the week.

For all the improvements, prison is still punishment, the harshest punishment our courts can hand down. But the deprivation of liberty is the punishment, not the nature of the regime

A decent prison regime does not require that we forget or ignore the fact that prisoners have committed offences - sometimes very serious offences - and indeed, that the public rightly expect protection from, as well as punishment of, offenders.

But it **does** require that we give prisoners the chance of turning their lives around. The chance to reform.

I was appalled to read about the Halloween party which took place in one prison, as I am clear that no such event should ever take place again. I cannot imagine the offence which must have been caused to victims and their families, to see those images splashed across the papers.

Events for the children of prisoners are one thing— and keeping up such links can be important in affecting whether an offender turns away from crime on release, but there is no justification at all for frivolous parties which could never be justified as in the public interest, and do nothing for rehabilitation.

As you well know, a disproportionate number of offenders arrive at prison with drug, mental health, educational and behavioural problems.

More than half of prisoners left school with no qualifications, and a third with literacy skills at or below those expected of an 11-year-old child. So spending on offender learning has more than tripled to £165 million per year, and we are placing a greater emphasis on improving literacy and numeracy. Over the past year, almost 300,000 offenders have engaged in learning programmes inside to help them go straight on the outside.

I could not discuss education in prison without offering my thanks to the Royal Society for Arts and the Prison Learning Network. Your work to improve the quality and consistency of education and training available is commendable.

We have put healthcare in the hands of the experts. We have significantly increased the number of offenders with mental health problems who are being picked up earlier and transferred out sooner. We introduced NHS mental health teams which has greatly improved the care available in prison. And in December last, I asked Lord Bradley to look into the extent to which more offenders with mental health or learning difficulties can be diverted from prison. I look forward to his report into this very important area.

Jean Corston's excellent review highlighted that women offenders have an even higher rate of mental health difficulties than men, one of a number of

insights which have helped inform our policy. Following her recommendations, we have been developing a more distinctive approach to women better to help reduce their reoffending. From testing a new prison design at HMP Bronzefield, to setting new standards across the prison system specific to women, there has been considerable progress to better to improve their chances of re-entering the community.

More than two thirds of prisoners arrive with drug problems. So, a thirteen-fold increase in investment in drug treatment has helped a record number of offenders get off and stay off drugs. Numbers failing mandatory drug tests have fallen by 64% as a result of improved treatment and measures to stamp out supply.

Following David Blakey's report into controlling the supply of drugs into prison, we have introduced mobile phone jammers to prevent deals being set up, increased the number of drugs dogs and x-ray chairs better to detect drugs being smuggled into prison, and there are stiffer sentences – now up to a maximum of 10 years - for doing so.

And in March I spoke at some length about the success of dedicated drug courts in West London and Leeds, dealing with offenders with drug problems in the community. These courts showed that they can help motivate offenders to take responsibility for their addiction. They are more likely to comply with their order and complete it and be less likely to be reconvicted of further offences. As a result we are launching four new Dedicated Drugs Courts in Salford, Barnsley, Bristol and Cardiff.

The lessons are clear. We will do even more to help offenders to get off drugs in prison and in the community if they are prepared to accept their responsibilities.

Establishing this balance is the purpose of David Hanson's 'offender compacts'. It means setting certain standards of behaviour whilst in prison and on release – getting and staying off drugs, for instance. Not just keeping

out of trouble during the course of a sentence, but showing willingness to improve behaviour and commitment to reform. There are incentives for those who take the chances offered to them, as there are penalties for those who do not.

PRISON CAPACITY

The investment seen in prisons since 1997 amounts to a 37% real terms increase, and over the past 5 years in particular the rate of increase has been greater than that of the NHS.

In December last year, a further £1.2 billion was secured from the Treasury to provide the extra prison places for those the courts determine should go into custody. We now spend more on law and order as a percentage of GDP, and as a proportion of total Government spending, than any other country in the OECD. So the justice system continues to be well funded, by any international or historic measure.

But like all other public services, we have to look afresh at the ways in which we work and identify where changes, improvements and efficiencies can be made to deliver more, with better value for money.

Our obligation is even greater in light of the tight public spending round– and the extraordinary prevailing economic conditions against which none of us are immune. Across the Ministry of Justice we have to make 3% savings each year which will mean all areas of the criminal justice system will have to look at how they work and where they can be more efficient.

This includes the programme for 12,500 additional prison places required by 2014 to take the net population to 96,000.

The prison building programme has been caricatured by some as “pack ‘em in, lock ‘em up and throw away the key”. This is simply untrue. It is simplistic and overlooks the unflinching determination of everyone I know at all levels of

the prison service to ensure that prisons are not just monolithic institutions but also have a purpose.

These new prisons will not be large warehouses, as some have feared. Our commitment to providing constructive regimes is clear. I know that many people, including possibly many in this room, advocate building more small prisons rather than clustering a number of prisons on one site creating large prison complexes, as we currently envisage. I can see the logic of both. Given infinite resources, and planning permission for 15 sites rather than for 3 I am sure smaller prisons might be a more attractive option.

But we live in the real world of competing priorities for public money – and an obligation to use that money as effectively as possibly - and where not everyone is happy to have a prison in their back yard.

Once opened, prisons are usually very well supported by communities – they provide significant economic benefit bringing jobs, shops, investment. But the road to opening them is almost always bumpy and strewn with controversy. Aside from the issue of cost, the truth of the matter that it is much easier to find 3 sites for 2,500 place prison complexes, than five times that number for 500 place prisons. Bear in mind that even to recategorise a prison can cause many months of feet-dragging.

We have a duty to provide sufficient prison places, and to provide best value for money. The final designs for the additional prisons are not yet fixed, and we have yet to respond to the consultation, but what cannot be negotiable is the final price tag, nor the number of places required.

As I explained earlier, prisons are places of punishment, where offenders are treated firmly, but fairly, they are also places where offenders are given the chance to reform.

And that must be the bottom line.

But the taxpayer also has a bottom line – which is that every penny of their money must be spent wisely and to their benefit. So we need to target resources where they can most benefit the public.

PUNISH AND REFORM IN THE COMMUNITY

This is why we have been clear that custody should be reserved for the most violent, dangerous and prolific offenders.

And it is why we are also focusing more heavily in prevention and punishment in the community for less serious offenders.

First; prevention. A feature of the institutional reform which has taken place right across the public services, is far better coordination between local agencies. Closer relations between prison, police, probation, and the social services can help spot and deal with problems before they develop. The first authority figure to intervene need not necessarily be a police officer, judge or magistrate – indeed that may be too late; the damage might already have been done.

We recognise that the answer to reducing crime does not just reside in police stations, court rooms or custody cells, but much earlier; at home, in schools, in communities. This is why we are focusing on earlier intervention, and better local cooperation. Prevention is, after-all, better than cure.

‘INTEGRATED OFFENDER MANAGEMENT’

The data shows that offenders sentenced to less than 12 months in custody, are more likely to reoffend than those subject either to longer periods in prison, or community punishments.

There are a number of possible explanations for this, but an important factor may be that these short term offenders are not subject to supervision in the community on release in the same way as more ‘serious’ offenders– such as under MAPPA [Multi Agency Public Protection Arrangements].

There is a policy choice here. Some would argue that the reoffending rates are such that short custodial sentences should be done away with altogether – to be replaced by community punishments, which on the face of it might have a better chance of addressing the causes of their criminality.

Whilst there is some logic in this argument, it does not tell anything like the whole story. What about the judge or magistrate who is confronted by the persistent offender, who simply is not prepared to turn himself around in the community – what option would they have if other avenues had been exhausted? What about the family, or the next door neighbours, or the local community who are given respite of even a few months by the offender being locked away?

For these reasons I think it important that the courts still have short custodial sentences at their disposal. But if we consider the principles of punishment and reform – and putting what works for the community first – it is clear that there is more that we need to do to deal with “lower order” criminals, those who pose less of a direct danger to the public, but are nonetheless a thorn in the flesh of communities.

However, we need to increase the supervision of and support to offenders released following custodial sentences of less than 12 months further to reduce their chances of reoffending. Following the success of MAPPA, for violent and dangerous offenders and Prolific and other Priority Offender schemes (which have led to a 62% reduction in reoffending), West Yorkshire, Lancashire, London and Nottinghamshire are pioneering an innovative new way of managing ‘less serious’ offenders.

Snappily titled “Integrated Offender Management”, these projects are joint-funded and supported by the Ministry of Justice and the Home Office (and in London by the Mayor), and will improve the cooperation, and the intelligence that can be shared between local agencies – and in particular between probation services and Neighbourhood Police Teams. It is an important step forward in how we protect communities.

The sorts of offences and offenders with which this new approach is designed to deal may be deemed less serious in the eyes of the law, but not to the neighbourhood marred by vandalism, or to the small local business losing money through persistent theft.

Improving the support given to these offenders can help them turn away from crime. And the closer involvement of the police will mean that offenders who choose not to take advantage of that support will be more swiftly punished. But it is squarely in the public interest - reducing reoffending, reducing crime.

We have also to continue to improve operation of, and confidence in, community punishments.

The range and use of community punishments has increased significantly since 1997, but they are still suffering from an image problem, including among some sentencers.

Community punishments shouldn't just be seen as alternatives to custody, but as punishments in their own right. If we are to improve confidence in them among the public and sentencers alike, they need to be more intensive, more arduous and more visible.

This is the aim of 4 new pilot projects in Derbyshire, West Yorkshire, South Wales and Dyfed Powys. These Intensive Community Punishments will involve visible payback, curfews, tagging, surveillance by the police as well as mentoring, and help with resettlement, and drug, alcohol or anger problems.

It is essential that community punishments carry the support of local people, by giving them a say in the sorts of projects on which offenders work – giving something back to the people they have wronged, and by making sure that justice is seen as well as done. We have responded to public concerns about knife crime by introducing intensive Community Payback for those found guilty of such offences, and following from Louise Casey's review we are

introducing hi-visibility jackets so that it is clear to everyone what work is being done by offenders in the community's interest. We will be setting in more detail over the coming months our response to Louise's review and also how we engage the community more in the justice system so that they have a stronger voice and a greater chance to have their say about this important public service.

VICTIMS

There is a long and illustrious tradition of penal reformers – courageous men and women, from John Howard, Elizabeth Fry, Herbert Gladstone, who have made a profound contribution to improving how society treats offenders.

But the difference between then and now, is that they spoke in a language people understood.

The criminal justice lobby/world today is full of people every bit as committed and dedicated, and who do a very good job. However, I am concerned that it has retreated into language that doesn't chime with the public. It is no use railing at them, at the press, at the media, at government, at me, for being unsympathetic.

When I hear phrases like "criminogenic needs of offenders" it drives me nuts, for two reasons. First, it is pretty impenetrable jargon designed to put a barrier between the practitioner and public. And second, because I profoundly disagree that we should describe someone's amoral desire to go thieving as a 'need' equivalent to that of victims or the law abiding public.

Likewise, with the gnashing of teeth from some quarters over the term punishment.

It is because the prison reform, and indeed the children's lobby, is so well established and so well organised that we hear loud and clear about the needs of offenders.

But what about victims? The Government as a whole has worked very hard to give a central voice and priority to victims, but we hear far less often from these lobbies about the needs of the victim. I think that they sometimes forget who the victim is, so lost do they become in a fog of platitudes and debate over the 'needs' of the offenders.

Just one example: last month Barnado's – an estimable and distinguished organisation – published a report into the use of custody for children. There is some criticism of government policy, which is an entirely legitimate contribution to the debate, I cannot question that.

But throughout the paper there was not a solitary mention of victims. A tangential reference, couched in a double negative, squeezed out through gritted teeth is as close as it got. I quote; "This is not to say that children should not have to face up to the impact and consequences of their offending behaviour".

I think that semantics are very important indeed for victims of crime. We can all do more to support them: indeed, this morning I challenge those of you who work so effectively to keep pressure on government over standards in prison, to tell me how you think the victim could be put more at the heart of your work.

What is in the interests of victims and communities and what is in the interest of offenders need not be competing interests, but there needs to be a balance. The two key principles of punishment and reform help provide this balance.

Since 1997 we have continued to reform the system to get the balance right between the rights of the accused and the rights of the victim. Victims and their families have, for the first time, a chance to express the impact of crime on their lives – in the form of Victim Personal Statements in court and a Victim's Advisory Panel to inform government policy.

And we have made it easier and less traumatic for vulnerable or intimidated victims and witnesses to give evidence in court, through live links, or screens, or through intermediaries and we have increased the support available support in Witness Care Units.

As the Prime Minister recently announced we will as soon as we can, be appointing a Victims Commissioner to ensure that there is a powerful voice for victims in government and beyond and to guarantee that the pace of progress does not let up.

But a victim of crime is no less a victim because of all the improvements in their treatment. A victim of crime remains 100% a victim of crime and no barrage of statistics or measures after the event can change that. The best service we can provide is to reduce the number of victims – by reducing crime.

CONCLUSION

I said at the start that I wanted to answer the question of who the justice system is there to serve, and that is how I would like to finish this morning.

When James Barry painted the *Progress of Culture*, ‘community punishment’ was the pillory, visible justice was the gallows.

It goes without saying that we have moved on considerably as a society since then, and now we are as unaccepting of aimlessly punitive treatment as we were supportive - indeed eager spectators of it - 200 years ago.

The public today want to give offenders a second chance – this is the “unfailing test of civilisation” of which Churchill spoke - and they want to be protected from crime.

Therefore we have a duty to reform as well as to punish offenders. A just and civilised society is one where criminals both pay their debt to society and are

given the chance to change. Offenders must take responsibility for their choice to commit crime, they must be held to account for their actions , and challenged to make a better choice in the future.

The criminal justice system must ultimately serve the public; the taxpayers who fund it, the communities protected by it.

There needs to be a clearer recognition of this.

It begins with the language we use.

Punishment and reform.

Two simple words.

Let's have them back.

Thank you.

Words: 4100