



Justice for All

Summary



Foreword

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

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

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

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

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

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



Irvine Blair



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Summary

Our goal is strong, safe communities. That means:

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

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

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

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

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

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

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

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

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

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

To detect more crime we will:

- increase police numbers to 130,000 by Spring 2003;
- increase spending on the police by around £1.5 billion by 2005-06 compared to 2002-03;
- encourage more specialist detective skills;
- set a clear target for increasing the proportion of police time spent on frontline work; and

- better harness science and technology to find the evidence to detect offenders.

To get more defendants to court more quickly we will:

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

To prevent offending on bail we will:

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

To convict more of the guilty we will:

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

At the trial we will:

- allow the court to be informed of a defendant's previous convictions where appropriate;
- remove the double jeopardy rule for serious cases if compelling new evidence comes to light;
- give witnesses greater access to their original statements at trial;
- give the prosecution the right of appeal against rulings which terminate the prosecution case before the jury decides; and

- increase the proportion of the population eligible for jury service.

Where a defendant is convicted we will:

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

This White Paper sets out a wide-ranging programme of reform for the Criminal Justice System (CJS). We have an absolute determination to create a system that meets the needs of society and wins the trust of citizens, by convicting the guilty, acquitting the innocent and reducing offending and reoffending. The proposals in this White Paper form a coherent strategy, from the detection of offences to the rehabilitation of offenders, designed to focus the CJS on its purpose – fighting and reducing crime and delivering justice on behalf of victims, defendants and the community.

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

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

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

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

To achieve this we will focus on five practical steps:

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

The need for reform

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

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

We have already:

- commenced reform of the police;
- begun integrating long-term crime prevention into the work of all government departments;
- taken a new approach to drug related crime by tackling the problem at its roots – primarily by a partnership approach such as that supported by the Communities Against Drugs programme;

- launched the Street Crime Initiative in 10 police force areas;
- more than met our pledge to halve the period between arrest and sentence for persistent young offenders, reducing it from 142 to 63 days;
- reduced delay in the disposal of magistrates' courts cases;
- introduced closer working between the police and CPS in new Criminal Justice Units;
- established the National Probation Service; and
- made policing subject to race discrimination law following the Stephen Lawrence Inquiry.

Getting the process right at the start

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

We have already:

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

We propose to:

- give the police power to improve conditions on a suspect's bail during the period before charge;
- weight the court's discretion against granting bail to a defendant who has been charged with an imprisonable offence committed whilst already on bail for another offence;
- extend the prosecution's right to appeal against bail decisions, to cover all imprisonable offences
- as soon as practicable, give the CPS responsibility for determining the charge in cases other than for routine offences or where the police need to make a holding charge, and provide pre-charge advice to the police;
- pilot in high crime areas a presumption of remand to custody if a suspect tests positive for Class A drugs at arrest but refuses treatment;

- improve defence disclosure by increasing incentives and sanctions to ensure compliance;
- provide appropriate incentives and sanctions to promote effective and focused case preparation in criminal courts; and
- remove restrictions on the jury being invited to draw inferences from discrepancies between the pre-trial defence statement and the defence case at trial.

Delivering justice – fairer, more effective trials

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

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

We propose to:

- overhaul the rules of evidence so that the widest possible range of material, including relevant previous convictions, is available to the court;
- extend sentencing powers of magistrates from 6 to 12 months and require them to sentence all those they have found guilty, rather than committing some to be sentenced in the Crown Court;
- allow defendants to have the right to ask for trial by judge alone in the Crown Court;
- allow trial by judge alone in serious and complex fraud trials, some other complex and lengthy trials, or where the jury is at risk of intimidation;
- strengthen youth courts to deal with more young offenders accused of serious crimes;
- introduce a criminal evidence code and a criminal procedure code, advised by a new Criminal Procedures Rules Committee amongst others;
- allow witnesses to refer to their previous and original statements and change the laws on reported evidence ('hearsay');
- introduce an exception to the double jeopardy rule in serious cases where there is compelling new evidence;

- allow prosecution a right of appeal where the judge makes a ruling that effectively terminates the prosecution case; and
- integrate the management of the courts within a single courts administration and allow Crown Court judges to conduct trials in magistrates' courts.

Putting the sense back into sentencing

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

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

We have already:

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

We propose to:

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

- look at ways to develop and pilot further intensive fostering to include more young people on remand and as part of a sentence.

Punishment and rehabilitation

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

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

We have already:

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

We propose to:

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

A better deal for victims, witnesses and communities

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

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

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

We have already:

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

We propose to:

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

- reduce exemptions from jury service so that more people serve; and
- codify the criminal law to make it accessible to everyone.

Joining up the CJS

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

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

We have already:

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

We propose to:

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

Annex 1

HOW TO RESPOND TO THE PROPOSALS ON WHICH WE ARE CONSULTING

Specific proposals on which we would welcome your views

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

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

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

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

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

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

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

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

3. New measures to tackle domestic violence.

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

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

Any views on these specific proposals should be forwarded to:

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

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

Rehabilitation of Offenders Act

As we outline in paragraphs 6.31 and 6.32, the Rehabilitation of Offenders Act (1974) has been reviewed and recommendations made to amend disclosure periods so that a better balance is achieved between the need to protect the public from those who continue to pose a serious risk of harm on one hand, and improving the chances that an ex-offender can get a job. We would welcome views on these recommendations. The recommendations are being published separately and copies of the report are available from:

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

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

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

Departmental contacts

This White Paper covers the work of three government departments.

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Annex 2

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

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

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

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

