# The Michael Sieff Foundation

working together for children's welfare

# "The Needs of Offending Children"

Report on the Conference

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# TOPICS AND SPEAKERS

# TOPICS AND SPEAKERS (continued)

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1. **"Government Actions Concerning the Needs of Offending Children"**

**Mr. Keith Bradley**, Minister of State for Criminal Justice, Sentencing and Law Reform, Home Office

Mr. Bradley explained that his responsibilities were for overall policy within the Criminal Justice System, assisted by Beverley Hughes, Parliamentary Under- Secretary, responsible for the Prisons, the Probation Service and the Youth Justice System. He then paid tribute to the Michael Sieff Foundation and its work surrounding vulnerable and disadvantaged children, since its inception in 1987.

He stressed the government's full agreement with Lady Haslam's statement that "Concerted action in communities and prisons must target those many youngsters who can be steered away from a life of crime, to help and not harm society", and that this philosophy will underpin the changes and reforms that they wished to make to the Criminal Justice System in the years ahead. Prevention of youth crime begins well before contact with the youth justice system itself. Their reforms, he stated, would work integrally with our wider efforts to combat social exclusion.

## Background

Since 1997, this Government has carried out a major reform of programmes to tackle youth offending in England and Wales: the Crime and Disorder Act 1998, and the Youth Justice and Criminal Evidence Act 1999, together with improvements to the youth justice process, with reorganisation at national and local levels, including initiatives to tackle social factors linked to youth crime.

The youth justice system in England and Wales required radical reform. The Audit Commission reported in 1996 that "the current system for dealing with youth crime is inefficient and expensive....the present arrangements are failing the young people who are not guided away from offending to constructive activities. They are also failing victims".

The reforms have set out to tackle these problems and in particular to provide:

- a clear strategy to prevent offending, and most importantly, re-offending.
- to get offenders and their parents, to face up to their offending behaviour and take responsibility for it.
- more effective and earlier intervention when young people first offend.
- faster, more efficient procedures from arrest to sentence.
- finally, partnership between all youth justice agencies to deliver a better, faster and fairer system.

**The Youth Justice Board for England and Wales** was created to lead and support the implementation of the youth justice reforms as a whole and it has driven forward the reforms at a demanding pace. The Government has provided the Board with funding of approximately £340 million annually over the next 3 years, for youth justice services and programmes to support work with young

offenders and those at risk of offending. Funding has, for example, been provided for 265 offender intervention programmes and 126 bail support projects.

## Prevention

Prevention is based on work with each individual offender, intervening at an early stage to nip that offending behaviour in the bud. The new multi-agency Youth Offending Teams tackle risk factors such as those associated with education, health and parenting.

**Sure Start**, for example, targets children under the age of four, in disadvantaged areas and promotes their physical, intellectual, social and emotional development. By 2004, the Government will be investing almost £500 million each year and reaching a third of poor children aged under 4.

**The Childrens' Fund** is a new part of the Government's poverty and social exclusion strategy, supporting 5-13 year olds, and fills in any gaps between the Sure Start age through to the Connexions Service at 13. The fund will be worth £450 million over three years and will support two programmes, the National Preventative Work and the local networks that will develop local initiatives through local funds.

**On Track** is a long-term crime reduction programme aimed at children aged 4- 12 at risk of offending, and is now part of the Childrens' Fund. We have so far launched 24 On Track projects in high-crime and deprived areas.

**The Connexions Service**, meanwhile, aims to steer all 13-19 year olds through education, training and employment, and is now rolling out. It has a particular emphasis on the needs of those most at risk of under-achievement and disaffection. It started in 16 areas from April 2001 and has a further 31 to follow. It will receive funding of £420 million by March 2002.

**Youth Inclusion,** run by the Youth Justice Board, focuses on preventative work with 50 of the most at-risk 13-16 year olds in the most deprived 70 areas and neighbourhoods around England and Wales. And for 2001 we funded a further 146 Easter and Summer Splash Schemes in disadvantaged neighbourhoods across the country. During a visit to one such scheme I recently visited in Bristol, I was told by the young people who had been involved during the summer, that if they hadn't been involved in the range of projects that had been set up, they would have got into trouble. We saw at first hand, the immediate impact that can be made by such initiatives.

Finally, a key area of prevention is the Government's ten-year drugs strategy. The target is to reduce the proportion of young people using illicit drugs, particularly heroin and cocaine, by 25% by 2005 and 50% by 2008.

## The New Youth Justice System

For those young people who do offend, we are creating a far more efficient and effective youth justice system.

We pledged in 1997 to halve, by 2002, the average time taken from arrest to sentence for persistent young offenders, from 142 days to 71 days. By May this year it has been cut to 73 days - very encouraging progress but much more to be done. And in the magistrates' courts it is down to 66 days. By reducing delay we reinforce the link between the offence and the response to it, as well as allowing for earlier intervention. And this in turn will help to strengthen public confidence in the Youth Justice System.

The 154 multi-agency youth offending teams (YOTs) have become well established across England and Wales. Now police, probation, local authorities, health and education providers and many other agencies all come together at a local level to work individually with young offenders. The YOTs address all aspects of their offending behaviour, including relevant family, education and health problems. From this autumn they will include fully funded drugs workers.

This reformed system must dispense punishment. But punishment must be proportionate and constructive. It must be focussed on forcing the young offender to face up to the consequences of their offending - and on diverting them from re-offending.

Some of the powers we have given police and the courts are essentially preventative. The police now issue a single Final Warning to offenders, instead of the old system of endless ineffectual cautions.

The courts can now impose a range of orders targeted at the underlying causes of offending. For example, a *Parenting Order* reinforces parental responsibilities, and provides support to help them keep their children out of trouble. A *Reparation Order* allows them to make amends either directly to the victim - where the victim is willing - or to the wider local community.

The new orders have proved popular with sentencers. So far over 13,000 reparation, child safety, parenting and action plan orders have been made since they were introduced nationally on 1 June 2000.

We have also made use of new technology, by introducing curfew orders backed by electronic tagging for juveniles. The order is designed to break the pattern of offending behaviour, which if left unchecked, could increase the risk of offenders receiving custodial sentences.

The next major step is the innovative Referral Order, which is being piloted in 11 areas. It is specifically designed to prevent re-offending through a new approach when young people first come to court and plead guilty. Community-based youth offender panels decide on positive interventions in consultation with offenders, their families and, where appropriate, victims. We plan to implement the order nationally from April 2002.

We have just launched the Intensive Supervision and Surveillance Programme (ISSP) for 2,500 of the most persistent young offenders. This highly structured community-based programme is designed to tackle the underlying causes of offending behaviour and includes intensive community surveillance for up to 24 hours a day, seven days a week, with the aid of electronic tagging. It is designed to be a really effective and constructive alternative to custody.

## Custody

For some young people, the seriousness or persistence of their offending means that custody may be the only immediate answer. But time spent in custody must also be used constructively. The Detention and Training Order aims to achieve this by combining custody and community supervision to both punish but also to rehabilitate young offenders.

Each young offender is subject to an individual training plan designed to address their offending behaviour and associated risk factors, and to provide them with the necessary skills to avoid getting into trouble upon release.

From April last year the Youth Justice Board assumed responsibility for the commissioning and purchasing of all forms of juvenile secure accommodation across England and Wales - Prison Service, local authority and private sector - for remanded and sentenced children and young people. The Board is working hard to improve the availability and spread of secure places and the quality of regimes.

But there is still more to do. The Board is working with Yots and secure facilities to strengthen performance management to deliver real change in young offenders' attitudes and behaviour. And by next year we will have implemented the proposal of the Social Exclusion Unit's "Bridging the Gap" report to increase the amount of education and training to 30 hours per week for all under- 18 year olds in custody. I also want to ensure that there is a coherence of education and training provision in custody, which continues when young offenders leave of prison. This will ensure that we will invest for success, not failure.

## Pre-Trial Therapy for Child Defendants

We have also been focussing on the needs of child defendants. I know that several of you here have expressed concern in the past about the therapeutic needs of young defendants facing trial. Good work has been carried out across agencies in relation to the provision of therapy for child witnesses. We now wish to turn to the development of similar guidance to address the needs of children and young people who are facing trial. Children who commit serious offences are likely to be seriously disturbed. This will in all probability mean that they need to be detained but it also means they may need treatment. In developing guidance for child defendants careful consideration will need to be given to achieving equity with child witnesses in relation to safeguarding and promoting their welfare, whilst also addressing the implications of the different legal position of child defendants from child witnesses. This work will be led by colleagues in the Department of Health who will shortly be engaging in a dialogue with a range of professional bodies with a view to developing draft practice guidance, which would be issued for consultation in the New Year.

## Mental Health Needs

We are also acutely aware of the need for improved access to child and adolescent mental health services. The Board has focussed on health issues this last year and is liaising closely with the Department of Health. The Board has set up an emergency mental health assessment network to address those with acute mental health needs, who are before the courts and in custody.

## Court Environment

The Lord Chief Justice's Practice Direction in February last year embodied the principles of the Thompson and Venables European Court Human Rights judgement, to help young defendants to understand and participate in proceedings. Our Good Practice Guide issued to youth courts in March this year emphasised the importance of effective engagement with young defendants and their families and, where necessary, changing court room layouts to facilitate better communication.

## Evaluation

The youth justice strategy and reforms I have referred to amount to the most thoroughgoing drive ever against youth crime and its causes. This is why we have set ourselves a challenging target: to cut re-offending by 5% by 2004. Many of the changes have only been in force for just over a year and it is too early yet to be certain about the results. But the Home Office and the Youth Justice Board have commissioned over 20 separate pieces of research and performance evaluation covering all key areas of the youth justice system, and we expect a series of reports by next summer.

## Conclusion

I would like to re-iterate the message that I have been trying to give today. Youth crime is a problem, which affects the whole of society. The Government has signalled its determination to tackle it constructively and proactively. It is an enormous challenge and we still have much to do. But over the last four years we have started to lay the foundations for the changes that are required. In the end I think it will be worth it for us all. By reducing the number of young people starting criminal careers, we can prevent young lives from being wasted and society will benefit from that. I am sure we all share this aim and I hope in the future we can work together to achieve it.

## 2. "Meeting Need: Preventing Offending"

**Joyce Moseley,** Member of the Youth Justice Board and Chief Executive of RPS Rainer.

Joyce Moseley, a former Director of Social Services in the London Borough of Hackney, outlined the role and development of the Youth Justice Board, stressing that for the first time, she felt confidant that by concentrating much more on early child and family support, a real reduction could be made in the number of young offenders.

The RPS Rainer organisation is one of the oldest charities working with young offenders, having been established in 1788. The 1806 Act talks about providing maintenance, education and employment of children engaged in crime, and training them in the habit of industry and regularity and sheltering them from vice and want. It appears that nothing has changed since then. I have been around since the 1969 Act, and looking back, much of what we did was not very memorable.

## 1. The Youth Justice Board for England and Wales

### The Origins of the Youth Justice Board

I deliberately placed Meeting Need and Preventing Offending together, because if you work to eliminate the causes of offending, you are likely to be meeting welfare needs. The Youth Justice Board has been in operation for eighteen months, and we are working within the Criminal Justice System and not the Child Care System. However provided we are allowed to do our job, in a period of stability, I am convinced that we have a better chance of meeting the needs of young offenders now, than we ever had in the last 30 or 40 years. Unfortunately, the required changes take a long time, so much work is still to be done, and many inconsistencies remain.

The YJB resulted from a recommendation of the Audit Commission and the system "Tough on Crime and Tough on the Causes of Crime". Our one unifying aim is about preventing offending, in a joined up process. As a previous Director of Social Services, I spent time trying to get Inner London Boroughs, Probation and Police working together, which was very difficult without a common, unifying aim. The Board, under Norman Warner as Chairman, comprises twelve people,

with a wide range of skills and backgrounds. We seem to be taking on more and more roles.

**The Role of the Youth Justice Board**

Its Formal responsibilities are:

- Advising the Home Secretary
- Setting, monitoring and inspecting standards
- Identifying and disseminating good practice
- Commissioning and purchasing places in the "secure estate"

**Vision of the Youth Justice Board**

The YJB aims to promote a culture in which:

- Young people feel a responsibility not to offend
- Young people can expect help to change their behaviour
- Victims wishes are respected
- Staff work on a multi-agency basis
- The culture of the courts helps prevent offending
- Evidence based practice / risk and preventive factors
- People working in the youth justice system are proud to do so

The key point for me is that young people should expect help to change their behaviour. Our work should be based on evidence of what works together with an understanding of the risk and protective factors as they relate to crime. The risk factors have been referred to, and are well known: low achievement at school; bullying; truanting; poor and harsh parenting with little supervision and inconsistent discipline; living in disadvantaged neighbourhoods with a high availability of drugs; early involvement in problem behaviour and friends and relatives who condone that behaviour.

We know that some of the protective factors are things like a resilient personality, which can be enhanced; social and learning skills; being involved in some activity where achievement can be recognised and praised; social networks and others. Being a girl used to be one of the main protective factors, but the number of girls involved in crime is going up rather dramatically. I think young people should expect help with their education, help from their parents, and activities that keep them off the streets and give them opportunities to succeed. If we approach offending behaviour in this way, I do think we will be meeting needs.

**Youth Offending Teams**

You will have heard of the Youth Offending Teams, or YOT's as they are fondly called, and the range of agencies from which they are formed: Social Services, Probation, Police, Drugs Agencies, Housing Departments, Youth Services, Mentors, Voluntary agencies, Health and Education. Although it has not been easy, YOTs are developing clear and essential links with their colleagues in the custody sector and in the court sector.

## 2. Achievements to Date

- 154 YOTs set up by April 2000 and second year plans written
- £80M committed to 402 community and bail supervision programmes
- 70 youth inclusion and 150 summer schemes
- National Standards set
- Purchasing of secure beds in a co-ordinated system
- Staff training
- All new Court Orders up and running
- ASSET – an assessment tool used throughout the system
- Introduction of ISSP's

We have set some very gruelling performance targets and time scales, many of which have been met. We believe that by December this year we will have halved the time between arrest and sentence, down to 71 days. Progress with YOTs is variable; nonetheless they are now delivering a wealth of new ideas and community programmes. The Minister has already mentioned the Youth Inclusion Programmes. In a recent report, the summer splash schemes were said to have had an amazing impact on offending rates within those areas where they were held. We commission and purchase secure beds for young offenders, and we have established contracts with prison, private and local authorities for the much higher standards that we require. For the first time we now have a dedicated management system within the prison service, to manage the juvenile estate, and to establish a dialogue with young offenders.

Some of the outdated prisons, such as Portland, on the Isle of Wight, are at last going to be closed for juveniles. ASSET, which you will hear about later in the conference, is an important new assessment system that will be increasingly used within the Youth Justice System. I do hope that the

information contained in those ASSET forms, on analysis, will further our understanding of offenders and the means to stop them re-offending.

Finally, the new Intensive Supervision and Surveillance Programmes are trying to tackle the 3% of offenders who commit 25% of offences. They should be operating 24 hours a day, 7 days a week to start with, offering different types of surveillance programmes, including community surveillance, where people within their home areas will care for and guide young offenders.

## 3. Plans for the Next 3 Years

These are the plans for the YJB, which have to be seen in context with other government programmes mentioned by the Minister, such as Sure Start, the Connexions Service, On Track and the Children's Fund.

- More effective practice in addressing offending
- Increased restorative justice processes
- Literacy and numeracy in custody and community
- Research and training
- Reforming the juvenile secure estate
- Referral panels
- Better information; better monitoring
- Drive down spending on secure units and switch money to community

We are looking to increase the Restorative Justice processes, which gets offenders involved with victims to provide reparation, since important studies elsewhere have shown that this is very effective. The Referral Orders and panels that come in next year will be an important plank of this development.

Apart from physical improvements to secure units, we will continue to develop education and training, with a strong emphasis on literacy and numeracy. Also, to make sure that we are concentrating on what really works, we are increasing our training, research and monitoring. Wider programmes of neighbourhood renewal and family support must underpin all this work.

## 4. The Needs of Young People

What are we actually doing for young offenders? To better answer this question, I decided to look at the Criminal Justice System in terms of needs, and to see if we are actually addressing those needs.

### A Right to Protection

Protection is the bedrock of our child care system and the YJB recognised that it must become an equally important part of the Criminal Justice System.

- Child protection procedures are part of our contracts with the secure estate
- Specific workforce trained to work with young people
- YOT staff responsible for Detention and Training Order plans, inside and outside secure units
- Complaints procedure
- Anti-bullying and anti-racism policies and procedures

We are trying to ensure that secure estate staff link in with their Area Child Protection Committees, and that training within the secure estate incorporates realistic protection issues. Having a workforce who have chosen to work with juveniles is a step in the right direction. We know from child abuse enquiries that institutions are often very enclosed in themselves, so to prevent this our Youth Offending Teams are responsible for the young people whilst in custody, as well as outside. We are developing a better complaints procedure within the prison service. Certainly the anti-bullying and anti-racism policies I see, on my unannounced visits to Young Offender Institutions, are being taken more seriously as an important plank of the work that those prisons have to undertake.

### A Right to Education

We all know that the real scandal is the lack of education for young offenders both in the community, but particularly within the prison service. Around 70% of young offenders who appear in court are not in school. Some 80% of 15 year-olds in custody have not been to school for years, 17% of them have not been since they were 11 years of age! Consequently, the YJB has set out to overhaul systems:

- 30 hours of education, training and personal development in secure accommodation
- Education staff integral to YOTs
- Mentoring to support literacy and numeracy
- National strategy for literacy and numeracy in the youth justice system
- September 2002 full-time education provision for those excluded from school

The above figures do not appear on the school exclusion registers because many of these youngsters are not formally excluded. By next year education authorities will have to provide programmes for excluded youngsters, rather than the 2 hours of home tuition they might receive now, if they are lucky. Hopefully this will start to change the climate of opinion that we cannot allow these young people simply to drop out of school, as they do now. We have a joint target with the new Connexions Service to ensure that all youngsters in the Youth Justice system are within educational training or employment by 2005, with a particular emphasis on numeracy and literacy, both inside and outside the prison system.

**A Right to Health Care**

It was an important start, making Health Authorities part of the statutory responsibility to prevent offending, even though we know that we have a long way to go. Our plans include:

- Health staff in YOT's
- A drugs worker in YOT's
- Testing for "vulnerability" leading to more appropriate placement
- A focus on mental health

Success overall is variable, but we can learn from experience. With drug workers being linked to all the YOT's, there is a real chance that young offenders will now receive the treatment and services that they need. This is especially as regards mental health. We are developing a mental health adjunct to ASSETT, so that YOT workers will at least be trained to identify any signs of mental health problems, and to be able to refer to specialists. If I could highlight one major issue for this conference, it is the need to provide for much better mental health services for all young people, but to target these services towards young offenders in particular, because their needs are so high.

By 2004, all young people in the criminal justice system are to screened for drugs.

**A Right to Family Love and Support**

When I came back into this area of work in the 90's, working in Inner London, I was shocked to find how little staff in the then Youth Justice Teams, had to do with families. They rather saw them as the enemy, and youngsters were dealt with on their own. You cannot set aside the importance of parents However hard some young offenders are, what their mum says is often still rather important. Our systems now include:

- Family relationships are part of the assessments
- Parenting orders
- Secure placement within 50 miles from home
- Better visiting facilities. Family visits not used as part of punishment regime
- Clear responsibility to deal with family difficulties that contribute to offending

A Parenting Order, whereby parents can be ordered by the court to attend programmes, is the most visible and, at the same time, most controversial expression of our supporting and working with parents and families. For me the importance of this is not the order itself, but the fact that most YOT's are now offering on a voluntary basis, parenting support and education programmes to the parents of offenders. Parents do not have to wait to for an order to get this support, so it has raised the whole issue of supporting and educating parents to work more effectively with their children, to a much higher level. Placing young offenders nearer their own homes allows families to keep in touch. When I last visited a prison I was pleased to say that the staff said with some pride, "…we no longer use the loss of family visits as part of our punishment system".

**A Right to Safe and Supported Housing**

The Board came to realise that not enough emphasis was placed on housing at the start. It is not just about providing a roof over their heads. If we simply put children into a flat, they fail within a few months because they haven't got the knowledge, or the maturity to manage. We need supported housing and the Board is certainly putting a lot of emphasis into that.

- Named Accommodation Officer in each YOT
- Investment in remand fostering, floating support, supported housing
- Homelessness Bill – 16 and 17 year olds and offenders to be seen as vulnerable

Providing accommodation outside of the family home, can often be the way to maintain family support systems. Under one roof, a family relationship can be strained, but it can be strengthened when living apart.

**A Right to a Safe and Supportive Community**

Young people are affected more than anyone by youth crime because they are often the victims. We look to the neighbourhood renewal programmes, with its emphasis on social and economic regeneration, to try and have some impact here,

and to make those communities much more coherent.

- Young people as victims – preventing offending protects them
- Crime reduction and neighbourhood renewal programmes, including child focused provision
- Youth inclusion programmes and splash schemes
- Mentors, referral panels, reparation

As we engage with mentors and volunteers within the system, they often ask, "Why do children from our estate receive little education, or, why has that youth club closed? I hope that the more people who become involved constructively in the Youth Justice System, and start to ask questions, the more it will mean the beginning of a climate change for the better.

**A Right to be Dealt With in the Community, not Custody**

The Board is committed to reducing those numbers of young people in custody. We have recently written to Magistrates pointing out the enormous variability in rates of custody around the country. It is disgraceful that in one part of the country you can get custody and yet for the same offence, in another part of the country, you can get the minimal outcome.

- Investment in bail supervision schemes, remand review, ISSP, prevention agenda
- Understanding sentencing patterns – NACRO research
- Encouraging early release incentive schemes
- Demand reduction : no increase in places

Most of the increase in custody have resulted from very short detention and training orders, where people spend no more than two or three months in custody. Is that doing them any good? Is it doing anyone any good? Magistrates have been asked to very seriously consider their sentencing practice in this area, and we hope we will see a major reduction in custody orders.

## 5. Future Aspirations

If all these plans are in place, the Board is hoping to see:

- Youth crime reducing
- Fewer children in custody
- Community punishments bringing positive changes to children's life chances
- Communities, parents and victims involved
- Young people feeling helped to stay out of trouble

We are making progress, but we have still a long way to go. We are very pragmatic, about what works, what can we do, how can we push, how can we change the way people operate? I strongly believe that tackling offending, on the basis of evidence of what works, will actually mean more positive changes for those young people's lives.

## 3. "Trends In Antisocial Behaviour"

**Dr. Ann Hagell**, Co-Director, Policy Research Bureau

Ann Hagell based her talk upon a book that she wrote, together with Michael Rutter and Henry Giller in the late 1990's, but updated with more recent information. She pointed out that antisocial behaviour had increased internationally, and was accompanied by a rise in psychosocial problems experienced by young people, and felt that it would be very surprising if antisocial behaviour had not increased in a similar way.

## Trends in How we Think About Anti-Social Behaviour

As researchers and as practitioners, we now have a much better understanding of the many varieties of antisocial behaviour that you are likely to meet, and how they cross a number of different subgroups. Research, particularly in the last 10 years, has shown what these subgroups might look like, and how we might have to react differently to them. For instance, we might need different interventions for children whose antisocial behaviour starts early in life and has overlapping hyperactivity, compared to children who start later and are only involved for a couple of years. These subgroups are under constant investigation and with more knowledge comes the clear message for

policy and practitioners, that the same treatment will not work for everybody, and that we need to tailor our responses to specific cases.

We have a much better understanding of the overlap with other problems. This is an aspect that you will be hearing a great deal about throughout this conference. For instance two thirds of the children in the Medway secure training centre, have also spent time in care. We know that their mental health needs are fairly high. We know also about the effects of family stress, abuse and neglect, on many of these same children. However, even with the development of multi-agency YOT's, these facts are still unknown to many, and they clearly need wider dissemination.

We now have a cautious optimism that something might work, particularly now that we have the Youth Justice Board. We have really moved from the negative attitudes of a few years ago.

Importantly, we also have a growing appreciation of the limits of what can be achieved. The average results for intervention programmes with young offenders, is a reduction in re-offending of only about 10 to 15%. You cannot change the entrenched behaviour of these children's lives by simple means. We should perceive these small changes as relatively big successes.

We have a considerable consensus on the main risk factors giving rise to antisocial behaviour. Twenty years ago we were debating whether it was the family, whether it was biology or whether it was simply peer pressure. There are very few debates now about what the risk factors are. Consequently, and as a result of the fruition of 30 years of longitudinal research, we are much more sophisticated about the way in which the causal models work. Some factors have a direct influence on these young people, and there are other factors whose influence is more indirect, but we know how they impact on each other. This knowledge is essential in order to tailor effective interventions.

## Trends in Underlying Behaviour: Overall Levels and Gender Ratios

It is important to start with some basic facts about the stability in antisocial behaviour. It has always been the case, and it still is the case, that virtually everybody does it! Studies show that at least half of antisocial behaviour of a criminal nature, by young people, is about theft of one sort or another. This level is the same for both young women and for young men, but the percentage of young men who offend is much higher than the number of young women. It is not all about violence by any means.

Self report studies suggest that around 50% to 95% of young men admit to having committed offences recently. It is about 30% for young women. In the official statistics it is even less.

It is important to bear in mind when developing policy and practice, that this type of behaviour mostly passes, particularly if it starts in late adolescence. In a recent Home Office study, 55% of young men and 80% of young women offenders had a criminal career of a year or less. The average length of criminal career is actually 10 years, often ending in their mid 20's. However, that average figure is heavily skewed by the number of people who continue to offend throughout their lives. So with certain people, we should take a more lenient view.

There are a number of frequently asserted trends that emerge out of the media and out of the literature:

The first is that antisocial behaviour by young people is rising. Just about all over the world, antisocial behaviour levels are higher than they were in the mid 1900's. At present there is no discernable trend. However, this type of crime only reflects 3% of total crime recorded.

As far as statistics are concerned, we do not have enough helpful trend data in the UK. I am delighted that the Youth Justice Board is now aiming to rectify this shortage, by financing much needed research. Official Home Office statistics suggest that crime fell steadily for 10 to 17 year olds, up until 1999, though it has gone up recently. These figures certainly do not indicate a big crime wave.

We then have the Home Office Youth Lifestyles Survey, which is really the only true trend data available in the UK, and carried out in 1993 and again in 1999. It showed a statistically insignificant increase over that period, amongst 14 to 25 year olds. These findings are confirmed by the British Crime Survey 1999-2000, and by two Mori polls, funded by the Youth Justice Board in 1999 and 2000. There is no suggestion in the statistics that these slight increases are running out of control, as it was earlier in the century.

The second is that young women are taking part more. There is no doubt that young women are

now committing a bigger proportion of crime than a few years ago. The ratio, young men to young women, in the early 50's was 11:1, by the end of the 1990's the ratio had steadied out at 3:1. However it depends what offences you look at. Girls are much more involved in the less serious offences, e.g. for burglary the ratio is still at 13:1. Young women are also less likely to become recidivist, as well as committing fewer offences. So there are still some very clear differences, but overall, we are seeing a much bigger female involvement.

## Trends in Drug Offending

Although I have reservations about official statistics, in the recorded crime figures for 10 to 17 year olds, over two decades, the overall trend for each of the official categories of crime is down for virtually every category, - sexual offences, burglary, theft, fraud, criminal damage and motoring offences. However, despite a slight fall in 1999, the figures are dramatically up for drugs. It is slightly up for violence and for robbery, with increases in the mid 1990's, though it has possibly leveled out a little bit now.

### Officially Recorded Crime for 10-17 Year Olds

| | 1981 | 1988 | 1998 | 1999 | overal trend |
|---|---|---|---|---|---|
| Violence | 603 | 721 | 771 | 528 | up-ish |
| Sexual offences | 101 | 115 | 52 | 39 | down |
| Burglary | 1610 | 1186 | 728 | 488 | down |
| Robbery | 55 | 75 | 133 | 92 | up-ish |
| Theft | 4891 | 4363 | 3134 | 2232 | down |
| Fraud | 117 | 131 | 131 | 102 | down |
| Criminal damage | 218 | 276 | 190 | 160 | down |
| Drugs | 37 | 96 | 693 | 470 | up |
| Motoring | 156 | 111 | 21 | 16 | down |

Information about drugs, from other sources, confirms without a doubt, that there has been a sustained and long term increase in drug use by young people since the second world war.

We know that some experimentation with illegal drugs is now virtually normative. In the Youth Lifestyles Survey, a quarter said they had used them in the last year. The lifetime preference is around about 60% or so for school children now. In another study, about 60% of people arrested had illegal drugs in their urine. However, serious misuse is much less common

The importance of the relationship between drugs and crime is not straightforward:

- it may lead to crime to sustain the drug habit, and there is certainly plenty of qualitative data to suggest that that is happening and that that is increasing with increased drug use.
- it may lead to dealers becoming involved with organized crime and then coming up against violence and firearms.
- it may lead to other types of antisocial behaviour in a high risk lifestyle that they might otherwise have been avoided

Importantly, the peak age for drug use is later than that for antisocial behaviour. People usually turn to drugs after they have commenced antisocial behaviour. The key thing to remember, is that it is a common trend in antisocial behaviour, and it needs to be treated.

## Trends in Violence

In terms of violence the patterns are much less clear. During the 1980's and 1990's increases in violence have been reported by most European countries, and certainly in North America and in Canada. Violent crime in the US soared by 50% between 1988 and 1994 and we are seeing something of that pattern here.

However, as with drugs, it still forms a very small part of the arrest profile, and it is important to keep it in perspective. Violence by young women has increased slightly, but from a very low baseline. (We are still only talking in terms of around 4,000 young women, in an overall population of around 2 to 3 million in that age group).

The involvement of gangs is an issue about which we have no good UK data. So far, it does not appear

to have had a dramatic impact on antisocial behaviour, but I am sure we will hear more about it in the future.

## Guns and Weapons

We have seen an increased use of weapons, mainly knives. Estimates suggest that as many as half of all young offenders if stopped, will be carrying some form of weapon. We have seen very little gun crime in the UK, apart from some pockets in London. It is important to stress that the US has 15 times the murder rate, by teenagers, compared to that seen in the UK, and it is gun related.

## Persistent Young Offenders

The Youth Lifestyle Survey of 10-17 year olds, from 1987 to 1998, highlighted the proportion who had no previous convictions. Since this graph is almost a straight line, the proportion of young male repeat offenders does not appear to have changed. It is increasing slightly for young women, which may reflect their increased involvement in antisocial behaviour.

## Conclusions

I think the underlying root causes of antisocial behaviour are the same now as they have always been, and I think the way that children respond to them are the same as always. However, I wanted to show there are changes in features of antisocial behaviour, probably as a result of differences in the levels of those underlying factors. The way children socialise is changing and the things to which they are exposed are changing. Ultimately antisocial behaviour is opportunistic, youngsters work with what society gives them. While it is undeniably very stressful to be a victim of antisocial behaviour by a young person, in terms of policy and practice, we have to step back and think about what we are doing to them, rather than what they are doing to us.

So to summarise, the important trends that I have briefly covered:

- Antisocial behaviour has increased this century, and this is (a) an international trend and (b) accompanied by rises in a whole range of psychosocial problems experienced by young people. So it would be very surprising if antisocial behaviour had not increased when suicide, drug use and psychosis are all rising.
- Young women account for an increasing proportion of antisocial behaviour.
- Drugs play an increasing role in causing and maintaining antisocial behaviour.
- Violence is a growing problem, but it must be kept in context overall.

# 4. "JUVENILE SENTENCING - JUSTICE BY GEOGRAPHY"

**Tim Bateman**, Senior Policy Development Officer, Nacro

Prior to his three years with Nacro, Tim Bateman spent over 13 years as a Youth Justice Practitioner, and has a background in residential childcare. From his position as lead role in the Youth Justice Board's funded project on differential sentencing within the Youth Justice System, he argues that the expression 'justice by geography' implies its' very opposite – namely the possibility for injustice. He argues that restricting such injustice to a minimum, in the main, is a prerequisite of any proper consideration of the welfare needs of children who offend.

## Introduction

To the extent that "justice by geography" operates at all, it is equally likely to impact every level of sentencing. However, I want to restrict most of my remarks to custodial sentencing, for a number of reasons, not least being the welfare needs of the offending child.

It is at this level, where a custodial sentence will be most keenly felt, should there be any injustice in sentencing. Returning to a theme of the conference, it is well established that incarceration of children does nothing to promote their welfare. The issue of custodial sentencing of children is of particular relevance, given the massive escalation in its use in recent years.

## The Rise in Custodial Sentencing

Criminal Statistics for England and Wales show a rise in the number of custodial sentences imposed each year from 3,900 in 1992 to 7,600 in 1999.

There have of course been significant changes since 1999. April 2000 saw the introduction of the Detention and Training Order, and the Youth Justice Board taking over responsibility for the juvenile secure estate. Nonetheless, the available evidence suggests that the increase in incarceration has continued unabated, with the Board's own figures showing an increase of 19%, between March 1999 and May 2001. It is not just the mainstream use of custody that has risen quickly. Section 91-what used to be known as Section 53, provides for long term custody greater than that usually available for children of that age, and here there has been a veritable explosion in the use of the power. Over the same period, orders have risen from 93 in 1992, to 607 in 1999.

There is a plausible interpretation of these two sets of figures, simply that they reflect a proportionate increase in the level of youth crime, and that that youth crime is becoming progressively more serious. Is this true? Ann Hagell has already shown that there has been no increase in recorded youth crime, at least in the period to which these slides relate. Official figures record a decline between 1992 and 1999 of 16%. So that particular plausible explanation does not stand inspection.

As to the suggestion that the trend is related to an increase in the seriousness of offences, again, Ann pointed out that the vast majority of recorded youth crime continues to be related primarily to petty theft. In the period under consideration, robbery has shown a marginal increase, but still only accounts for only 2.5% of all youth indictable offences. Offences of violence, during this same period, show a slight decline.

What about offences resulting in section 91 orders for long term detention? Between 1984 and 1992 there were only two offences of handling stolen goods which led to a sentence of long term detention. Since 1993, however, such offences have resulted in an increasing number of sentences of long term detention, rising from one in 1993 to 18 in 1998.

Up to 1968, Burglary could not even qualify for long term detention. Now it accounts for an increasing proportion of sentences under section 91: 12% in 1990, 14% in 1995, 22% in 1998 and 17% in 1999.

Far from long term detention reflecting an increase in the seriousness of youth offending, the evidence suggests the opposite: greater use is being made of the grave crimes procedures in cases where it would not previously have been considered necessary.

## The International Perspective

If we are talking about 'justice by geography' it is helpful to focus on custodial sentencing, and a useful starting point is to locate that sentencing within England and Wales within a broader European context. The figures suggest that our children get a much worse deal than many of those on the Continent.

A recent report by NCH Action for Children for example concludes that:

> *'for the under 21 age group the countries of the United Kingdom send a vastly greater proportion of young people to prison than any other state in the EU.'*

The following table gives the absolute numbers in custody for a range of countries on a given date. Perhaps more significantly the custody per 1,000 of the under 18 population in those countries.

| COUNTRY | NUMBER OF CHILDREN/YOUNG PEOPLE IN CUSTODY (date) | CUSTODY PER 1,000 UNDER 18 POPULATION |
|---|---|---|
| England / Wales | 2650 (31.3.00) | 0.22 |
| Hungary | 438 (15.11.99) | 0.21 |
| Czech Republic | 346 (31.12.98) | 0.16 |
| Austria | 199 (31.8.99) | 0.12 |
| Portugal | 209 (31.12.99) | 0.1 |
| Belgium | 187 (1.9.98) | 0.09 |
| Bulgaria | 141 (1.9.98) | 0.08 |
| France | 809 (1.9.98) | 0.06 |
| Netherlands | 79 (1.9.98) | 0.02 |
| Spain | 177 (1.9.98) | 0.02 |
| Denmark | 14 (1.9.98) | 0.01 |
| Finland | 7 (1.9.98) | 0.01 |

Two facts stand out: England/Wales is the highest in both columns: Significantly, the lowest four countries shown, had a rate of custody less than 1/ 10th of that in England/Wales. On the face of it the table clearly shows justice by geography, and suggests that offending children in other parts of Europe, are significantly less likely to be locked up.

## England and Wales

Even at home, there is strong evidence of justice by geography. One of the most important achievements of the Youth Justice Board has been the establishment of an up to date national monitoring database, and quarterly baseline data is now available from Youth Offending Teams. According to those returns, between April 2000 and March 2001, the average rate of custodial sentencing was 8.3%, but this figure conceals wide variations. Of the 154 Youth Offending Teams, 29 had a rate of custody over 11%, with Merthyr Tydfil at 21.8%. In Merthyr, the detention and training order is the most popular sentence after the conditional discharge, and of course the use of the conditional discharge is in rapid decline. On the other hand, 25 YOT's had a custody rate of less than 5%, with the lowest being 1.8%.

Across the 32 Youth Offending Team areas in London, the custody rate varies from 17.5% down to 3.5%. Of particular interest are neighbouring boroughs, Wandsworth and Lambeth, with relatively similar demographic profiles, which both use the same youth court in Balham. However, the custody rates in the two Youth Offending Teams are 14.5% and 4.6% respectively. Similarly Kensington and Chelsea, Hammersmith and Fulham, and Westminster all sit at West London Youth Court, but they have respective levels of custody of 17.5%, 9.5% and 4.6%.

## Differential Sentencing and Justice by Geography

Is this justice by geography? Although these figures are suggestive, on their own they prove nothing. Similarly, on their own differential rates of custody prove nothing. They might simply reflect different patterns of offending in a particular area. For instance, more serious youth crime could generate higher levels of custodial sentencing, and so the figures just mentioned, would not necessarily indicate unfair treatment.

Last year Nacro carried out some work for the Youth Justice Board looking at precisely this issue. We used The Youth Justice Board's scale of gravity factors against which the seriousness of offences are measured. The scale runs from 1 for fairly minor offences, to 8 for murder etc. Our results highlighted the average level of seriousness of offences leading to custody in high custody areas, and offences which led to supervision orders in low custody areas. On average, offences resulting in custody in high custody areas were less serious that those which led to supervision in areas where the rate of custody was lower. We thus concluded that variations in patterns of custodial sentencing cannot by and large, be explained by differences in the seriousness of the offence, but indicate inconsistent sentencing. If the survey was representative then, we can safely conclude that justice by geography, in terms of juvenile sentencing, is a genuine phenomenon.

## The Impact of Pre Sentence Reports

What other factors might account for the above differences? What, for instance, was the impact of Pre Sentence Reports?

Using our own mechanism for assessing the quality of Pre Sentence Reports, on average we assessed reports in low custody areas as being of a higher quality than those in high custody areas. Significantly, the difference was primarily in the quality of the proposal and the conclusion together with the more logical structure of the reports, in what they were asking the courts to do.

However, the picture is complicated by the fact that magistrates in high custody areas thought that the reports they received were just as good as those magistrates received in low custody areas. So there was no straightforward trade off between high quality Pre Sentence reports and lower levels of custody.

## The Views of Magistrates

Another possible factor, are the sentencing instincts of Magistrates, who are directly responsible for making these decisions. Our study included a postal exercise to elicit sentencing preferences

from magistrates for a range of fictional case studies. The results suggested that here was no automatic translation between the facts of a case and a particular sentencing outcome, or range of outcomes. In one case, responses ranged from absolute discharge to committing the case to Crown Court on the basis of the same facts. This exercise was carried out prior to April 2000, before such options as reparation orders, action plan orders, etc were available.

It would be premature however, to conclude that differential rates of custody are largely to do with inconsistent views of magistrates, without looking at the whole picture. Although there are massive variations in what sentencers thought they might impose, there was no correlation between their being in high custody or low custody areas. The variation was as great within areas as it was across areas.

In addition, magistrates appear to think that the level of custody within their own area is pretty much unchangeable. We asked them what measures they thought could be implemented to reduce the level of custody. Although the most common response, was the need for preventative services to stop kids offending and appearing in court in the first place, the second most common response was that nothing at all could be done. This was equally true in high custody and low custody areas. So, to the extent that young people continue to offend, magistrates thought that the rate of custody was going to be pretty stable, irrespective of other variables. The significantly variable custody threshold across areas, once established, appears relatively fixed.

This suggested to us that geographical variations in the use of custody seem to relate to local sentencing cultures, which have the potential to provide a framework which constrains sentencing decisions within certain limits. That culture would be shared by all the agencies working locally, including defence solicitors and prosecutors, and because it is shared, it becomes mutually reinforcing. So previous court decisions would influence what PSR authors thought was reasonable to propose, which in turn would reinforce subsequent sentencing practice.

Although I've been concentrating very much on custody, the culture of imposing a particular view of the tariff operates all the way down, with practitioners regarding the particular local pattern of sentencing as a natural one. If that was right we might expect high custody areas to be characterised by a tendency to impose community sentences at a lower level of offence seriousness than their low custody counterparts. The evidence does indeed suggest that such a pattern may be typical.

We are currently carrying out some more work for the Board, studying 16 high and low custody Youth Offending Teams. We looked at the level of community penalties against discharges, financial penalties and reparation orders. Our results show that high custody YOT's do indeed appear to use community penalties more readily than other areas.

The question of how to reduce justice by geography therefore becomes: how do you break down local sentencing cultures? Maybe that is an issue for discussion.

## Conclusion: Degrees of Injustice

Given what I've said so far, my asking whether we should be looking to reduce the level of justice by geography might seem strange. The answer seems obvious, since inconsistency gives rise to injustice and as a matter of course we ought to be striving to reduce it. However, there are a number of ways in which a shift towards greater consistency might be achieved. One way of achieving greater consistency might be by moving towards the current average rate of custody. On our figures, that might result in a slight overall decrease in the number of children who receive custodial sentences, but children in about 80 Youth Offending Team areas might be worse off. The overall outcome might be even less favourable, with custody rates equalising towards the top end of the scale. Magistrates in some high custody areas have even remarked that it was the rest of the country who were out of step with them, rather than the other way round. So we can't rule out the possibility that consistency might be achieved by sentencing more children to custody. In those circumstances I'd rather live with some justice by geography.

To be worthwhile, any call to eliminate inconsistent sentencing has to be underpinned by a commitment towards the overall reduction in juvenile custodial sentencing. Most people will respond to the patent injustice of inconsistent sentencing, which I have described, and this can this act as a stimulus for more widespread debate about the reducing the use of custody for children. If that is right, it is also a prerequisite for meeting the welfare needs of children who offend.

## 5. "The Human Rights of Offending Children" Michael Bowes QC

In his talk, Michael Bowes charts the development of Human Rights legislation, using the Thompson and Venables Case to illustrate its part in precipitating change on many issues: the age of criminal responsibility, pre-trial and trial processes, sentencing, and reporting publicity. The role of the European Court is shown to have been dominant in bringing about change in the UK.

### The Human Rights Act 1998

The Human Rights Act gives effect in domestic law to the rights and freedoms guaranteed under the European Convention on Human Rights. The human rights of offending children came to prominence and were considered most fully by the European Court of Human Rights in T. v. United Kingdom 30 EHRR 121. Difficulties raised in dealing with children as offenders were encapsulated in the opinion of one of the judges, Lord Reed:

*"…. One consequent difficulty lies in deciding whether children are sufficiently mature to be held responsible for their actions under criminal law. If children are held criminally responsible, they have to be tried; but ordinary trial procedures will not be appropriate if a child is too immature for such a procedure to provide him with a fair trial". He ended by stating*

*"… All of these problematical aspects of treatment of children in the criminal justice system - the age of criminal responsibility, the trial procedure and sentencing-are raised in the present case. "*

The court concluded that the attribution of criminal responsibility to the applicant did not in itself give rise to a breach of Article 3 of the Convention (inhuman or degrading treatment).

### The Age of Criminal Responsibility

The Children and Young Persons Act 1933, s.50, stated that, "…it shall be conclusively presumed that no child under the age of ten years can be guilty of any offence". The application of Doli Incapax, presumes a child between the ages of 10 and 14 years does not know that he/she was doing wrong. The prosecution has to prove beyond reasonable doubt, that the child knew the act was wrong, rather than merely naughty or mischievous. At trial Dr. Vizard stated that, although she considered the applicant was fit to stand trial, she had some concerns as to how the post-traumatic stress symptoms affected his understanding of the procedures.

The "sliding scale" provided by the Doli Incapax principle was more in keeping with the Bejing Rules, but this was abolished by section 34 of the Crime and Disorder Act 1988: a move away from the spirit of the Convention.

#### United Nations Standard Minimum Rules for the Administration of Juvenile Justice (The Beijing Rules)

These rules were adopted by the United Nations General Assembly in 1985. They are not binding in international law, though States are invited to adopt them.

They comment on the age of criminal responsibility, "In those legal systems recognising the concept of the age of criminal responsibility for juveniles, the beginning of that age shall not be fixed at too low an age level, bearing in mind the facts of emotional, mental and intellectual maturity". They observed that the minimum age of criminal responsibility differs widely owing to history and culture, and highlighted the close relationship between the notion of responsibility for criminal behaviour and other social rights and responsibilities (such as marital status, civil majority, etc.)

#### The Age of Criminal Responsibility in Europe

The age of criminal responsibility is seven in Cyprus, Ireland, Switzerland and Liechtenstein; eight in Scotland; thirteen in France; fourteen in Germany, Austria, Italy and many Eastern European countries; fifteen in the Scandinavian countries; sixteen in Portugal, Poland and Andorra; and eighteen in Spain, Belgium and Luxembourg. Thus there is no clear common standard amongst member States of the Council of Europe, as to the minimum age of criminal responsibility.

## International Rulings

**The United Nations Convention on the Rights of the Child 1989**

Article 3(1) of the UN Convention states:

> *"In all actions concerning children, whether undertaken by public or private social welfare institutions, courts of law, administrative, authoritative, or legislative bodies, the best interest of the child shall be a primary consideration."*

Article 40 provides:

> *"States Parties recognise the right of every child alleged as, accused of, or recognised as having infringed the penal law to be treated in a manner consistent with the promotion of the child's sense of dignity and worth, which reinforces the child's respect for the human rights and fundamental freedoms of others and which takes into account the child's age and the desirability of promoting the reintegration and the child's assuming a constructive role in society".*

It goes on to say that States Parties shall, in particular, ensure that:

- the establishment of a minimum age below which children shall be presumed not to have the capacity to infringe the penal laws;
- wherever appropriate and desirable, measures for dealing with such children without resorting to judicial proceedings, provided that human rights are fully respected.

## Committee on the Rights of the Child Report on the United Kingdom

In 1995 this Committee concluded its observations in respect of the UK, and having regard to the Beijing Rules, requested:

- That law reform be pursued to ensure that the system of the administration of juvenile justice is child-oriented ...
- That serious consideration be given to raising the age of criminal responsibility throughout areas of the United Kingdom…

## Investigation

Code C of PACE, Section34 states, for an appropriate adult: Where, in any proceedings against a person for an offence, evidence is given that the accused:

- at any time before he was charged with the offence, on being questioned under caution by a constable trying to discover whether or by whom the offence had been committed, failed to mention any fact relied on in his defence in those proceedings
- or on being charged with the offence or officially informed that he might be prosecuted for it, failed to mention any such fact …… The court may draw such inferences from the failure as appear proper.

In the House of Lords, Lord Taylor, a criminal judge, said that, in respect of the above, the position of the very young and the vulnerable would have to be "very specially considered"

Section 35 deals with the accused's failure to give evidence at a trial: Where this subsection applies, the court or jury, in determining whether the accused is guilty of the offence charged, may draw such inferences as appear proper from the failure of the accused to give evidence or his refusal, without good cause, to answer any question.

In 1998, section 35 was repealed, effectively removing an exemption in respect of persons less than 14 years of age. It might have been thought inappropriate for adverse inference to be drawn at all regarding a juvenile aged 14 to 18, previously for 10-14 years, indicating a toughened stance.

Any court dealing with a child defendant ought to take into account the child's age and all the surrounding circumstances before drawing any adverse inference from silence.

## The Mode of the Trial Process

**Before Trial**

If a young defendant is indicted jointly with an adult defendant, the court should consider at the plea and directions hearing, whether the young defendant should be tried on his own and should ordinarily so order, unless of opinion that a joint trial would be in the interests of justice and would not be unduly prejudicial to the welfare of the young defendant. If a young defendant is tried jointly with an adult the ordinary procedures will apply subject to such modifications (if any) as the court may see fit to order.

**During Trial**

The central plank of the defence submission to the European Court of Human Rights was that it was

wrong to try T & V in Crown Court and that the trial was in contravention of Article 3 (inhuman or degrading treatment) and Article 6 (the right to a fair trial). The defence, relied on the opinion of Dr. Vizard, who had stated that the post traumatic stress disorder suffered by the applicant, combined with the lack of any therapeutic work since, had limited his ability to instruct his lawyers and testify adequately in his own defence. They claimed this was in contravention of Article 6, which guarantees the right of the accused to participate effectively in his criminal trial.

The Court considered that the public trial process in an adult court, with all the attendant publicity, must be regarded in the case of an eleven-year-old child as a severely intimidating procedure. It concluded that, having regard to the applicant's age, the application of the full rigours of an adult public trial deprived him of the opportunity to participate effectively in the determination of the criminal charges against him, in breach of Article 6 § 1. The Court held that the trial did not amount to a breach of Article 3.

In response to this decision of the European Court of Human Rights, Lord Bingham C.J. issued the Practice Direction (Crown Court: Trial of Children and Young Persons 2000) [2000] 1 Cr.App.R. 483. In outline, it stated:

- It should be given immediate effect, and in it children and young persons are together called "young defendants."
- The steps which should be taken to comply with this practice direction should be judged, in any given case, taking account of the age, maturity and development (intellectual and emotional) of the young defendant on trial and all other circumstances of the case.
- The overriding principle should be:

  *Some young defendants accused of committing serious crimes may be very young and very immature when standing trial in the Crown Court. The purpose of such trials is to determine guilt (if that is in issue) and decide the appropriate sentence if the young defendant pleads guilty or is convicted. The trial process should not in itself expose the young defendant to avoidable intimidation, humiliation or distress. Regard should be had to the welfare of the young defendant as required by section 44 of the Children and Young Persons Act 1933.*

The court should explain the course of proceedings to a young defendant in terms he can understand, should remind those representing a young defendant of their continuing duty to explain each step of the trial to him and should ensure, so far as practicable, that the trial is conducted in language which the young defendant can understand.

## Publicity

Although Convention places great weight on freedom of expression, this is specifically modified in relation to criminal proceedings where the interests of juveniles are concerned:

> *"…. but the press and public may be excluded from all or part of the trial in the interests of morals, public order, or national security in a democratic society, where the interests of juveniles or the prosecution of the private lives of the parties so require….."*

In this connection, it is noteworthy that in England and Wales, children charged with less serious offences are dealt with in special Youth Courts, from which the general public is excluded and in relation to which there are imposed automatic reporting restrictions on the media.

There is no room under the Convention for "naming and shaming" a child defendant as a punitive measure.

## Sentence

In T & V, the final tariff (the period before which a person is eligible for parole) went through a number of stages, reflecting the punitive verses the welfare views of the Home Secretary and the judiciary.

The original trial judge recommended a tariff of 8 years. This was increased to 10 years by the Lord Chief Justice. Following a campaign in the media and a petition, the Home Secretary increased the tariff to 15 years.

The House of Lords ruled that it was unlawful to adopt a policy, which even in exceptional circumstances, treated as irrelevant the progress and development of a child who was detained during Her Majesty's Pleasure. There should be no sentencing by public demand.

The ECHR accepted that having punishment is no breach of Article 3, but following the Bejing Rules, the sentence should be as short as possible, and as a guiding factor, should have regard to the well

being of the child. However the Court held that Article 6 had been breached, when the tariff was set by the Home Secretary, and not an independent tribunal.

In October 2000, the tariff for T & V was reset at 8 years, taking into account the welfare of the children and the progress they had made since being in detention. This was the humane approach, consistent with the Beijing Rules and the European Convention of Human Rights.

## 8. Conclusions

The Convention gives substantial rights to offending children. Its philosophy is clear: the welfare of the child is to be the guiding principle. In order to be compatible with the Convention, statutes must move away from a punitive approach and put the emphasis on the best interests of the child. The judiciary has taken this approach: it is for the legislature to follow it as well.

## 6. "The Needs of Offending Children in Prison – Future Perspectives"

**Sir David Ramsbotham**, Former HM Chief Inspector of Prisons

Sir David opened his talk with a unique potted history of Cumberland Lodge, since Amy Buller, the founder, was one of his godmothers. He recounted his first visit, before the Lodge was opened, when Queen Mary had donated 100 pictures – all of the Crimean War. Weekend conferences were often attended, on a Sunday, by the King and Queen and the two princesses.

Sir David continued, that remembering Amy, he felt certain she would have approved this conference and its aims, the improved welfare and protection of vulnerable children.

### The Role of Prison

When Michael Howard interviewed me for this job, I said to him that I felt that independent inspection was a key element in the treatment of offenders, but that inspection must be part of a process which includes what goes on with offenders before, during and after sentence. In considering the future perspective of the needs of offending children in prison, I believe that it is terribly important not only to look at what goes on inside prison, but also to consider certain prerequisites for what happens after prison. Prison must not be regarded in isolation, as an end in itself. Many times I have said that you should regard imprisonment as being the acute part of the criminal justice system, where treatment takes place, very much in the same way that hospitals in the health service are places where treatment happens. I believe that people should only be sent to prison for particular treatment for particular problems and the prisons should be resourced to give that treatment. If there is nothing appropriate that prison can do, then people should not be sent there.

A lot of people will say that the role of prison is merely to keep certain people away from society. Fine, I have no argument with that, but the fact remains, that of the 66,000 or so who are now in prison, all except 23 are going to be released eventually back into society. If nothing is done to change their original offending behaviour, then they are likely to return to prison once again. Sadly this is exactly what happens, as the figures of 80% re-offending show. Anyone with a failure rate of 80% cannot really claim to be doing a very good job.

### Responsibility and Acountability

When thinking about the needs of offending children, you must be absolutely certain that you know what you are going to do, and how you are going to do it. Possibly the most vitally important prerequisite in this process, is the selection and training of the people who are going to work with these children. I have always found this to be one of the weakest elements of the prison service. Equally importantly I think, is the organisation and structure in the prison service, set up specifically for looking after children in prison. It must be absolutely clear, what people are responsible and accountable for, with a clear line of command.

There should be one person who is responsible for the managing and running of all those establishments in which children are held. They should be responsible and accountable for

designing and establishing systems and programmes that are available, and for the selection and training of staff. Through this simple mechanism, everyone will know exactly where they stand, and you will also have in place another critical requirement, that of consistency. One thing that I always found reprehensible with the present system, was that there was no one in charge, no one responsible for what went on in different establishments. It was entirely a lottery, depending on what resources were given to an establishment by a particular geographical line manager, and how much the governor of the establishment, either cared for or knew what was required. One establishment had an absolutely appalling attitude to young offenders, and just before our inspection, a particular Governor had been brought in as sudden replacement, even though he had no experience and had received absolutely no training for this role. However, after seeing what was happening, and because he was motivated and was not afraid to ask for what was required, he was able to start turning the place around. Regrettably, this process was not started until 2000, a number of years after these problems had first been exposed. For some reason the prison service had not seen fit to put right what was clearly wrong, in terms of the needs of children.

I am a strong supporter of the principle of the Youth Justice Board, as a co-ordinator of policy and practice. Although I think there are some problems about the way it is currently operating, they don't worry me a great deal.

## Characteristics of Offending Children in Prison

I want to illustrate these needs by reference to some information from the Youth Justice Board. The first chart concerns characteristics of boys in custody. What I think is important about these statistics is that some 95% are said to be suffering from some form of identifiable mental disorder, although it is probably more personality disorder or something related, like substance abuse, than certifiable mental illness.

Some of the other characteristics highlighted were:

- the number who were in work - 30%
- those with a mental age of less than 12 – 34%
- those with a history of local authority care – 36%
- those living with parents – 44%
- those with acquisitive offences – 56%
- hazardous drinkers – 62%
- those with experience of bereavement of close family/friend – 63%
- those with previous convictions – 70%
- drug users – 72%

Figures for girls, in the same categories, showed a similar pattern, with one or two exceptions. If we run the two sets of figures together and just look at the comparisons, it shows the allegedly sexual abuse did not affect boys. My experience does not support that. The significant point is that mental disorder is a very major problem, affecting 95% of boys and girls, though I am not sure that mental disorder is necessarily the right phrase, because this includes behavioural, educational and other difficulties, which have been lumped together. It is clear that this is where the needs are most obvious.

Does the children's population in general differ dramatically from the population of children in custody? Just taking three areas from the above figures, we find:

- History of Abuse:
  - Children in Population 10%
  - Children in Custody 35%
- Substance Abuse:
  - Children in Population 30%
  - Children in Custody 75%
- Mental Disorder:
  - Children in Population 10%
  - Children in custody 95%

## Assessment of Needs

What do the above figures say to me? They say that the first and the most important thing that ought to happen to every single young person, on entering prison, is that they receive a proper and detailed needs assessment. I suggest that there are five aspects of their needs that must be assessed in great detail.

(i) Education, including reasons for non-achievement and speech therapy assessment

(ii) Work Skills based on aptitude testing

(iii) Social skills, including ability to live alone, together with parenting skills

(iv) Physical and mental health

(v) Substance abuse, immediately on admission

I would like to concentrate on education**,** since this is an issue that permeates the whole lives of young offenders. Education does not simply mean their inability to read or write, but requires investigation into why they have not acquired these educational skills, even though education is supposed to be compulsory. Interestingly, on one visit to a young offender establishment, I took with me a speech therapist. In addition to the educational deficiencies, which were highlighted by educational needs assessment, she added these startling figures:

- 50% of the boys were suffering from substance abuse induced memory loss, mainly occasioned by the use of Cannabis. What does that say about their ability to absorb instruction on anything?
- 17% had severe hearing difficulties, not surprising bearing in mind their lifestyle.
- 37% had severe literacy problems.
- 73% were below acceptable grammatical competency.
- 43% reported having difficulty in communicating by talking and all interviewed had significant difficulties with speech, language, and communication compared with 1% of the normal population.

Now why are these figures important? It seems to me that in addition to disclosing a wider range of deficiencies normally hidden in the other figures relating to particular needs, which have to be met, there are other difficulties, which have resulted from the children's lifestyles. With their inability to communicate, how do you put matters right? If you need to teach people to communicate, then for heaven's sake put them in an environment that requires and encourages them to communicate. Keeping people locked up in isolation for 23 hours a day doing nothing, seems to be doing just the opposite.

## Purposeful Training Activity

It is blindingly obvious that you must have full purposeful and active days, for each and every offender, based upon education in its broadest sense, including physical education and community reparation. This is not just a pious hope by me, but it is obvious for this age group. At Thorn Cross young offender establishment, in Cheshire, there is already a high intensity training programme in operation. It starts at 8:00 in the morning and finishes at 10:00 at night, and its re-offending rate is just 20% compared to the norm of 80% for the other units. This speaks volumes about the value of a programme, which is related to the needs of the young offenders, and covers all the issues that I mentioned earlier.

I am delighted that the subjects of education and mental health are to be considered later in the conference, because they require discussion in some depth. I am also delighted that the whole concept of welfare needs are felt to be important. If prison is to meet the offender's needs in the way that I have suggested, it is no good working in isolation, and refusing to plan their release into the community. Prisons have an obligation to treat offenders whilst in custody, and like hospitals, they have to accept that treatment can never be completed in prison, it has to be continued as aftercare in the community.

## Conclusions

On release, young offenders with substance abuse problems need continued helped by trained workers. Likewise, it is essential that training and education, begun in custody, is also continued. Also, if you take the trouble to assess people's abilities for work, then for heaven's sake at least try and ensure that work is available after custody. If young offenders had no place to live before custody, then it is imperative that they have somewhere to live on release, if they are to use whatever training and skills they have hopefully received in custody, and stay out of prison.

This brings me back to my original discussion with Michael Howard. There has got to be a partnership between all those responsible for the administration and care of those who come into the hands of the criminal justice system before, during and after sentence. Unless those three are run together as a continuum, then whatever prisons may be able to do with the time and resources available, is will be little more than a brief intervention. Importantly, it will not result in the long-term treatment of young offenders, which is so essential for them and the wider community in which they live.

## 7. "The Court's Perspective on the Needs of Offending Children"

**The Hon. Mr. Justice Crane**, High Court Judge

Mr. Justice Crane opened his talk by stating that he would be concentrating on what happened from the court's perspective, once the child is proved to have offended or admitted having offended. In outlining his role, he said the sentencer had to balance the needs of the child against the needs of the wider community. Sometimes it was necessary to decide that the needs of the wider community should prevail over the needs of the child. The idea that a sentencer was entirely free to decide whether to impose custody or not, was not true.

### The Court's Dilemma

All agencies that have to consider the needs of an offending child have to work within certain constraints, often the constraints of a decision already taken by somebody else. Those responsible for children in custody have to work within the constraint that the child is in custody, a decision already taken by a court. They are not free to decide that custody is not what the child needs, at least initially.

A court that deals with an offending child is in a difficult position. If the child has offended in a relatively minor way, the court's decision may be that the needs of the child and the needs of the community coincide, and that a supervision order may meet the needs of both parties. However, if the child has committed a serious offence, there may be a conflict, but not necessarily so. The court may think that the needs of the child and the needs of the community are best served by giving a custodial sentence, followed by training. A court may, however, recognise that a custodial sentence fails to meet the needs of the child, but still expresses the view that wider sentencing requirements prevail. Sentencers do not find taking that kind of decision easy. I should point out that my own experience of dealing with offending children is in the Crown Court, to which only a small minority of children under 14 are sent, usually for committing more serious offences.

There is a set of principles, which sentencers try to follow, but consistency can be a problem, when trying to decide where the balance lies.

Where do the Relevant Principles Originate?

The provision in section 1 of the Children Act 1989, which makes the interests of the child paramount, does not apply in criminal cases. If a Family Court is considering the future of a young offender, the interests of the child will be paramount, subject to the decisions made by the criminal court.

There is, however, a provision of the Children and Young Persons Act 1933, section 44(1):

> *"Every court in dealing with a child or young person who is brought before it, either as an offender or otherwise, shall have regard to the welfare of the child or young person and shall in a proper case take steps for removing him/ her from undesirable surroundings, and for securing that proper provision is made for his education and training".*

Although, over the years that section was very rarely referred to by the courts, it seems to be coming back into fashion. However, those dealing with offending children would regard it as an obvious principle. The Crime and Disorder Act 1998 section 37, simply says that it shall be the principal aim of the system to prevent offending by children and young persons. We could all agree with that, it begs the question how?

One of the most interesting accounts of how courts approach, or should approach sentencing of children was in one of the many cases that resulted from the Venables and Thompson case, already touched on by Michael Bowes. It was the case in 1997 when the House of Lords was considering the question of the tariff which had been raised in the way Michael Bowes described. Section 44 was referred to, but only by two members of the five

members of the House of Lords. Lord Hope, a Scottish Law Lord spelled out the historical and present attitude of the courts to the sentencing of children: *"Every system of justice has had to face up to the problem of how to deal with children who commit crimes"*.

He went on to quote an Australian judge in 1993 who had said this: *"The wisdom of protecting young children against the full rigour of the criminal law is beyond argument. The difficulty lies in determining when and under what circumstances that protection should be removed"*.

Lord Hope continued: *"The protection comes in two forms - the selection of the age of criminal responsibility and the nature of sentences that can be imposed by the court. The two go hand in hand and can be balanced one against the other. The public interest in holding even quite young children accountable for their actions can be satisfied by requiring that a more lenient and reformative penalty should be imposed in their case. It has for a long time been recognised that the ordinary consequences of a conviction ought to be modified where the offender is of less than full age"*.

In fact, until 1908 the consequences of conviction were the same for a child as for an adult. It was only from then that a different system of penalties and disposals emerge. Lord Hope went on to refer to the provisions of Section 44, that is "Courts must have the regard to the welfare of the child" said this:

> *"Protection and welfare thus lie at the heart of the provisions of this part of the Act [Part III of the 1933 Act], although many of the sections which it contains are concerned also with punishment. Your Lordships would not refer to any enactment which suggests that these principles are not still applicable to the way children and young persons are entitled to be treated by the courts"*.

This was a rare expression of principle by a higher court in relation to children, with the interesting words being "a more lenient reformative penalty should be imposed". In other words, children, as far as sentencers are concerned, are treated as small adults. You knock a bit off any custodial sentence, and you look more closely at reform, but you do not, as things stand at the moment, regard them in a wholly different way.

My own experience of sentencing those few cases in which children reach the Crown Court, is that those who wrote pre-sentence reports, were concentrating exclusively on the needs of the child, to the exclusion of the punitive considerations that the court was bound to consider.

## Punishment

To many people the proposition that a serious offence should be followed by punishment is simply too obvious to require justification. The Home Office term for the principle is "just deserts". To others, including many of those who have the duty of actually deciding what the punishment should be, some justification is required. However, sentencers probably differ greatly in the weight they give to these various considerations. General deterrence is not likely to play a sensible part in people's thinking. There are probably two things that are behind the punitive approach. Firstly, individual deterrents, or "the educative effect of discovering that unpleasant consequences follow a particular kind of action". Secondly, the perceived or actual need to remove an offender, particularly if dangerous or persistent, from circulation.

The court's thinking process is likely to start with the offence. Is it so serious that a custodial sentence is required? And in the case of a child, what limited range of sentences is available? If at first sight the offence is so serious that custody must at least be considered, the focus then goes to the child and his or her needs, or to put it another way, the welfare of the child. The age of the child will in any event reduce the sentence, if there is a custodial sentence. But the needs of the child, particularly for treatment, training or education, may persuade the court to adopt a different course. And that is entirely rational to assume that providing for the child's needs and the rehabilitation of the child is likely to go hand in hand.

One of the dilemmas that the courts have is that the conclusion may be reached that a custodial sentence will not only fail to meet the child's needs, but actively damage the child. Some, including some of those present today, would no doubt argue

that this would almost invariably be so. Sentencers tend to dislike drawing that conclusion, and to avoid the dilemma, but sometimes such a conclusion will tilt the result.

## Consistency in Sentencing

I should like to comment on this previously raised issue, particularly as regards youth courts with lay magistrates. Why the surprise that there is inconsistency? Lay magistrates are appointed from communities to particular Benches. They are mainly trained by their clerks in their individual benches. It is not many years ago that the Magistrate's Association guidelines were rejected by a number of benches, although I think now that most benches are prepared to adopt them. The different views of magistrates are likely to be no more than a reflection of different conditions in their particular area. Some would say that inconsistency among magistrates, or among judges is either impossible, or even undesirable to avoid. I don't agree, I think it is a problem that needs to be addressed, although it will be difficult to resolve.

I am sure the above problems will be minimised by training and the increased use of guidelines. There is already something called a Sentencing Advisory Panel, which is the source of some of the guidelines, so far only for the Court of Appeal, Criminal Division. The Halliday report, which the Home Office has adopted, is likely to result in an increasing use of guidelines. I would point out however, that one of the difficulties in relation to sentencing children and to young persons, is that they are not dealt with by specialists. Almost the only specialists in England, dealing with children, are the two District Judges you will hear next. Many lay Justices become quite experienced, but sit only a very small part of their time. So should be greater specialisation? I hope that Justice Auld's Report is going to say something about that.

## Custodial Sentences

Finally, I offer a couple of thoughts on the high number of custodial sentences passed in England and Wales.

Firstly, the broad range of views of sentencing at a conference like this may be different from that among sentencers generally. Where is the starting point of people's thinking, and what part is played by the newspapers they read.

Secondly, sentencers like to feel that they are reflecting the views of the community. Research by the Home Office and by the Sentencing Advisory Panel suggests that the courts are broadly following public opinion. though public perception does not agree in areas like burglary. There is a very punitive attitude among large sections of the population, and the question does arise as to how far the courts should go the other way, particularly, when despite Mr. Bradley's kind words yesterday, the punitive approach has in recent years been quite prevalent within the Home Office. Public awareness and understanding of sentencing issues needs to be increased.

There are other aspects that should be borne in mind on the question of custodial sentences. Firstly, in the past sentencers had no confidence in non-custodial measures since they often lacked rigour, lacked purpose, and lacked proper enforcement. Secondly, judges and magistrates, received no feedback on the success or otherwise of sentencing policy, except for the continued appearance of the failures. Although in some places, measures have been put in place to provide reports on the successes of community penalties, they are the exception. Again, the Halliday Report makes positive suggestions about feed back, which I think would make a lot of difference. Thirdly, bear in mind the sentencer faced with a young person, who shouldn't be out on the streets, because they haven't got a decent home and face many other relevant problems. It is a great dilemma, whether you just release them. For example, a court can insist that a person can be put in custody, but cannot insist that a defendant with mental health problem gets a bed in a psychiatric hospital or residential establishment. Getting somebody into a hospital requires effort, adjournments, cajoling, summoning of the Director of Social services, the doctors and so on. Sometimes, in a difficult case, where somebody obviously needs to be in a hospital, at least initially, you can sometimes get them in. But don't be surprised if the lack of alternatives offered in reports sometimes result in the courts saying that there is no alternative to custody, even if custody is not ideal.

## 8. "Practical Problems With Young Offenders in the Youth Court".

**District Judges David Simpson** and **Jeremy Coleman**, West London Youth Court.

David Simpson highlighted the fact that they were District Judges of the Magistrates Court, previously Metropolitan Stipendiary Magistrates. They are the only two full time resident judges in any Youth Court in England and Wales, with occasional stints in the Family Proceedings Court in London. In describing their work, he made a plea for custodial sentences to be reserved only for young offenders who commit serious offences and for their time in secure accommodation to be used for worthwhile education and training. He wished to see more curfew orders instead.

He made the point that more effort should be put into the prevention of offending and re-offending, but the latter aim was often hampered by defence lawyers pursuing the culture of denial with their clients. He also thought that it was a tragedy that there was no accountability and feedback after sentencing, on which success or otherwise could be gauged.

### Introduction

The Inner London area has four Youth Court Centres: at Balham, Camberwell, Bow Road in East London, and the newest of all in West London, where we reside. We mostly sit on our own, because we are the main Inner London facility for long trials, e.g. those that last for more than a day. This frees up the other centres, which concentrate on the shorter work. We occasionaly sit with two independent justices from the Inner London Youth Panel, on one day cases, since it is difficult for them to arrange their own business on longer cases. Continuity can be a problem, with three new magistrates coming in each day of the week and sometimes some for the morning and then a different bench in the afternoon.

We also provide the inner London facility for trials where the evidence of child witnesses can be given by live video link. I can see the move to having defendants giving their evidence on the video link, though the atmosphere in our court is one of relaxed formality, compared to the Crown Court. Maybe not all young offenders would choose to use the live video link, but some might and therefore it is an important issue for us to remember.

As with any capital city, London acts as a magnet for a very diverse multinational and multi-cultural population, many as tourists and many as refugees. As a consequence a significant proportion of young defendants require the proceedings to be translated into another language. For some time now there have also been a significant number of Roma children, from Bosnia, Poland, Romania, Bulgaria and Albania. Algeria and other countries torn by civil war also produce a number of refugees, particularly those approaching the age of compulsory military service. Many of these young people find their way to the streets, into the shops and amongst the crowds of the West End. There is international concern about the trafficking of children, particularly from the Balkans, by those involved in organised crime. Jeremy and I have suspected for a long time, and I think it is now generally accepted, that the hoards of children who prey upon tourists in the West End of London are from organised crime groups. They are skilled at understating their age, so that they appear below the age of criminal responsibility, and it is often very difficult to prove otherwise.

With children from Bosnia, it is usually theft from handbags, particularly from Japanese tourists because they are small, and they are used to being jostled on public transport in Japan. The Romanians go for mobile phones, and many whilst begging, also take your money as well. There is major difficulty in trying to communicate with these young people. Recently, I tried to put my action plan to a young Romanian, and you could

tell by his body language that the Harringay Youth Offending Team was going to have difficulties with him. He did not want to go to school, for at 15, he had never been to school.

They were generally persecuted in Romania, but in this country we lump them together in council areas that will take refugees, and they continue to behave in a similar sort of way. We really do have the beginnings of a very large problem, both here and across Europe. In England, I think we have a lot to learn from how other people are dealing with this particular problem. In court, we go through the Community penalties, with little success, and eventually they end up in the prison system, with who knows what results.

## Co-operation with Other Agencies

Our work is influenced by other agencies upon who we rely, in particular both the Metropolitan and the Transport police, the Crown Prosecution Service, our three Youth Offending Teams and, of course, many defence lawyers. As a group it is the defence lawyers who are the most difficult to reach. It is very much an individual approach, inviting them to your various groups and meetings at court, in the hope that perhaps one or two at best will turn up. Substantial efforts have been made to improve the effectiveness of the Youth Court but some fundamental problems remain.

In London in particular there is also a culture of denial amongst young offenders. A "why should I help the police, let them prove it", attitude, or "why should I plead guilty?" Although the main aim of the system is to prevent offending by young people, defence lawyers understandably say that if the defendant wishes to plead not guilty, and spins it out long enough, there is a very good chance that some item of evidence, especially video evidence, might be lost. Then you cannot have a fair trial. Also, if the trial is prolonged for long enough witnesses may not bother to turn up in court. Sadly, this is true and therefore the denial culture continues. We have a large number of trials, and a large number of witnesses, with victims who are further victimised by having to go through a process, all at the whim of the young offender. The Crown Prosecution Service continues to be understaffed, which in a very complex criminal justice process does not assist the effective prosecution of cases. They continue to be dogged by poor communication with the police over the disclosure of evidence, and the Criminal Justice Units are police stations who warn the witnesses for trial, at specific courts, with varying degrees of success.

## The Workload

We chose the work we do, and have been operating at West London since 1997. Our strength is in the continuity we can offer as resident District Judges. Many of our "customers" are persistent young offenders, who on occasion may make daily appearances. One boy was arrested 25 times in a three month period before being placed in secure accommodation through Family Proceedings.

My fear, as regards short custodial sentences, is that it is simply a breathing space for children who have failed to respond and are continuing to fail to respond to the community interventions. It is accepted that very little rehabilitation can be done with a young offender over a two-month sentence, which is the minimum of a four month detention and training order. However, it does provide that island of stability and prevents them offending, possibly for the first time. We have to draw the line for young defendants, and this creates a tension between making the punishment fit the crime, but also having full regard to the welfare of the child. That tension, I assure you is there and remembered every day of the week. This is what makes the job both fascinating and exhausting.

You occasionally get a bright moment. Returning from holiday last year, casually dressed, I called at a nearby Supermarket straight from the airport. On entering the shop, a big black boy said to me "Hey, hey you. Hey, you're the judge, you're the guy from Hammersmith, you sentenced me". I said, "Oh, how nice, how nice to see you", even though I did not recognise him. He continued, "Yea, you sentenced me, how are you, how are you doing man?" We had pleasant chat and I asked how he was, and said "Are you staying out of trouble?" and he replied "Oh yes". I said, "What are you doing over here?" He said, "My aunty lives over here, and I'm doing her shopping". We then shook hands patted each other on the shoulder, and off we went. I don't know whether it was a success or not, but at least he had nice memories of the

situation. Maybe the informal way we talk to people, or the way we treat people, does have some affect after all. That is the only direct feedback that I have ever had!

We spend a lot of time and emotions on bail and sentencing decisions. Then we have no knowledge of what happens after. Did the person break the requirement of his bail, or did he re-offend, or break his community order? If so, then he starts the revolving stage of justices once again, as if nothing had ever been said previously. I think it is a tragic that there is no accountability and feedback.

You will see on the diagram below, that we sentence very little because although we have hundreds of people, by and large they come from other areas of London to commit their offences in the West End, Westminster, Kensington and Chelsea, and Hammersmith and Fulham. You will see that Kensington and Chelsea has been singled out by the Youth Justice Board as being a very high custody area, and that is skewed a little bit by the fact that there are very few defendants being sentenced, who live in that area.

**Penalties from October 2000 to March 2001**

| | Number of Penalties | |
|---|---|---|
| YOT Area | Community | Custodial |
| City of Westminster | 56 | 7 |
| Royal Borough Kensington & Chelsea | 28 | 14 |
| London Borough Hammersmith & Fulham | 78 | 13 |
| **TOTALS** | **162** | **34** |

- **Community Penalties include:** reparation orders, curfew orders, supervision orders, attendance centre orders, community rehabilitation orders, community punishment orders, combined orders
- **Custodial Penalties include**: long term detention imposed at the Crown Court

Nearly all of the following are cases which, from Kensington and Chelsea, but for the Detention and Training Order, would have gone to the Crown Court, because they are robberies and dwelling house burglaries. They are cases that, under former times, wouldn't have been dealt with by the Youth Court anyway. In some of the robbery cases, perhaps the sentences are a little short at 4 months when one would have expected perhaps 2 years or 18 months from the Crown Court. By and large that is the sort of offence that is getting a custodial sentence, and it is the sort of offender who has been through just about everything that the Youth Offending Team can offer by way of a Community Placement, or a Community Disposal.

**Custodial Sentences from October 2000 supervised by the YOT**

| Date of Sentence | Young person | Length | Offences | Sentencing Court |
|---|---|---|---|---|
| December 2000 | "A" | 10 mth DTO | Burglary x 3/ possession of Drugs/ Breach DTO | Youth |
| January 2001 | "B" | 12 mth DTO | Burglary / Handling stolen goods | Crown |
| January 2001 | "C" | 6 mth DTO | Burglary / Handling stolen goods | Youth |
| December 2000 | "D" | 6 mth DTO | Attempted Robbery | Youth |
| October 2000 | "E" | 4 mth DTO | Robbery x 2 | Youth |
| October 2000 | "F" | 4 mth DTO | Assault PC & Criminal damage | Youth |
| January 200 | "G" | 5yrs | Manslaughter | Crown |
| February 2001 | "H" | 3 yrs | Robbery | Crown |
| February 200 | "I" | 3 yrs 9 mth | Robbery/Assault Theft & Bulglary | Crown |
| February 2001 | "J" | 8 mth DTO | Theft x2/Breach of Supervision Order | Youth |
| March 2001 | "K" | 4 mth DTO | Burglary x3 | Youth |
| March 2001 | "L" | 12 mth DTO | Arson | Youth |
| March 2001 | "M" | 6 yrs | Robbery & Dangerous driving | Crown |
| March 2001 | "N" | 6 mth DTO | Robbery / possession of blade | Youth |

- We are working with Youth Offending Teams, to try and increase the number of curfew orders being made as a direct alternative to custody. It is better to restrict the offender to his home rather than at Feltham or some other equally undesirable place. This is an approach that we hope to develop further.

## 9. "The Welfare Needs of Offending Children"

**Mary Marsh**, Director and Chief Executive, NSPCC

Mary Marsh stated that until last August, she used to be the head teacher of the only comprehensive school in Kensington and Chelsea, many of whose children were from a rich ethnic mix living also in Hammersmith, Fulham and Westminster. She felt that this background in education put her in a good position to understand the work with offending children at the NSPCC. Her talk was underpinned by the one main theme: Young offenders are children who require all the help and compassion we can generate, early in their lives. This was not only good for them and their families, but it was also good for the community. Mary Marsh asked how could we refuse to act?

### Children In Need

The NSPCC exists to end cruelty to children. This message, which is emphasised in the FULL STOP Campaign, enjoys tremendous public sympathy and compassion for troubled children who have been harmed. We all feel outrage when we hear about children who have been neglected, physically abused, sexually abused, left with brain damage, and worst of all, children who have been killed, especially at the hands of those who look after them at home.

This public sympathy for children who are victims of crime does not always extend to children who are the offenders, especially if they are the perpetrators of violent crime. The media often paints these children as demons or monsters, as we have just been reminded in Thompson and Venables case. The degree of public vengeance and lack of compassion can be extreme, and I personally find it quite distressing. There is little or no recognition at all of the fact that these offenders are also vulnerable, particularly when they are young and not fully developed.

### Two Types of Children?

A punitive culture still exists in the media and society, where these two groups of children are often discussed as if they were quite separate: on the one hand child victims of abuse, neglect and various kinds of social exclusion; on the other hand the child perpetrators of "thuggery" and aggression. We know that such divisions are false because many of the children, who are perpetrators of crime, are themselves victims of abuse and/or neglect. Some of the causes of abuse are very similar to those which can be the root causes of criminal behaviour, such as poor parenting, domestic violence, poverty, poor educational attainment, poor housing conditions, and the involvement of siblings or other family members in criminal activity. It is abundantly clear that the needs of offending children are considerable. The whole issue of long term multi-agency assessment of their needs, and our response to them whilst they are in need, is clearly evident.

Young offenders are not exclusively from disadvantaged circumstances. Children and young people from more strongly supportive home circumstances can sometimes make mistakes and get caught up in criminal behaviour, particularly in adolescence. However, it is very often the strong support and help from home that pulls these children back on track. Such support from home is rarely available for those children from more turbulent backgrounds, and it is clearly the responsibility of society to provide that missing support.

Do not misunderstand me, I am not advocating that child offenders should never be held responsible for their actions. On the contrary, serious antisocial actions of a criminal nature merit serious consequences. However, it is essential that these consequences are fair and that they are proportionate. We need meaningful consequences, related to the special needs of each particular child.

### The Criminal Responsibility of Children

Our criminal justice system determines criminal responsibility based on the child's age and the child's knowledge of what is right and what is wrong. The law assumes all children of a certain age have a similar understanding of what is right and what is wrong and that they all have the same capacity to control their actions. Clearly a child's capacity to understand and to make such judgements is hugely influenced by their social

background, which includes family circumstances and their own personal characteristics. Each child is an individual and needs to be treated as such, and will inevitably have, to some degree, different understandings of right and wrong and certainly will have different capacities of self-control.

I know there has been significant discussion about the age of criminal responsibility. We have heard about the range of ages across Europe and the difficulties that changes might produce. Certainly we need to do something about it. We know that in countries where they have adopted an older age of criminal responsibility that it does not mean these children are let off in any way. It just means that they are treated in a system involving childcare issues rather than solely as a criminal. Scotland has a more holistic approach to child offenders, which looks at civil and criminal issues within the same court and with a much more child-centred approach.

Given the many variables in children's lives and the disadvantaged backgrounds some children have experienced, you begin to ask what is right for these children, what are their welfare needs? Is it ethically justifiable to hold them and them alone criminally responsible? We need to remember constantly, that young offenders are damaged children. They should be seen as children first and as offenders second. Society has special responsibilities to protect these children from further harm and to promote their welfare, and these responsibilities do not end as soon as a young person commits an offence. This is when we really do need the continuum of care. To this end, the NSPCC has joined with other leading children's charities (National Children's Bureau; Save the Children; NCH, Barnardos, and The Children's Society) as well as with NACRO, to form a working group with the clear title "Young Offenders are Children Too". The aim of this group is to address the welfare needs of young offenders, as well as challenging public perceptions of these needs, which are very often seen as too punitive.

## School Exclusion

The ultimate goal must be to get children out of the 'Cycle of Offending'. We need to be conscious of all the factors that can lead children into crime, if we are to prevent their entry into criminal activity. We need to consider the impact that school exclusions and truancy have on children's involvement in crime. I have excluded children from school and it is one of the most unpleasant, difficult decisions to have to make. You are balancing the needs of individual children against the damage done to many others, and sometimes you have no choice but to act. The system is not set up to look after them and they are then left in limbo for far too long. Significantly children who have been permanently excluded show a staggeringly high proportion suffering close personal bereavement, as we heard earlier with young offenders. We must recognise the long-term impact that results from abuse at home, it can be with you for a lifetime to a greater or lesser degree, and some feel it more acutely than others do.

If we are unable to prevent a child becoming involved in the criminal justice system, we must address the problems and needs of that child, if we are ever to stop them re-offending. The NSPCC has particularly sought to help children whose sexual behaviour is harmful to other children, for they themselves have often suffered abuse.

## Young Offenders

We need to address the issue of the very high levels of custodial sentences in this country. The increasing use of community penalties is obviously a huge step forward in providing a different strategy. As a civilised society, we should all be concerned about Young Offender Institutions, whose regimes Sir David Ramsbotham discussed earlier. The concerns have been identified very clearly, but our response to them has been appallingly slow. The abuse that offenders continue to suffer while they are in such institutions, including those who have been murdered, the incidence of suicide, the experience of sexual and physical abuse, it is all pretty appalling. We need a whole new approach to aiding these children, which is not helped by society's present attitude to offenders.

An interesting, but disturbing fact, is that The Children's Act does not apply to children in Young Offenders Institutions. There is no protection afforded by Social Services since it cannot formally investigate allegations of abuse, as it would properly do elsewhere. This is a serious cause of concern. I think this is a Human Rights issue, which needs investigation.

I would just add a thought in response to the welcome that was given this morning to curfews as a solution for offending children. Please remember, that confining some children to their own homes is not necessarily the safest place for them to be.

Child prostitutes should be formally seen as victims and not offenders, and at long last this is being recognised.

## Conclusion

We do need to consider what will be effective in helping young offenders to grow up into law abiding adults, and how can we intervene for the best outcome. Obviously what will be right for those young people and their families, will clearly be right for the community. We need to invest in more resources in the short term in order to recoup huge savings in the medium to long term. In the corporate world, you always invest for growth and development, and would expect to have to invest extensively at the beginning, in order to get the required returns later. Somehow, with social investment we do not seem able to make such long-term commitments, since political time-scales are usually of a much shorter duration. We must make significant investments into the welfare needs of children, if we are ever to break the cycle of offending. We owe this much to our children.

## 10. "Mental Health Needs of Offending Children"

**Dr. Sue Bailey,** Consultant Child and Adolescent Psychiatrist, Salford Mental Health Services, and Chair, Royal College of Psychiatrists.

Dr. Bailey began firstly by commenting on the chronic shortage of child and adolescent psychiatrists. She continued, if they were to improve the way they worked, they needed to know as much as possible about adolescents in the widest context, and for this she commended everyone to John Coleman. Every two years, with scientific rigour, he pulls together all the data that is known on adolescents, with great accuracy. If you want to know the prevalence of psychiatric disorder, the unemployment figures, or the rates of teenage pregnancies, it was all in there.

She maintained, that if we could remove poverty and deprivation from our clients, and remove blame and shame for our practitioners, and if we could also remove learning disabilities from our children, we might never have needed conferences such as this.

## Introduction

Since 1997, in England and Wales a new era of youth justice is now in place. The creation of multi professional Youth Offending Teams in every local authority has changed the face of youth justice procedures. The introduction of Detention and Training Orders, Parenting Orders and Child Safety Orders should have meant a reduced time in custody for established young offenders and an alternative option for courts for those just starting their criminal career. At the time of writing, all forms of secure accommodation, whether Detention (Secure) Training Centres, D(S)TC's, local authority secure care beds commissioned by the Youth Justice Board, and Young Offender Institutions are full with huge pressure in the system to find appropriate beds for those with "vulnerability".

The Youth Justice Board has been charged with the formidable task of tackling and reducing youth crime. Their recent focus working with the Department of Health on physical and mental health issues has to be welcomed. All these initiatives should bought through, in terms of the implications for the working of the diverse legal frameworks: the Children Act, Mental Health Act (current and future), Crime and Disorder Act, Common Law and the Inherent Jurisdiction, and now the European Human Rights Act. The risk is that service provision could be led by legal test cases e.g. SAO instead of a holistic, child centred approach to "children" who are also young offenders.

### Context

The Mental Health, welfare and legal rights of young offenders must be set in the context of what we know of the demographics and the service responses of the jurisdictions of health, justice, care and education to the needs of each and every child in our society ( Bailey 2001).

### Population Figures

Children and teenagers make up a quarter of the 56.8 million population of the United Kingdom, a

similar percentage to other European countries (Coleman and Schofield, 2001). 6.5% of the population comes from an ethnic minority background.

**Health of Young People**

Particular groups of young people, whose health is problematic, include those growing up in poverty and those in public care in custody. Apart from infancy, death rates amongst children and adolescents are highest in the 15 to 19 year old group, primarily because of increase in injury, poisoning and transport accidents. Howard Meltzer et al, in the ONS study of 10,000 children and adolescents in Great Britain, showed that emotional disorders are higher in girls, and conduct disorders are substantially higher in boys. Rates of disorder are higher among Black young people and very much lower among Indian adolescents. Disorders are distributed across social class categories, reaching rates of over 25% in 11 - 15 year olds, whose family social class rests in the "never" worked category.

## The Nature of Young Offenders

Delinquency, conduct problems, and aggression all refer to antisocial behaviours that reflect a failure of the individual to conform his or her behaviour to the expectations of some authority figure, to societal norms, or to respect the rights of other people. The "behaviours" can range from mild conflicts with authority figures, to major violation of societal norms, to serious violations of the rights of others (Frick, 1998). The term "delinquency" implies that the acts could result in conviction, although most do not do so. The term "juvenile" usually applies to the age range extending from a lower age set by age of criminal responsibility and an upper age when a young person can be dealt with in courts for adults crimes. These ages vary between, and indeed within, countries and are not the same for all offences (Justice, 1996; Cavadino & Allen, 2000).

The need to control a small group of very persistent recalcitrant children is perennial. Specific methods have been available since at least the eighteenth century (Hagell, Hazel & Shaw, 2000). In the eighteenth and nineteenth centuries, children were seldom distinguished from adults and were placed with adults in prison. In the England of 1823 boys as young as 9 were held in solitary confinement for their own protection in ships retired from the Battle of Trafalgar. In the nineteenth century, legislation regarding Children's Rights was tied into the need for labour. There have been periodic reactions against convicting, imprisoning and punishing young people. The pioneers who sought to rescue both young offenders and those children offended against, provided the beginnings of youth justice, care and child protection. Both community and secure residential innovations in youth justice have been characterised by a pattern of reforming zeal, followed by gradual disappointment fuelled by the results of research evaluations.

Of relevance to multi-agency treatment responses is the emerging pattern of persistent offenders displaying more educational problems, a lack of social integration, more disruptive family backgrounds, experience of institutional care and a group that are more likely to have more developmental difficulties including hyperactivity. The increased recognition of the heterogeneity of serious antisocial behaviour is leading to the development of possible key differentiations that should in turn inform the direction and development of treatment programmed for a group of young offenders who commit particular crimes (Rutter, Giller and Hagell, 1998).

Longitudinal research suggests that at least two main groups can be delineated. The more common group involves "adolescent limited" antisocial behaviour, involving a quarter or more of the general population (Moffitt, 1993). "Life course persistent" antisocial behaviour is different, in having both an unusually early age of onset and a tendency to persist into adult life.

The greater male involvement in crime is a universal finding that applies across cultures over time and is evident on all types of measure. However, over the last 40 years the sex ratio for crime has fallen from about 11:1 to 4:1, with the peak age of offending being 18 for young men and between 14 and 19 for young women. Rates differ by country and by type. Violent crimes form about 10% of known offending by young people, but most frequent offenders will have a violent offence on their record.

Ethnic minorities are over-represented in official statistics but do not appear to be more antisocial on self reports. This discrepancy between official statistics and self-report data, leads to questions about how law enforcement agencies deal with young people from diverse cultural and ethnic backgrounds.

Findings from a second sweep of the Youth Lifestyle Survey (Home Office, 2000) provides a

recent snapshot of admissions of offending among 12 to 30 year olds confirming previous findings. The YLS study showed that poor parental supervision, having delinquent friends and acquaintances, persistent truanting and exclusion from school were all predictive of offending. It also showed the importance of lifestyle factors as a link to higher offending rates for males. Drug use was highly predictive across the full 12 to 30 year old age range and heavy drinking was predictive for 18 to 30 year olds.

## Young Offenders and Mental Health

Studies of juveniles presenting to juvenile courts in North America and Europe (Bailey 2000) have all shown high levels of psychiatric disorder, family psychopathology and inadequate resources to deal with these problems (Doreleijers et al, 2000; Vermeiren et al, 2000; Dolan et al, 1999; Doob et al, 1995). Nicol et al (2000) found marked similarity in the level of need in adolescents whether in penal or welfare establishments. Studies of incarcerated adolescents in England and Wales (Maden et al, 1995; Lader et al, 2000) have all demonstrated high rates of psychiatric disorder, particularly in those facing the stress of incarceration whilst awaiting trial. Studies have highlighted the particular needs of adolescents from diverse ethnic groups and of the difficulties faced and posed by adolescent female offenders (Jasper et al, 1999; Lenssen, 2000). The overall rate of psychopathology in delinquents is substantially raised. Its clinical implications will depend, amongst other things, on the extent and type of comorbidity, the degree of chronicity and developmental impact.

## Medico-Legal Assessment of Young Offenders (Bailey in press)

There are common core principles that should be applied to medico-legal assessments of juveniles. Key questions concern the young person's "Fitness to Plead" and capacity to "effectively participate in the proceedings" (Grisso and Schwartz, 2000). The Europe Court of Human Rights has made explicit that the right of an accused to a fair trial has to include children. Two key suggestions for practice emerge from a review of international practice:

- All young defendants, including those charged with serious offences should be tried youth courts (with permission for adult sanctions for older youths if certain conditions are met). This should enable a mode of trial for young defendants to be subject safeguards that can enhance understanding and participation.
- The maturity of young defendant's cognitive and emotional capacities should assessed before a decision is taken about venue and mode of trial.

One fundamental distinction in the criminal law is between conditions that negate criminal ability and those that might mitigate the punishment deserved under particular circumstances. Very young children, and the profoundly mentally ill, may lack the minim capacity necessary to justify punishment. Those exhibiting less profound impairments of the same kind may qualify for a lesser level or deserved punishment, even though they meet the minimum conditions for some punishment. Immaturity, like mental disorder, can serve both as an excuse and as mitigation in the determination of just punishment. Capacity is sometimes thought of as a generic skill that a person either has or lacks. However, that is not so. To begin with, it is multifaceted, with four key elements:

- The capacity to understand information relevant to the specific decision at issue (understanding).
- The capacity to appreciate one's situation as the defendant is confronted with specific legal decision (appreciation).
- The capacity to think rationally about alternative courses of action (reasoning).
- The capacity to express a choice among alternatives (choice).

The second key point is that capacity is a feature that is both situation-specific and open to influence - as brought out in discussions of the assessment in relation to children's consent to treatment (British Medical Association, 2000), participation in research (Royal College of Psychiatrists, 2001), and criminal responsibility (Justice, 1996). Young children may well appreciate the difference between right and wrong but yet not understand the seriousness of some forms of irresponsible behaviour. With respect to their ability to understand legal procedures (as distinct from their crime), much can be done to aid their understanding (Ashford and Chard, 2000).

Any evaluation of competence, (Grisso 1997), should include assessment of possibly relevant psychopathology, emotional understanding as well cognitive level, the child's experiences and appreciation of situations comparable to the one relevant to the crime and to the trial, and any particular features that may be pertinent in this

individual and this set circumstances. The clinician should also be alert to possible treatment needs, and should be aware of how these might be met for this individual, given the forensic situation. Before the evaluation it is important to be sure that the rules and limits of confidentiality for the evaluation are clear and that the child and the family understand them (Bailey 2OOOb). The appropriate level of clinical thoroughness and detail will vary with the intrinsic clinical complexity of the case, with the specific legal context and with the consultant's role in the legal system. The general principles to be used in the assessment are broadly comparable to those employed in any clinical evaluation. However, particular attention needs to be paid to developmental background, emotional and cognitive maturity, trauma exposure and substance misuse. The likely appropriate sources for obtaining clinical data relevant to assessment of a juvenile's competence to stand trial will include a variety of historical records, a range of interviews and other observations and in some cases, specialised tests.

Records of the child's school functioning, past clinical assessment, treatment history and previous legal involvements need to be obtained. In coming to an overall formulation, there should be a particular focus on how both developmental and psychopathological features may be relevant to the forensic issues that have to be addressed.

## Evaluation of Functional Capacities

Here the main focus is on the youth's ability to understand and cope with the legal process. This comes from three sources, direct questioning of the defendant, inferences from functioning in other areas and direct observation of the defendant's behaviour and interaction with others. It is useful to enquire about the youth's expectations about what the consequences of the court involvement might prove to be. Because the course juvenile proceedings can vary so widely, with consequences ranging from the extremely aversive to extremely beneficial, rational understanding will necessarily involve a high degree of uncertainty.

Potentially relevant problems include: inattention, depression, disorganization of thought processes that interferes with the ability to consider alternatives; hopelessness, such that the decision is felt not to matter, delusions or other fixed beliefs that distort understanding of options (or their likely outcomes), maturity of judgement, and the developmental challenges of adolescence.

Gudjonsson and Singh, (1984) found that adolescents were more prone than adults to offer inaccurate information to persons in authority when they are pressured. Younger adolescents were significantly more likely to change their stories to give answers that were less accurate than their original descriptions. This has practical implications for interviewing by police and lawyers. The ability to take another person's perspective is important for effective communication, an ability that has matured by middle adolescence but is less reliably found in early adolescence.

Sometimes concerns about a youth's conduct may be raised as potentially significant to his competence (Barnum 2000). A youth may be impulsive, loud, angry or disruptive during trial and it may be suggested that these tendencies may undermine the formality or integrity of the proceedings. In addressing this question, it is important to be clear about the general clinical basis for any expected functional problems and even more important to be clear about specific implications of potential disruptiveness for the relevant features of competence. If a youth's impulsiveness may be expected to interfere with his attention to the proceedings in court, and if his attention to those proceedings actually matters, this understanding and his effective collaboration with counsel then it will be important to characterise these expectations or implications. For instance if he is so angry and disruptive that he seems unable to sit and confer with his legal advisers this may have important implications for his ability to understand the issues and respond helpfully hem. The clinician therefore needs to attend to these issues and show how they stem or do not stem from clinical disorder or developmental deficit.

In providing information to the court, written reports have the advantage of a standard format that helps the consultant to be sure that s/he has considered all the relevant questions; it also provides a familiar structure for readers. In essence, for the sake consistency and clarity, competence reports need to cover the following areas:

- Identifying information and referral questions.
- The description of the structure of the evaluation including sources and a notation the confidentiality expectations.
- The provision of clinical and forensic data.
- Discussion and presentations of opinions.

The assessment of competence to stand trial presents challenging questions. Child and

Adolescent Consultants need to appreciate the systems implications of competence questions and must be able to provide opinions and recommendations that match the legal and systems circumstances of individual cases. This area is full of uncertainty and the complexity of these challenges can sometimes seem overwhelming. However, in responding carefully and thoughtfully to questions posed, consultants can contribute to the development of a potentially important aspect of legal and clinical practice.

A better understanding of the process of moral development through childhood and adolescence, will inform interventions with young offenders. Risk and offence reduction (Dolan and Doyle, 2000) is most likely to be achieved through a comprehensive needs assessment (Kroll et al, 1999) linked into an integrated standardised review of prosocial and antisocial behaviour, that includes the internal attributional thinking of the you person.

Risk was defined by Prins, as an uncertainty about an outcome. Risk is essentially the likelihood of a behaviour or an event occurring. A need is something that can be done, should be done and has not yet been done. The research team in Salford, Dr Leo Kroll, Justine Rothwell, Professor Richard Harrington and myself have developed a needs assessment tool, the SNASA which we have used with Young Offenders in Secure Care Units, Young Offender Institutions, Youth Offending Teams and Outpatients.

With no comprehensive multi-agency needs assessment package available, not surprisingly we found that different organisations concentrated upon different aspects of needs assessment, according to their own particular expertise, such as school or health etc. Ours is a longitudinal study on the mental health and social needs of a sample of young people admitted to secure care, using our validated, systematic needs assessment tool. The main aim was to establish the prevalence of unmet need in young people before they go into secure care, when they are in secure care and when they go out. I would like to thank especially the local authority secure care unit that participated in the study. I would also like to say that I think prisons, often much maligned, have addressed the physical health care needs of their young people.

## Cardinal Needs

The 21 cardinal needs that children may have in their lives:

- Self care
- Oppositional defiant behaviour
- Food
- Sexually inappropriate behaviour
- Physical problems
- Substance abuse
- Educational problems
- Depressed mood
- Educational performance
- Self harm
- Weekday occupation
- Psychological distress
- Social relations
- Hallucinations
- Family difficulties
- Leisure activities
- Cultural identity
- Living situation
- Destructive behaviour
- Benefits, money
- Aggression to persons

In the first study of 100 boys in secure care, we assessed the full range of possible needs, since mental health problems cannot be assessed in isolation of total lifestyles.

Social relationships remain a big problem, because this is an area that they find very difficult. Substance abuse is broken down into alcohol, drugs and solvents, and includes gambling. With regard to psychological distress, Gwyneth Boswell told the Prince's Trust a few years ago, that violent young offenders have suffered extensively from bereavement and loss.

## Results

We therefore looked at 100 admissions to local authority secure units, amongst children aged 10 to 17, with a variety of legal statuses, including welfare cases. We included all categories of offenders: persistent, grave offences of arson, serious violence and sex offenders.

Using our new assessment tool, and also interviewing the carer as well as the user, I am able to share the findings of the huge range of unmet needs of these young people one month prior to admission to secure care.

The Preliminary Analysis Findings were:

| | Unmet Need |
|---|---|
| Educational Needs | 62 |
| Social Relationships | 85 |
| Destructive Behaviour | 60 |
| Hostile Behaviour | 76 |
| Oppositional / Disruptive Behaviour | 80 |
| Inappropriate Sexualised Behaviour | 19 |
| Mood Disorder | 44 |
| Psychological Problems | 42 |
| Hallucinations / Delusions | 12 |
| Leisure Activities | 35 |
| Self Care | 17 |
| Food | 18 |
| Physical Illness | 6 |

As these results above show, a month before these boys were put into the secure unit, 62% were not having their educational needs met in any shape or form. Social relationships were unmet in 85% of them, with high rates of unmet need with respect to mood disorder and psychological difficulties.

We are now in the process of tracking these young people during their time in secure care and on return to the community. A further study is underway on young people entering Young Offender Team Services, including girls.

A major challenge of altering the trajectories of persistent young offenders has to be met in the context of satisfying public demands for retribution, together with welfare and civil liberties considerations.

Treatment of delinquents in institutional settings has to meet the sometimes contradictory need to control young people, to remove their liberty and to maintain good order in the institution, at the same time as offering education and training to foster future prosocial participation in society and meeting their welfare needs. At least in England and Wales, the recent legislative overhaul of Youth Justice (Crime and Disorder Act 1998) has mandated practitioners to bridge the gap between residential and community treatments and to involve families using Youth Offending Teams (YOTs) to meet this complex mix of needs.

Over the last 30 years there has been a gradual shift in opinion regarding effectiveness of intervention with delinquents, from the "nothing works" approach to a "what works" approach. The jury is still out for "what works" in the long term but the evidence base that can be placed before the jury is growing (McGuire, 1997, 2000). In practice, the pressure from politicians and public will remain, for a quick fix solution to problems that span cultures, countries and generations. The most important childhood predictors of adolescent violence include troublesome and antisocial behaviour, daring and hyperactivity, low IQ and attainment, antisocial parents, poor child rearing, harsh and erratic discipline, poor supervision, parental conflict, broken families, low family income and large family size (Farrington, 2000). Important policy implications are that home visiting programmes, parent training and skills training programmes, singly and in combination should be implemented at an early stage to prevent adolescent high risk behaviour and offending. The best knowledge about risk factors has been obtained in longitudinal studies and the best knowledge of effective programmes has been obtained in randomised experiments.

Provision of appropriately designed programmes can significantly reduce recidivism amongst persistent offenders. The mode and style of delivery is important; high quality staff and staff training are required together with a system for "monitoring integrity". Where comparisons are possible, effect sizes are higher for community based than institution based programmes. In prison settings, the strongest effects are obtained when programmes are integrated into the institutional regimes. Multimodal programmes such as Multisystemic Therapy are adopting a cognitive behavioural approach, deliver intensively and if needed, repeated over time, show most promise (Hengeller, 1999).

In meeting Mental Health Needs of Young People in the Criminal Justice System we need to ensure an integrated healthcare delivery service for them. In addition we need appropriate training for professionals working with young offenders and enhanced resourcing of over stretched, under-sourced CAMHS (Children and Adolescent Mental Health Services). These must absorb the service implications of addressing the needs of young offenders whilst not jeopardising the input to any other child not in the Criminal Justice System.

Within The Royal College of Psychiatrists, we are starting to address issues of Retention and Recruitment into Child Psychiatry; training to enhance the quality and extent put into clinical practice in the Secure Care Estate; and into assisting the Legal System whether Child Care, Juvenile Criminal or Mental Health Law.

My own working life has and continues to be with young offenders who have committed grave crimes.

I therefore fully appreciate from my oexperience the urgent need to address the Right for a Fair Trial and Effective Participation in Trial Proceedings. I also support a developmental approach to Juvenile Justice which is for the welfare of the Child Defendant, but also in the interests of a broader justice within society.

Our knowledge of true prevalence rates of mental disorders in a young offending population has to be developed further (Kazdin, 2000), so that mental health issues can be addressed. Child and adolescent mental health practitioners have the skills to set the understanding of delinquency in a developmental context (Bailey in press) and to assess those young offenders with mental disorders. Many young offenders have already experienced the looked after, care pathway, and those with mental illness have not always had their needs mental health needs met, and only reach the Mental Health Act following a journey down the Criminal Justice pathway. The implications of custody for 10 to 14 year olds are yet to be seen, whilst waiting in the wing is a new Mental Health Act that subsumes any "disorder" including "any disorder in a child", (Harbour and Bailey, 2001).

## 11."Educational Needs of Young Offenders"

**Martin Stephenson,** Director Social Inclusion Strategy, Nottingham Trent University, and Member of The Youth Justice Board

Martin Stephenson began by pointing out that his experiences covered many areas: social services, schools, DfE, prisons, health settings, and youth work. He initially focused on general observations about education and young people with multiple adversities, especially in the Youth Justice System, followed by a few headline figures from three research reports. He was unable to present the detailed figures he would have liked, since the information had not yet been cleared for publication, though he did not think any of those findings would come as a huge shock to the conference.

Referring to the 80% failure rates for prisons, Martin felt that when talking about young people with multiple problems, many of us manage to hit that 80% failure figure. To reduce this, we needed to face up to a cultural change, which was far harder than a resource change. This theme formed the backdrop to his talk.

## Young People: Some Observations

### Education

Access to as well as participation and progression within mainstream education and training, is fundamental to social inclusion. The principal way we are going to reduce offending is by increasing people's employability. Initially, this administration established a reputation for economic competence, and highlighted social exclusion, education, and youth justice became a priority. In its second term, I think education and youth justice will still be a priority, but with the need to deliver fundamental changes in the quality of public services.

How do we square off the government's education agenda with what we want to do with young offenders? How do you save the vitally important inner city education for the middle classes, and square off the needs of the teaching profession that has been under sustained attack, and suffers from a lack of resources? How do you meet the needs of the young people with multiple adversities, which are exacerbated by exclusion, or non attendance, and the wider issues of non participation. That is a central dynamic driving through offending and giving us all huge system problems.

### Social Exclusion

The Social Exclusion Unit did quite a good job, by exposed a few things, and got us all using the rhetoric of inclusion, but what does it actually mean? Are large numbers of our professionals really converted to working with some of these young people? Have they been trained to? Over the next five years, I believe we will face some serious challenges, and I am not sure we are going to win through. I do not think resources are the issue, changing the behaviour of the professions and their systems is the number one challenge and it is the hardest trick in the book.

We have fantastic practitioners, who have had enough time of being pilloried. Unfortunately, we do not have the luxury of starting with a blank sheet of paper, we are starting where the Secure Estate is concerned with some feudalist cultures, but the change has got to happen. Over the coming year the Youth Justice Board is in for a bumpy ride, as it locks horns with some critically important groups.

**Evidence Based Practice**

Behavioural norms in one profession are treated as something terribly radical in another. Now, evidence based practice has swept through great areas of health, and is also moving through the probation service. This rigorous methodology is helping to close the gap between research and practice. However, I have to say that this is happening much less in education, and it is not just Chris Woodhead who believes this - respected practitioners and theorists, such as David Hargreaves, agree. There is a great gap in the body of educational knowledge around pedagogy, curricula, teaching and learning styles for young people in custody or in the Youth Justice System.

America is slightly ahead, with quite a range of, what they call correctional education, though it might not pass the full rigour of evidence based practice tests. I do think that educationalists, in terms of some of the methodologies and in terms of the research underpinning what they do, have actually got some catching up to do when it comes to looking at criminal justice issues.

**Cultural Issues**

In this country, we split education and social care very early on in the 19th century, to the great detriment of the two services compared to other countries. We have had certain perpetuating attitudes and false dichotomies, ever since. We have had an obsession with categorising young people, and we now shudder at all the names we used. Names such as "feeble minded", "imbeciles", and "idiots", and who were all assessed and certified. In a few years time we will probably shudder at the names by which we categorise young people now. Not so long ago, weu had people labelled "maladjusted. We had ESN, now we have EBD, and again, I have yet to get any coherent, succinct definition of what EBD is, to prove it has a real existence. We are very good at categorising those young people whom we do not want in our mainstream, and this is something we have to stop.

Closely tied to categorisation, is the segregationist philosophy. We segregate to punish, and we segregate to nurture. There seems no evidence to suggest that segregation has anything other than a negative impact on people. When you put people in pupil referral units, show me the longitudinal research that shows those young people get onto track, get into employment, or progress within mainstream education. It contend it does not exist. Equally, we have to ask fundamental questions about the role of custody.

Enforced segregation is never benign, and yet it has been an enduring feature where our education and criminal justice systems overlap, and we tend to do a bit of baton passing between the two, depending on how the public mood is going at that stage.

**Accountability**

This was touched on earlier. It is understandable, when you work in a local authority department with a huge resource and political pressures, you don't want to be the first to offer services. All the jostling that goes on, "is this a child in need?" A child may not have been in any kind of education for a couple of years, yet is not defined as a child in need by a social services department. But why do they do that? It is an understandable reaction, accepting the pressures on their departments and their professional cultures. Now, from an educational perspective, when a young person goes into a Young Offenders Institution, the special educational needs code of practice does not apply- yet when is it more relevant?.

A recent ruling, possibly under pressure from various professional associations, gives head teachers the right to remove a young person from the school role if they've served more than 4 weeks in a custodial establishment. Thus we are saying that we will limit educational attainment, which is highly correlated with employability skills, and which is the most consistent factor for reducing offending. There are some rich contradictions within all of this area.

We all need to be very honest about the quality of services and projects we run. How many of us have ever run a bad project? Of course they are all good, especially when we needed more funding to keep them going. We very rarely evaluate over long term what we actually do. All the evidence shows that in a segregated setting, such as a pupil referral unit or special school, learning does not transfer to the mainstream challenges of large FE

institutions or schools. It is exactly the same from custody. Too many assessments of what goes on in custody are showing the change that happens within the custodial part of the sentence. Strange how all those people seem to come back in again and we have sky high re-conviction rates. That is the hard and unpalatable fact that we've got to grapple with, how do we enable the transfer of learning?

## Information from Research

### Exclusion from School

Mary Marsh mentioned the linkages between exclusion from school and offending. Yet if you look at young people in the public care system, or in custody, the majority are technically not permanently excluded. Looking at the population as a whole, only 1.6% of school time is lost due to permanent exclusion. So my first study was to find out how many young people were are out of the education system, and is there a fundamental difference with someone who is labelled a truant, whatever that may mean. What we found, in fact, was that the highest correlation between offending in a given area was not permanent exclusion, it was authorised absence. It is the total stock of young people in an area who are out of education for whatever reason that is most highly associated statistically with offending rates. Exclusion gets the headlines, but in fact it is the wrong target.

Interestingly, from my time at what was then the DfEE, we had no idea how many young people had not been to school for the last 6 months. We can talk about annual exclusion rates, but Tim Brighouse would say that over 10% of Key Stage 4, (14 to 16 year olds) are getting their education outside of school. But nobody wants to measure, how many children in a given area are out of school, for whatever reason, because that will become the central dynamic driving a lot of the work of social services departments, education, welfare, and critically with Youth Offending Teams. If you constantly quote exclusion targets to head teachers, methods for informal exclusions will be found, and there is growing anecdotal evidence that that tendency is increasing. The best estimate is that between 350,000 and 400,000 14 to 18 year olds totally outside of our mainstream education and training systems. But nobody is measuring this simple statistic. Basically the DfES are not collecting the right information. We simply need the scale and the trend, each year in each given area of young people out of mainstream education and that will tell us a huge amount of information, of great importance to each of the other key local authority departments.

In terms of the research reports, I shall have to call them loosely ECOTEC 1, and 2 .

### ECOTEC 1

The first project dealt with an audit of what was going on in 38 secure institutions, this being the number of units with whom the Youth Justice Board contracts. The brief was to look at everything aspect in terms of education, training and employment for those young people. Our findings, that these are YOI regimes are under enormous pressure, will not come as a great shock to many. Some of them, you would have to say, are close to collapse, from issues that you wouldn't expect, like full attendance at lessons being a major problem. There is no rigorous monitoring system to manage that. I would argue that people are over inspected, and have to collect huge amounts of data without having the time to analyse what that data meant. Local authority secure units, providing 300 places out of 3,000, are providing a higher quality of education that the offender institutions. However, more money is spent on education on those 300 children than on the other 2,700. Our best estimates of unit costs, are about £1,800 per young person in a Young Offender Institution, compared to an average of £21,000 in a local authority unit. (The highest went over £30,000, though I do not think we see value for money here).

More YOT's are getting involved in YOI's, and people are trying hard. The system is moving, but the operation of the system is so far behind where it needs to be that it is a public scandal. This is not a criticism of the practitioners, because the majority are doing their best in incredibly difficult circumstances. Improvements in some regimes are difficult to measure because of the turnover of staff, and the turnover of young people..

### ECOTEC 2

The second study tracked 160 young people before custody, during custody and after custody, because custody is merely one part of that continuum. In terms of the community, by the age of 15, 80% of those young people had detached completely from mainstream schools. We used many sources of information, including the 2,000 literacy and numeracy scores on young people in custody, the Youth Justice Board's placement database, we interviewed 150 Youth Offending Team supervising officers, we had 1400 odd ASSET

assessment forms on the young people. I have to say, we still couldn't find out what had really been happening to these young people. Now one of the interesting things is when we look at the principles and underlying evidence based practice in criminology we see that a critical one for all of us in the criminal justice system, is dosage-the intensity and duration of intervention.

How on earth can we justify providing such a small amount of education to young people in the community and be astonished at the results? At 35%+ SEN, the system does not function at all, it is in complete disarray where young offenders are concerned. One head of education in the largest YOI has seen one statement of SEN in 8 years. Another one hadn't seen anything for 14 years, because young people have slipped out of the mainstream, bypassing the assessment procedures. Where there might have been a statement completed, the YOT's don't have it, if the YOT's have it they don't send it on to the YOI.

In terms of attainment levels, at the average age of 17, 50% were below the level of the average 11 year old. Nearly 25% were at or below the level of an average 7 year old.

When we looked at custody, certainly there is an increase in the volume of education. However, there is no doubt that for many young people in the secure estate, the volume and intensity of education is a dramatic improvement to what they've experienced before. Some of the learning gains you find in a short period of time are astonishingly rapid. I think the whole language of SEN is completely inapplicable here. We are talking about a whole range of learning barriers to young people, many of whom can transform their reading age in a short period of time with high intensity, high impact education.

Interestingly, there was a very significant movement in attitudes of young people towards education and training. Some 45% were much more positive about educational training towards the end of their custodial sentence than before they started. This was verified independently by YOT supervising officers. However, I have to say that there was a small group of young people who were at GCSE and A Level's for whom custodial education was a disaster because the national curriculum could not be delivered. Even if the national curriculum could, it is not the same teaching and learning materials, course work, or syllabus. These are logistical problems on a very short sentence. These practicalities overwhelm education departments who are not paid enough, and not staffed enough well enough to deliver those. So for some young people, the high attainers in the Youth Justice System, it was a disaster.

One thing you would have to say in favour of the prison service, is at least they use a consistent tool for assessing literacy and numeracy.In local authorities secure units, STC's, all manner of things are used. Now, the trouble is if you measure what happens at the beginning of something, how do you judge value added if you do not measure it at the end. There is a problem, in that we do not know by the end of custody what has been value added, educationally. You would think that the heart of sentence planning should be education, but very few education staff ever go near a review or conferencing system, because it is not built into the education contracts. One governor said to me that he would need an extra £400,000 if education staff had to attend every review. It's not an argument for not doing it. So the education staff are very disconnected. The young people generally who were interviewed, did not have a clue about where they were going to as regards and sentence planning. Most education departments did not see it as their job to worry about what came next.

The Detention and Training Order is a marvellous vehicle, because it combines community work and custody in equal measures, as on holistic sentence. Except it isn't, and it doesn't operate like that. It is a binary sentence operating in isolation, in two separate parts. The result is that now, at the end of an average four month sentence, 58% of young people receive no education whatsoever, a month after release. So instead of the previous 25% to 33%, now even more are out of the education system. Part time provision has increased significantly: 30% changed accommodation; 70% of those who were in any education did not have the same courses and materials; 27% re-offended in the first month, again, due to low transmission of information from custody to community.

The Detention and Training Order should be our teaching and learning framework for judging the impact of everything we do in custody. It is what happens at the end of custody and thereafter that provides the criteria for success. Anything less than that is whistling in the dark. These stark figures point to a system failure and I will say no more in terms of the challenge that that outlines.

## 12. "Working with Parents of Young Offenders"

**Helen Watson,** Head of Youth Offending Team, Sunderland

Helen Watson mentioned that in October 1998 their Youth Offending Service was one of a few Home Office pilot areas testing out the new Parenting Orders and the Parenting Programmes. In February 2000, with Youth Justice Board Development funding and agency contributions, they contracted with Barnardo's to operate parenting provision within the service. Overall, Bernardo's had operated 6 parenting groups for women, and 2 parenting groups for men.

Although it was too early to start to draw out major themes, Helen Watson pointed out some indicators and trends which showed quite a shift in emphasis, as she discussed the practical issues of her work in Sunderland, a fairly deprived city in the north-east. Initially her staff had strong reservations about using these statutory powers, but after they had used them and seen the benefits, there had been a significant culture shift in their views.

### Introduction

Although this is a Youth Offending Service, working mainly with young offenders, between 1st February and 31st May 2000, the service worked with 174 parents, of whom 121 attended courses and programmes on a voluntary basis. To have so many parents volunteering to undertake parenting provision is a significant achievement. Although the service overall had 133 Parenting Orders since October 1998, only 53 parents attended subject to statutory parenting orders. It is probably no surprise to anyone that 134 of the 174 parents were women, and only 40 were men. I will come back to this gender issue later.

To ensure our work is evidence based, the University of Newcastle is doing a very significant study of our parenting programmes and the Policy Research Bureau, also at a national level, is currently undertaking some research on which they will report shortly.

I want to give you an overview of the reforms and some underpinning research, and highlight the range of important issues that have come out in our interventions, including what parents have said about the interventions. Finally I will give you some rather basic data about outcomes.

### Parenting Research

The Crime and Disorder Act, Sections 8 to 10, set down when Parenting Orders can be made:

- it can be made when a child or young person has been convicted of an offence.
- It can be made where a child under the age of 10 has been made subject to a Child Safety Order, linked with antisocial behaviour.

In Sunderland, we have had two Child Safety Orders with Parenting Orders attached. Also, where an adult has been convicted under the Education Act 1996, for their child not attending school. So there is a broad brush there of interventions with parents, across the whole continuum.

The Order should not be viewed in isolation, but in a wide context around government policies to strengthen family life. Professor Masud Hogughi said in a paper (1998), that parenting is probably the most important public health issue facing our society today. I fully agree with that assertion, because parenting crops up, not only in terms of work with young offenders, but also across teenage pregnancy, substance misuse, under achievement at school, child abuse and mental illness. So there is a broad correlation here with a number of issues.

What do we know from research about working with offenders? We know that a compelling case has been established for working with parents to influence children's behaviour. Graham and Bowling (Home Office Study in 1995), showed that 42% of juveniles who had low or medium levels of parental supervision, had offended, against a group of 20% who had better relationships and higher levels of supervision. The emphasis on the quality of the parent/child relationship is critical here. Also, Farrington's work, between 1978 and 1990, highlighted that where parental behaviour

towards children is harsh or erratic, offending behaviour is twice as likely to occur. We know also that conflicts between parent and child, family disruption, and deviant behaviour and attitudes displayed by families are also strong risk factors.

Much current research has been based on work in the USA and Canada, such as the Syracuse project and the very effective multi-modal programme in Seattle. However, the evidence base is now growing in the UK, due to increased research in the last few years

There are some qualifying points I would like to make, however. A history of parental offending and deviant attitudes are much more challenging and less amenable to change, than parents who may be in conflict with their children. Also, and this is really a plea, why do we wait until children are 13 or 14, and coming to the attention of Youth Offending Services, before we can offer help? Many parents say to us, "we've been wanting help since our child was 3, 4, 5 years old." All those years wasted! I know now with Sure Start and On Track, and other initiatives, this aspect will be improving. It certainly reduces the success of interventions if we are involving the child in parenting help, at such a late stage.

## Parenting: Statutory versus Voluntary Intervention

In the 3 years that we have been working in Sunderland, things have changed significantly. When we started, although there was a strategic commitment to parenting intervention, there was little going on in practice. With little voluntary sector input, there was no culture where parents could volunteer to undertake parenting help. Consequently, we carried out many interventions using Statutory Parenting Orders. During those three years, there has been a huge shift and we now have 3 Sure Start initiatives in Sunderland, with 3 more about to be established. We have On Track, and we have the Children's Fund, and interestingly, we now have parents talking to other parents of young offenders, about the effectiveness of the interventions that they've had. Parents are now volunteering to work with us, which is a fascinating change. I think, also, the involvement of Barnardo's and their empowering influence has also been quite instructive in this change.

Balancing the use of statutory interventions and parents volunteering to undertake parenting programmes is always difficult. For instance we have a number of parents, whose children may have reduced their frequency or the seriousness of offending, but may still be coming back into the court system. After one or two Parenting Orders, the time comes when it really is futile to keep going back to court, asking for more.

There has been quite an emotional response to Parenting Orders over the few years, but since June 2000, they have been rolled out nationally. Magistrates and legal officers have sometimes been quite passionate about Parenting Orders. The Breach Factor has been a particular issue for us, because parents can be taken back to court and breached if they do not comply with the parenting intervention. Fortunately, overall we have only breached three orders, and instead of the Magistrates using the maximum £1,000 fine, the parents have only been fined £50. So the great whip of the court coming down on parents for poor attendance hasn't really come to fruition, as many had feared.

## Parenting Styles

Assessment of parenting issues is critical, and all the factors which go to make up parenting style such as communication issues, violence in the home, learning difficulties etc., are really important to us. We have to be very flexible in our approach. We cannot offer only parenting groups, since some parents cannot function in groups, and may need intensive one to one support. In addition, they may need a minimum of three meetings before they become involved. Parents may be very angry, or may be very fearful, and all of that has to be worked through. A strong relationship between a facilitator and a parent can actually be very useful in modelling how relationships can improve at home.

## Parenting Programmes

Our programmes are inevitably based upon evidence such as Caroline Webster Straton's material from the USA. But we've used that programme with children who are under the age of 10, because that programme really meets the needs of younger children. For the parents of adolescents, we have used Sue Millar and Julie Ward's 'Lets Talk Parenting Programme', which is very well received by parents. It is an empowering programme, working on the skills that the parents have, some of which they may have forgotten over the years. During that time they may also have had their self-esteem eroded to a large degree. It is really about building up the confidence and self-esteem of parents.

When parents have undertaken interventions, post court support is vital, because at the end of the

intervention, parents cannot simply be left to get on with things. It is in all our interests to sustain any changes brought about by the course. We have user groups, and volunteers as mentors, who support the parents beyond the interventions. We have been really surprised by the willingness of parents to support one another, and these sessions are actually led by parents. So parents who are disenfranchised or lacking in self-esteem at the start, by the end of course, have been prepared to become involved on a longer-term basis and to help other parents. That has been a really significant outcome for us.

Referring back to the Sue Miller and Joe Ward programme, I want to show you some of the "characters" that we use to illustrate parenting styles, in a way to which parents can easily relate. We all recognise 'The Aggressive Bastard', which is there in all of us occasionally when we are dealing with difficult behaviour. 'Vera Victim' is another obvious parenting style. One style that we would like to avoid, is 'Easy Eddie', who is rather laid back. 'Positive Pete', is the authoritative but warm style of parenting, which we would most like parents to emulate. Parents are asked if they can recognise any of these styles? What might Positive Pete say and do in a particular situation? How would they relate to others? It is quite surprising how much this can be taken on board by parents, using this technique.

## Parenting Issues

### Gender and Parenting

As mentioned earlier, the number of fathers that we have engaged has been significantly lower than the number of mothers. To some extent this has been embedded in the systems, where mothers are the first to be called on concerning education matters or where attendance at court is concerned. This is something that needs to be tackled. Sometimes we have to be quite aggressive in our stance with magistrates, insisting upon working with the father of a child. Obtaining an adjournment, in order to get the father to court can slow down the Youth Justice System, and this can be a dilemma. We know from experience, that if we can engage both parents, preferably together, we are more likely to have a positive impact.

In order to engage more fathers, we have associated the Barnardos Parenting Service with Fathers Direct, a national organisation undertaking research into working with fathers. At the same time, the Project Leader in the Barnardos Sunderland project, is a steering group member of Father Figures, a Nacro funded project based in Sheffield, aimed at developing a specialised input with fathers. This is really critical.

Thomas, a father who attended one of our groups, made the following comments, "I was disappointed when I first got the Order, because I thought it should have been the kids who got the Order, not the parents. This has changed over time because the group has taught me to respond to the children differently. I now talk and listen to them rather than shout all the time. I think a Parenting Order is a good idea because it teaches you how to treat your kids better, rather than shout. I didn't think about it until I did the course. It has been good meeting other men, listening to other people's problems. It has made a big difference, and it's only for 8 weeks"

There is a huge dilemma here, how can we make engagement in parenting classes more palatable for men? How do we get men to attend court in the first instance?

### Young People

The young people working with the project are often intrigued to know what their parents do in parenting classes. They know things are changing at home, but these children cannot quite pinpoint why. So the project is starting to work with young people in groups that will run simultaneously with parenting groups. However, we know from research, that bringing these groups of young offenders together can heighten the risks of further offending. We must find a way of engaging young people in such groups, without this happening.

### Legal Issues

We had a very interesting case when two of our parents decided to take us to Appeal over a Parenting Order. There was a persistent young offender, whose parents the service had initially tried to engage on a voluntary basis. The parents refused to attend, the child re-offended, although the parents naturally attended court with the child. The Service assessed that there were inconsistencies in parenting in the family home. So Parenting Orders were suggested for both Mum and Dad, which the court agreed. The parents then appealed.

We had some difficulties here with the outcome, since the judge held that the Parenting Order had been made without legal representation of the parents. This is not something that routinely happens, because obviously it is the child who is being sentenced, though the parents may receive a

Parenting Order within the same proceedings. Although the child was still offending, the judge ruled that the parents were doing enough, despite a very detailed assessment by the Youth Offending Service, claiming the contrary.

In addition, we did not have a barrister on our side in court, so staff were somewhat disadvantaged.

Clearly this case presents some learning issues for us, some challenges for the Home Office guidance around Parenting Orders, and some points that we will be taking up with the Youth Justice Board.

**Outcomes**

I have spoken about parents enjoying the programmes. Some parents have continued their contact with the project over long periods of time, and some parents have been sufficiently enthused to go on to train in counselling and youth work. One particularly strong parenting group actually set up a youth club some two and a half years ago, in one of our most difficult localities. Northumbria Police report that levels of youth crime and antisocial behaviour in that area has dropped significantly. So that is one example of what parents can do when they are sufficiently empowered through this approach.

The Youth Offending Service has undertaken some small-scale exercises. In one we looked at 33 young people who had been sentenced in the criminal courts. Some 55% had re-offended, but 45% had not, and of those who had re-offended, 34% had reduced their gravity factors. We are optimistic that the University of Newcastle and hopefully the Policy Research Bureau work will come out with more in the way of hard data on outcomes.

We obviously work with parents on both a voluntary and statutory basis and we would be very interested to know whether there are any differences in the level of reduced offending of young people between these two categories. Some interesting research can be carried out in that area.

**Conclusions**

It is almost 3 years since Parenting Orders and the notion of working with parents of young offenders first came to the fore with the new Youth Justice System. In many areas it is now an integral part of the system, and it would be unthinkable to return to the old ways when practitioners tinkered around the edges. We certainly offer much more systematic support now. John Coleman and Debbie Roker, from the Trust for the Study of Adolescence in a 1998 article, asked some very probing questions about Parenting Orders. Could parents really be forced to participate in a parenting course? Will the ethos of courses change if they include parents following a court order, and how will facilitators and providers react to the legislation, especially when many work from an empowering philosophy? It is true, that we do have some very angry parents working with us, but usually once they have been through the first session of a parenting input, the anger dissipates and they join with others in a similar position, and that is very, very powerful. Many, as you have heard, go on to enjoy and to benefit from the experience. Critically, facilitators have continued with a philosophy of empowerment. They build relationships, they model pro-social behaviours, and they empower parents. To do otherwise simply would not work. In our view, Parenting Programmes, when combined with other interventions with young people who offend, definitely do work. We are still on a very steep learning curve, and I have mentioned some of the dilemmas that we still face, but a promising beginning has been made.

I will finish with a poem from one of our parents, who is now a volunteer, which talks about her involvement with the Sungate Barnardos Parenting initiative in Sunderland.

In the past few years I've had lots of troubles.
With help from Sungate they have lessened, not doubled.
I've confided in people I never thought I would.
With Sungate's support life's been good.
I would like to say thank you to one and all,
If it wasn't for Sungate, I'd be facing a brick wall.
If I can help you in any way, just pick up the phone,
You've only to say.
It meant a great deal that you were there.
So thank you again, because I know that you care.
It is true what they say, a problem shared.
Now I don't feel alone because Sungate cared.

## 13. THE MICHAEL SIEFF ADDRESS

**The Rt. Hon. Lord Justice Kay**, Lord Justice of Appeal and Chairman, Criminal Justice Consultative Council

Lord Justice Kay initially commented upon the progress that had been made with regard to children in the criminal justice system, since he spoke, together with Mr. Justice Connell, at an earlier Sieff Conference "Children in the Crossfire", in 1995. He highlighted: compulsory training for judges before they try cases involving serious sexual offences against children; the NSPCC video " A Case for Balance", for those involved in trying such cases and the Child Witness Pack, preparing children for what lay ahead in court, in addition to a raft of changes contained in the Youth Justice and Criminal Evidence Act 1999.

Lord Justice Kay was convinced that these advances have improved not only the fairness of proceedings with the child witness, but had also changed many, though not all, people's attitudes to the problems that arose from child witnesses giving evidence. He contrasted this progress with the failure to attend to the needs of child defendants.

### Background

During consultation on the Youth Justice and Criminal Evidence Bill, consultations took place with the senior judiciary. One obvious anomaly was apparent. Whereas the child witness was to become the subject of the special measure procedures, those provisions would not apply to a child defendant, and this could be manifestly unfair. Why, for example, should a young child on a very serious charge, who is jointly charged with an older person, of whom he is justifiably afraid, be denied the opportunity of giving evidence on video link away from the piercing gaze of that older person? The only justification that I have ever heard, for this distinction, was that this would not send out the message that the government wanted to get across. I deplore an approach of that kind.

A recent story in the Times, stated:

> *"Night and weekend courts will start operating next year to deliver instant punishment to young offenders and drunken thugs as part of the drive to tackle street crime and anti-social behaviour. Downing Street has insisted that the plan be tested in London and Manchester, despite widespread misgivings among professionals involved."*

Time will tell whether the courts have any useful part to play or whether the doubting professionals are right, but what sort of message does the political justification for the experiment send out about young offenders? It seems to assume:

- if a young person comes before a court as an offender, they are obviously guilty
- that sentencing problems concerning young offenders are so straightforward that they can be dealt with instantly, without any assessment of how best to stop the young person offending in the future.

It is not surprising that public attitudes to the sentencing of young people have hardened, when they are constantly exposed to political parties trying to outdo each other as to who can be "toughest on crime". The public debate that surrounded the possible release of the Bulger killers provided forceful evidence, albeit in an extreme case, of just how attitudes have changed. The killing was dreadful and the actions of those 10 year-old boys were extremely wicked. If the killers had been adults, I would have had no difficulty in accepting that they should remain in prison for the rest of their lives. The appropriate period that the two boys should spend in custody is not the issue, but it is absolutely clear, that you simply cannot ignore the age and development of the boys at the time they committed the crime. I found it extremely frightening, the extent to which that simple proposition was being challenged by many members of the public.

I believe passionately that we are not going to achieve very much until we can start to see a more rational approach from the politicians. If they do want to reduce crime, then they are the ones who have to accept that it is a social issue and not a political football.

## A Time for Reflection and Consideration

Now is a good time to reflect on where we are now and consider what we want to see in the future. The Auld report and the Halliday review of sentencing, suggest that all elements of the criminal process ought to be reviewed at this time so that coherent policies can be put in place. Whilst I believe the government does intend to consult widely on the various proposals, I do hope that it will do so before any of their own ideas on the way forward become so entrenched that it is difficult for them to be changed. It is incumbent on all of us who are involved with the system to consider these proposals carefully and to respond constructively to them, including the impact that any proposed changes will have on the young caught up in the criminal process both when suspected of crime and in cases where their guilt is established. It is also necessary to look at other possible changes that should be the subject of consideration by the government and this conference therefore, is particularly well timed.

## Where Should Change be considered?

### The Trial Process

The Practice Direction issued by the Lord Chief Justice, making provision for the trial of very young defendants in the Crown Court is to be welcomed. However, is the Crown Court the correct forum for trying cases against the very young? Any suggestion that cases should not be heard by juries, causes strong forces to line up to defend the current position. Accepting that jury trial is as good a method of doing justice in criminal cases as any other, is it not appropriate to consider whether it is the best solution in every case. Much of the opposition to change comes from a well-seated belief that a defendant has a fairer chance if his case is tried by a jury. This is not born out in Northern Ireland, where the "Diplock" courts, where judges sit without juries, have a similar conviction rate to those courts where juries tried similar cases. If trial without a jury enables the case to be conducted in a way that has better regard to the interests and welfare of the child, ought we really to persist in such jury trials?

A particular concern that I have about our present system is that too many cases involving young defendants are being heard in the Crown Court, which should be used as a last resort. Sitting in the Court of Appeal, Criminal Division recently, I dealt with a case, which should never have been anywhere near a Crown Court. A group of boys and girls in a school became involved in an ongoing game of dares, which started as pretty harmless fun, though it did have a mildly sexual element from its outset. There was certainly nothing that could be branded as criminal. However, things started to go wrong when two of the boys started doing things to the girls during classes, which the girls found unacceptable. The boys ignored their feelings and committed indecent assaults on the girls, but since they were committed during class, they were obviously not the most serious of such assaults. The girls complained to the staff and rightly and properly the police were informed. The boys were charged with indecent assaults and in due course convicted of them.

My concern is that the case ended up as a trial in the Crown Court lasting several days, with all that such a trial involved. How it could be thought to be in the interests of anyone involved, the girls, the other school children who had witnessed things and who had to give evidence, or the defendants themselves. I do not see how anyone could have concluded that it was a sensible course. It certainly wasn't necessary on any view of the likely sentencing outcome, as was illustrated by the fact that after conviction, the judge made supervision orders in respect of each defendant. It was not a decision of magistrates that the case should have been in the Crown Court - it had got there because it was transferred under the provisions enabling a prosecution to transfer a case involving young child witnesses without any preliminary enquiry before the magistrates. We should really question whether a Crown Court is the right forum to try a child at all, and even if we were to conclude that it is desirable in the most extreme cases, we should surely see it as very much a last resort.

One possibility that doesn't exist at the moment, is for the Crown Court, at an early stage, to have a power to remit certain cases to the Youth Court for trial.

Suggestions have been made that Robin Auld, in his report, will recommend some form of middle tier of criminal court be introduced, operating with a judge and two lay magistrates. If true and agreed, then some similar formula might be appropriate for dealing with even the most serious cases involving young defendants.

I would now like to revisit the question of young defendants in the trial process and ensure that we do all that we can to ensure that they are not disadvantaged in their trial by due to their age. We

have recognised that for child witnesses it is likely, that some sort of special provision is necessary, so that they can give evidence on an equal footing with adults. Of course, not all such provisions will be appropriate for a child defendant, but the possibility of using such measures as and when appropriate should be available to a court. A young defendant may find it just as difficult to stand up in a court full of adults and give his or her version of events as any other witness. He or she may be intimidated simply by the surroundings, the circumstances and possibly by individuals who are in court. If justice demands special provision be made for child witnesses, I can see no logical reason to withhold similar provisions from child defendants. This approach is in no way inconsistent with being "hard on crime". If we are to tackle crime, it is essential that we first of all ensure that those whom we punish are the right people.

Also, if we continue to draw distinctions of the kind that were drawn in the 1999 Act, we may well fall foul of the European Convention on Human Rights.

Finally, in the trial process, delay in getting cases to court is to be deplored, but in the case of young defendants the need to ensure that justice is done as swiftly as possible is all the more acute. I therefore support the government's efforts to speed up the process in this regard. However, in concentrating upon reducing the time to trial, we must not lose sight of the fact that top priority must remain that the outcome is a just one. Continued pressure on the police and the prosecution authorities to get the case to court quickly can, if we are not careful, result in cases failing because they come before the court either inadequately prepared, or even inadequately investigated. The same is true for the defence, although I think that we are more willing to recognise genuine needs in that direction. The justification for night courts to deal with young offenders instantly suggests to me that there is at the least a danger that we are losing sight of these important factors in our determination to tackle delay.

**Sentencing of Young Offenders**

May I turn from the trial process to how we deal with young offenders once they have been found guilty of criminal conduct? The Halliday review of sentencing does have many good features to it, but my first plea is that we ensure that on this occasion we get things right before we head off in any new direction. Sentencing of offenders, both adult and more particularly the young, has for too long been a political football kicked first in one direction then in another. It has become almost impossible for those who have to administer the system at the sharp end to keep up to date with the constant changes. When he was made Lord Chief Justice, Lord Woolf, on returning to criminal procedures after some years, observed… "hasn't sentencing become a great deal more complicated than when I last dealt with it?" However, he questioned, as I do, whether we had really gained anything significant from all the change that there had been. In Lord Woolf's years of absence, there had been many measures that had come and gone that we at the sharp end had had to tackle and then quickly forget as we moved off in yet another direction.

Further change seems inevitable, and some of it is certainly desirable, but it really would be nice to think that once certain changes have been made, we could have a period of calm, to see if the new system works, before it is thought necessary to start changing again. .

For too long sentencers have received no information about the long-term consequences of their decisions. I would like to see a much greater degree of feedback to sentencers about the results of the sentences passed. In almost every other walk of life, those responsible for making important decisions are able to draw on informed experience of past actions. When judges and magistrates sentence a young offender to a community penalty, there is little prospect that they will know of the success or otherwise of the outcome. They are denied any opportunity to build up a fund of experience that would assist them in making similar decisions in the future. We really need to start assessing far better what works in sentencing, and not continue working on uninformed gut reaction.

## What Works

The integration of the area probation services into a national organization, uses the slogan "What Works", and this philosophy spells out a very positive way forward. The movement from locally based probation schemes to nationally accredited courses, necessitated the need to know the effectiveness of sentencing measures. It must come as a shock to those outside the criminal justice system, that only very recently has this need been identified.

The results so far have been informative and show that things are improving. Some of the evaluation

has shown that certain courses operated in some areas have had no beneficial effect on the rate of re-offending. It is obvious that such courses have squandered some of the limited, precious resources available. More worryingly, there have also been courses that actually increased the rate of re-offending. Some courses for young people, who committed car crime, have increased their propensity to steal cars, since the course increased their desire to drive cars.

In the future, this type of evaluation will give the sentencers more confidence, that the options they are asked to consider are realistic and sensible.

## Persistent Offenders

An interesting fact highlighted in the government's paper on the future of the Criminal Justice System "The Way Ahead" is the high proportion of crime committed by a relatively small group of persistent offenders. The government feels that crime can be reduced if adult persistent offenders are locked away for longer periods. Whatever the merits of that proposition, it is self evident that the more young offenders we can stop becoming persistent offenders in adult life, and help them lead more worthwhile lives, the greater will be the ultimate benefit to them and the public. This in turn will free up those resources that would otherwise have been spent confining these offenders to prison for most of their adult life.

I feel therefore, that there is a particularly strong case for channeling our limited resources into tackling young offenders at an early stage, rather than spreading such resources so thinly that little is achieved. It is encouraging to see that this approach has been recognised by the new national service. One can understand the well-meaning approach of those who saw it as their responsibility to help everyone, however hopeless the task. However, in the real world, we must utilise our limited resources only where there is a realistic chance of some benefit to society.

I am greatly in favour of that part of the Halliday proposals that seeks to have custodial sentences followed by a spell of controlled assistance in the community. Although there have been some measures in place for young offenders, they have been far from adequate.

Wearing my hat as Chairman of the Criminal Justice Consultative Council, it is also important to record the increased co-operation between the Prison Service and the Probation Service, and also other agencies particularly the Education authorities. We have to start seeing sentences as part of a whole, continuing process of re-habilitation, not as individual unrelated parts. The custodial sentence cannot be seen as simply an end in itself. New proposals contained in the Haliday recommendations suggest that that will not be so in the future. If it is adopted, it will prove a very positive way forward. From the day that the custodial sentence starts, work must begin that will integrate with the work to be done after release. This can only be achieved by ever-increasing co-operation by the various bodies involved and by the targeted use of available resources.

The concept of "lets get tough on crime" is one that is easily voiced and it may go down well at party political conferences. If we are to make real progress, then we have stop knee jerk responses and consider these very difficult questions calmly and rationally. It is right to look for ways to bring about improvement in the short term. However, I am convinced that if we are to make the sort of major break through that we all want, it is to the young offender that we must look, though we will have to show patience in examining the figures and analysing what is being achieved. Resources must be targeted to that end and we must try to satisfy ourselves that every penny spent in this way will ultimately lead to the objective that we so clearly want.

That is why a conference of this kind is of such value. We need to draw together the professionals in this field, from their many and varied vantage points within the system, to discuss the problems and seek the best way forward. It is this admirable opportunity that the Michael Sieff Foundation provides, honouring as it does the memory of Michael Sieff whose interest in the welfare of children is so admirably recognised by the Foundation named after him. I am grateful to the Trustees for the honour of being able to give this address to you and I hope and I believe that this conference, as has been the case with earlier conferences, will make a significant contribution to the thinking on these important matters.

## Questions and Answers

**Roger Toulson:** You said that a lead needs to be taken by Government, away from the purely punitive approach. During the Michael Howard years sentences went up, it appears, in response to a lot of political and media statements that judges were being soft. If we were not being soft, we should not have increased our sentences. Is there room for us to do more, without assuming a

controversial political role. To what extent have we as judges have not lived up to our responsibilities?

**Lord Justice Kay:** If you look at the statistics immediately after party political conferences, media exposure and the like, sentences appear to increase. It is difficult for anyone passing a sentence to put the reaction of others totally from their mind. I hope that we will be more willing to resist such influences in the future.

The Home Secretary expressed the view that sentencing is far too important to be left to the judges. One of the Haliday proposals considered setting up some form of structure to advise judges on proper sentences. I think that is a very dangerous area. I was involved with the Judicial Studies Board, trying to do just that, but I abandoned it when I became convinced that it would only talk up sentences. Traditionally, it is felt that the judiciary ought to stay away from what is seen as a political arena. This is unfortunate, if it deprives the public debate of the experience of sentencers operating the process on a regular basis. I believe, that we should be more willing to express our views, albeit with care. The government seems more willing to consult the judiciary before making changes, but they do not yet listen. There are opportunities for us to put across our views, I do not think we should be afraid of taking them.

**Barbara Esam:** So much of what you have said echoes exactly conference discussions so far. Was this planned?

Also, what do you think about our discusion group proposal to take a group of less serious offences, still to be defined, completely out of the criminal system and treating them with a civil disposition, particularly with the younger age groups?

**Lord Justice Kay:** Whilst I have been updated about conference themes, I promise you that I did not change my script.

Concerning your second question, my views are along those lines. I regularly read in a paper about a young child on trial for some matter, and wonder why on earth are we bringing out the full force of criminal procedure in this instance. I do think we need a more flexible approach to these cases.

However, where do you draw the line? Last time I was here, I expressed the view that it ought to be possible for a judge to stop proceedings if he felt that it was not in the public interest. I was reprimanded by those on the prosecution side, who said this was unconstitutional, but I still believe we should have these powers in certain cases. One such case I had in Liverpool, sought the prosecution of a married woman with young children, for indecently assaulting her 10 year old brother, when she was 11! This had come to light when the 10 year old brother, by now a rapist, suddenly "remembered", under psychiatric assessment, this "dreadful" event which was used to explain everything that had happened to him. When counsel arrived, I quickly told them why it was listed for an abuse of process argument, and we stopped the case immediately.

In relation to children, prosecution might be right going by the book, assuming that the book was written clearly, but I would like to see some greater power given to stop matters which just are not in the public interest.

**Eileen Vizard:** My question really goes to the heart of some of the issues we are discussing. I am particularly interested to know your views on the age of criminal responsibility and whether a case is to be made for raising it in line with other jurisdictions.

I appreciate that it is a very difficult issue, as we recognised in our discussion group. We sought either to raise the present age from 10, or to find ways in which these vulnerable and disadvantaged child offenders could be removed from the criminal justice system altogether, if they are unable to participate on an equal basis.

**Lord Justice Kay:** It hardly needs saying that there is a huge difference between a 10 year old and a 14 year old. Although it is difficult to see that a 10 year old is appropriately dealt with, I am not sure where I would draw the line. By the age of 14, some children are getting quite sophisticated these days, and maybe the age of criminal responsibility should be somewhere below this, but I also think we have to find ways of taking some of the very young out of the system.

The criminal system is not the ideal way to stop young offenders who have done something wrong. I am sure most of us did things when we were young which we should not have, which we are happy to forget, and we should be thinking in these terms about young children. Obviously once people go on repeating their offending conduct, then it becomes a greater problem, but still needs tackling. I think we should look at the cautioning system, which I do not think does any good at all, and find a better solution. A caution is really a let off in child language, and nobody is addressing the problems in any way. It is simply saying go away

and do not bother us, and this will save money.

**Ismet Rawat:** I agree with much of what you say, the prosecution is in a very difficult position. When a charge is brought by the police, we have a duty to the complainants and to the public at large, assuming all criteria are satisfied, to pursue a prosecution. Equally, if we decide that the public interest criteria is not justified, and do not pursue a prosecution, we are also vilified. So we are dammed if we do and dammed if we don't.

**Lord Justice Kay:** That is a why I would like to give the judge or the court the opportunity to decide, and that would protect you. You would be putting the matter before the court and the court would be making the final decision. However, I accept that there are those who jealously guard the prosecution's right to prosecute.

**Ismet Rawat:** The reason CPS came into being, was because the Philip's report felt that there should be an independent prosecuting authority, and it is this independence that we've tried to preserve. There may be public disquiet if judges are given more powers to remit or stay cases, in terms of an independent prosecution.

**Lord Justice Kay:** I simply offer you a way out of what you describe as a difficult job, operating under intense pressure.

**Ismet Rawat:** I am not complaining. It comes with the responsibility of prosecuting.

**Lord Justice Kay:** At the moment there is ongoing discussion as to when a judge should stop a case as an abuse of process, and whether there should equally be a right of appeal in relation to that. So if the judge is completely wrong, the prosecution should be able to do something about it. I can see no difficulty with building safeguards into the system. You are under constant pressure from people to modify the system, especially with particular types of cases, whereas if you could blame the judiciary, it would be a lot easier for you.

**Ismet Rawat:** Certainly food for thought.

**Chris Stanley:** You talked about knee jerk reactions from politicians, and the punitive atmosphere that we have towards sentencing. This conference is in almost universal agreement that we are too punitive, and this is not the most appropriate way of reducing criminal behaviour. How do we persuade politicians to break the cycle and start talking sentences down, since their need to get re-elected means they will be guided more by public opinion than well informed opinion? We do not appear able to influence politicians to change their attitude.

**Lord Justice Kay:** I think it is helpful that, at a time when we are considering major changes to the criminal justice system, we have a government that does not have to go seek re-election for a number of years, and maybe are also confident of returning. This should produce a stable, calmer atmosphere for discussing such difficult issues. You may have seen David Blunkett's questionnaire, which is a good sign. I think we have got to take every opportunity we can to try and inform people, and we just have to go on banging away.

**Colin Roberts:** My first question relates to your comments before about cautioning. There seems to be no recognition of the very welcome work that has been done, particularly by the Youth Justice Board, in the areas of restorative justice and final warnings, which are significantly different approaches to the traditional caution.

**Lord Justice Kay:** I agree, and I'm glad that you said that.

**Colin Roberts:** The other question is about dealing with more persistent young offenders. You mentioned the developments with the National Probation Service, but the introduction of the Youth Justice Board and the work of YOTs, in my view, has brought a much wider range of innovation in that area. One of these developments is the recent introduction of intensive supervision to the young offenders. Do you have the same positive views of that development as you do about the National Probation Service?

**Lord Justice Kay:** Yes I do, the emphasis has got to be in that direction. There will be young offenders who, with the present system, have to spend a period in custody. We could not run a system in which this was totally abolished. What I have been trying to say, is that the important part of the any provisions for offenders, are those parts concerning their release into the community afterwards. I certainly welcome these initiatives. I wasn't deliberately leaving out those areas that you've mentioned, but I am glad you brought them up.

**Colin Roberts:** In the research that we are doing at Oxford, there is strong evidence that the accredited programmes that the National Probation Service are promoting, whilst good ideas, have very poor attendance and completion rates. Whereas, what the Youth Justice Board is trying to do with

the intensive supervision, having a much more intensive and wider ranging contacts, may have more value.

**Lord Justice Kay:** The point I tried to make, is that we need to evaluate what really works. We've never done that very well. We have to recognise, that with limited resources, we have to be as efficient as possible. This can only be done if we find out what is working and what is not, and this information must be communicated to those responsible for passing the sentences. It is astonishing that we have gone for so long, spending valuable resourses, without even bothering to find out the outcomes. I would welcome the chance to see your findings

## 14. "An Integrated Children's System"

**Jenny Gray,** Inspector, Social Services Inspectorate, Department of Health

**Dr. Bob Jezzard**, Senior Policy Advisor, Health Services Directorate, Department of Health

Jenny Gray and Bob Jezzard spoke about the work being carried out by their Department to develop guidance on the provision of therapeutic help for young defendants. They considered the timing of the conference as ideal, because they and their colleagues in other government departments were keen to begin discussions with key stakeholders about how this guidance should be progressed. They said they hoped to issue a draft guidance for wider consultation next year.

Jenny Gray spoke from a "children in need" perspective, and Bob Jezzard spoke from a mental health perspective.

### Jenny Gray opened the presentation.

### Introduction

I thought it would be helpful to remind people of the definition "a child in need", in the Children Act, which was framed in child development terms:

A child shall be taken to be in need if -

- he is unlikely to achieve or maintain or to have the opportunity of achieving or maintaining, a reasonable standard of health or development without the provision for him of services by a local authority . . .
- his health or development is likely to be significantly impaired, or further impaired, without the provision for him of such services; or
- he is disabled.

And 'family' in relation to such a child, includes any person who has parental responsibility for the child and any other person with whom he has been living.

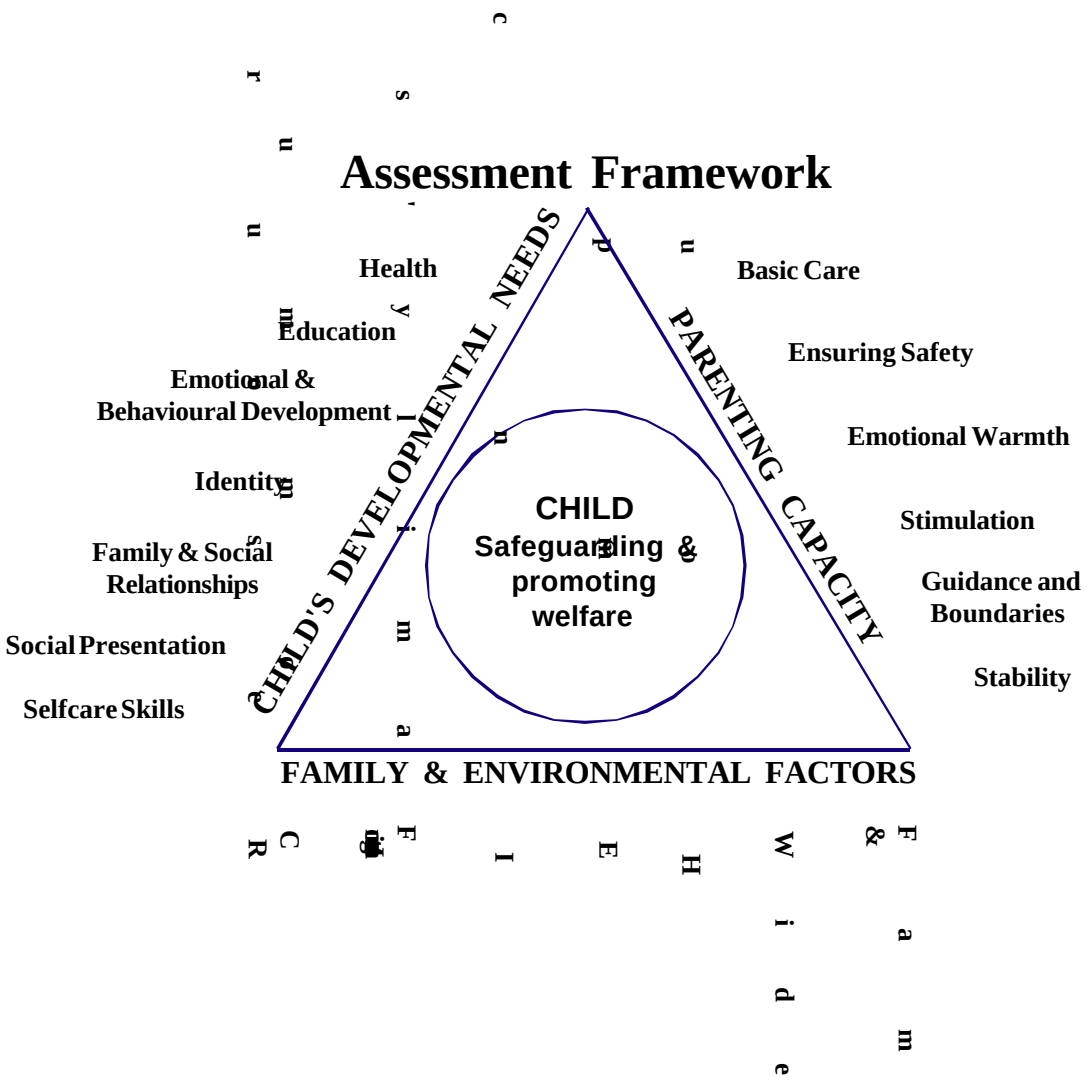
### Children Act 1989 s17(10)

In the first group is a child whose health or development is, or is likely to be, impaired without the provision of services, and in the second a child who may be deemed to be suffering or likely to suffer significant harm without the provision of services. The third group includes children who are physically disabled, or who have a learning disability.

The Department, has undertaken a great deal of work under the Quality Protects initiative to address how we can optimise the outcomes of children and ensure that they can take play their full part. Developing the Assessment Framework has been part of this Quality Protects initiative. Another part of the initiative, under the Quality Protects banner, relates to progressing in a more systematic way, the target to reduce offending and re-offending rates for children in care.

### 2. Assessment Framework

The Assessment Framework dimensions underpin the Integrated Children's system. During the 1990's, the Department developed a system for monitoring the progress of looked after children. It identified the key dimensions in a child's life, and in which children needed to make progress in order to grow up and achieve their optimal outcomes.




The child's developmental needs are set out on the left-hand side of the triangle, and these are the key headings under which a Child in Need assessment, under the Children Act, should be undertaken.

In this Framework we developed the dimensions of Parenting Capacity that all children require in order to grow up successfully. These aspects are set out on the right hand side of the triangle. We have had a great deal of debate about these, but of first and foremost importance is ensuring that children received basic care, including food. Sue Bailey spoke yesterday about children who receive inadequate nutrition. Another key issue, ensuring safety, has come up throughout the conference. Children need protecting from abuse and neglect, and should also be taught how to keep themselves safe within society. Also, very important, is the provision of emotional warmth and stimulating learning opportunities for children at all ages. Within this context, the provision of guidance and boundaries, which help young people to grow up and develop pro-social rather than anti-social behaviour, is vital. Stability is another vital aspect of a child's life, stability of daily regimes, stability of primary carers, thus enabling children to develop a secure attachment to those key care providers in their lives. One can see how important is this theme, when hearing about the discontinuity experienced by many of the children in need with whom we work.

Along the bottom of the triangle, we have placed Family and Environmental Factors, which in a child and family context either facilitates or hinders family life. Relatives can be a help or a hindrance, so in assessing the family context it is important to look at the support that both parents and children are getting, as well as that which might be unhelpful. Apart from these obvious issues, it is important to address the issues of housing, employment, and income, not only for young people themselves but also for those within their family context. The integration of families within their community clearly has a strong effect on young people. The provision of health and education are key examples, but so are resources within the community, such as different religious organisations, voluntary groups, and the initiatives Helen Watson spoke about in relation to self help family groups who have been through particular experiences.

## Incorporation into Government Guidance

I have listed below, a range of government documents into which we have incorporated the

Assessment Framework - in particular some of the documents that we have referred to in our discussions:

- Working Together to Safeguard Children
- Safeguarding Children Involved in Prostitution
- Provision of Therapy for Child Witnesses Prior to a Criminal Trial
- Achieving Best Evidence in Criminal Proceedings: Guidance for Vulnerable or Intimidated Witnesses including Children
- Carers and Disabled Children Act 2000 Policy and Practice Guidance
- Special Educational Needs practice guidance
- Care Leavers Act 2000 Regulations and Guidance
- Fair Access to Adult Social Care

The Assessment Framework has been integrated within 'Working Together', which is the Government Guidance on Child Protection. Also in the context of safeguarding children in institutions, officials in the Department of Health have worked with the Home Office to produce guidance in Youth Offending Institutions, which finally, after many drafts, is about to be issued. This guidance is consistent with Working Together, which means that the same processes will be followed, regarding young people in Youth Offending Institutions, as are followed in the community when there are concerns that a child is, or maybe, suffering significant harm. The Home Office, together with the Department, is beginning a series of training events in October, to ensure consistency of application.

In addition, I have been working with Steve Hart at the Youth Justice Board, to introduce similar guidance into the Secure Training Centres. Steve is also involved in updating Secure Accommodation standards, so that for all offending children within institutions, the same standards will be applied as for those in the community.

Regarding child witnesses, our above mentioned guidance document has already been talked about and could provide a model for our work with child defendants, recognising there are differences between the two groups of children as well as similarities. Non the less it is important to assess their needs for therapeutic help using the Assessment Framework, at the same time recognising that any plan of action needs to accept the reality of the child being a defendant in a criminal trial.

## Relationship of Assessment to Planning, Intervention and Review

The Assessment Framework is generic, and needs to be customised for particular children, families and contexts. We are keen for people to look both at the strengths within the family system as well as the weaknesses and difficulties. It is often easy to identify problems, but it is the strengths and resilience within the child and the family context that will give us the much-needed therapeutic leverage, when we initiate the required action plans. For us in children's services, it is this evidence-based framework which will govern the work that we want to progress. We are therefore keen to ensure that the framework is used by all agencies, not only for assessment, but also for planning, intervention and review, and to ensure that the plans that are being made for children in need are being carried out practically and consistently.

In progressing the work on Assessment, we were very conscious of what effective interventions would be required, based on our assessed needs of children. We were also very conscious of the importance of providing the correct, appropriate services to those who responded to children's needs, concurrently with assessment. All our activity is geared towards the improvement of outcomes for young people. A good example of where we can use the Assessment Framework for assessing young people's needs, whilst using our evidence base about what is effective, comes from work undertaken by Arnon Bentovim and David Skuse, at the Institute for Child Health. This work looked at young boys who went on to sexually abuse other young children. Here it was important to recognise that in their family histories, factors such as being the subject of violence, being a witness to violence, and the discontinuity of care, are very important factors in these children's lives. When addressing the needs of these young people, it is important to consider how we can both look at providing affective treatments to address underlying difficulties and traumas that these young people have gone through, and at the same time to help them take responsibility for their own actions. It will be a real challenge in the future, to provide affective services that not only address the needs of young people, but are also dealt with within in the context of the Criminal Justice System.

We are developing the system that we call the Integrated Children's System, which we are taking

forward using the Assessment Framework dimensions into all our children services work. We will be using those dimensions for assessment, planning, intervention and review, but also it will be for those children who are living in the community, those children who are looked after, those children who are leaving care, as well as those children for whom the plan is adoption. So, across children services, we have a coherent framework for working with children, which is a framework that can be customised for particular groups of children who have more specialised needs.

Bob Jezzard then continued by saying that he would be talking primarily about Child Mental Health Services, for which he had some responsibilities for Departmental policy.

In Practical Terms this means:

- For Children in Need and Children Looked After, working within the context of the Framework for the Assessment of Children in Need and in future, the Integrated Children's System.
- For children and young people who offend, working within the context of the responsibilities of the Youth Offending Teams – contributing to assessments, and ensuring that appropriate treatment is available for those who need it.

## What Does this Mean for the NHS and Child Mental Health Services?

In recognition of the shared concern that all agencies have for children and young people, partnerships are all important. However, partnership is one thing, but co-operation is quite another. I am convinced that we must improve co-operation between agencies, between professionals, and between organisations. However, this co-operation has to be based on respect for the contribution of each agency, and naturally the statutory underpinning of each agency's responsibilities. This requires agreements, normally best worked out at a local level.

You may be aware that structures are being set up within the NHS, which will bring the NHS and Social Services together into a single organisation, providing certain services, under the auspices of new care trusts.

## What are the challenges?

We have to be aware of the challenges, of which there are many, otherwise we will be unrealistic I have outlined four such challenges here:

- There are individual priorities for each agency, as well as shared priorities.
- There are ethical and legal considerations to take into acount.
- There are numerous pressures to deliver improved services for children and young people with a diverse range of needs.
- Resources are stretched and service variations remain a challenge.

Each agency has individual priorities as well as shared priorities, and in the process of planning and working together, and developing partnerships, this has to be understood. We must respect each other's individual priorities whilst working on shared aims. One of the main ethical challenges to be taken into account relates to confidentiality and the sharing of information. We are all aware of the enormous pressures to deliver improved services for children and young people with diverse mental needs. A few years ago, Child Mental Health Services were not on the agenda. Now, from every possible quarter, people are demanding improved services for this group of children and young people: children with learning disabilities, deaf children with mental illness, looked after children, children who are before the courts and young offenders. Naturally it takes time to improve services across the spectrum, let alone to address the quality of the services provided, and the extra pressures that this generates on all of us have to be recognised. As resources remain stretched there are still, unfortunately, enormous variations, particularly in Child Mental Health Services around the country.

## The Children's National Service Framework.

Although in its early stages, the National Service Framework is focused on developing standards to improve services. Those National Service Frameworks delivered so far, as well as those in preparation, have aimed to define service models with which the service shall be provided, and incorporate strategies for implementing any changes that are required.

The Children's NSF is going to cover the breadth of children's services, including the well child as well as the ill child. The first module of the National Service Framework to be delivered, possibly next year, will include maternity services as they impact on children and young people, acute

hospital care, and children's care, but will also include Children's Mental Health Services as a further component.

There is still much work to be done, but in the end we hope that a clearer programme will emerge for the development of children's health services, and it will give further impetus to the development of Child Mental Health Services. People have already mentioned the shortages in child mental health expertise, which does restrict how much we can deliver, when we deliver it and how quickly. As a child psychiatrist, I am delighted that people are now beginning to recognise our real value.

## 15. "The ASSET Assessment Tools for Working with Offending Youth"

**Colin Roberts**, Probation Studies Unit, Centre for Criminological Research, University of Oxford

Colin Roberts outlined the work carried out at the Centre, in collaboration with the Department of Educational Studies and the Department of Psychiatry, at the University. He mentioned that their work on ASSET was only a small part of their research work with both adult and young offenders, for the Youth Justice Board and for the Home Office. He stressed the importance of the University wide collaboration, which brought a multi-professional approach to their research. ASSET was a tool for everyday use - but it was not a substitute for professional judgement or simply a paper exercise

### Introduction

In March 1999 we won a contract from the Youth Justice Board to produce a standard assessment system to be used by all YOTs in England and Wales, to be available from April 2000. We already had previous experience of developing and validating the ACE system for adult offenders, which is still being used by probation areas in England and Wales. It is used by the Probation Board and the Prison Service in Northern Ireland, and in a variety of locations in North America and Australia.

The challenge of producing an assessment for young offenders was considerable. We worked with a multi-professional advisory group and pre-tested ASSET by means of a pilot study in 18 YOT's across England and Wales, between November and February 2000. We also undertook a study of our self-assessment form, on known young offenders and also on young people in comprehensive schools in the Midlands, the South East and the North West. Currently we are researching the validation and reliability of ASSET, for the Youth Justice Board, involving over 4,000 completed ASSETs from 40 YOTs in England and Wales. We have already prepared an interim report on our findings, which is available from the Youth Justice Board.

### ASSET: Key Requirements

ASSET itself had a number of key requirements, stipulated by the Youth Justice Board. It had to be:

- appropriate for offenders aged 10 – 17
- for use at different points in YJ system
- identify key risk factors
- provide a score to predict re-offending
- measure change over time
- assess risk of serious harm
- highlight issues for further detailed assessment

ASSET needed to be able to be used at different stages in the Youth Justice system, for decisions about bail, decisions about final warnings and pre-sentence reports, through to decisions about release and post-release supervision from YOIs. We needed a system that could measure change over time, for as Lord Justice Kay said, one of the most important things is that we have a systematic method to evaluate the relative effectiveness of different interventions. It had to include an assessment of the risk of serious harm, as well as the vulnerability of these young people and it had to highlight issues for further more detailed assessment. It was not intended that ASSET itself would be the sole assessment. It is a generalised systematic assessment, which does not preclude

the use of more specialist assessments on particular youth offending problems such as mental health or educational needs. It also has a self –assessment called "What do you think?", so the young person's own views are summarised.

## Purposes

The purpose of having this system was to achieve four main aims:

- An aid to professional judgement
- An aid to case management
- An aid to the development of knowledge about young offenders
- An aid to the management of resources

We know from research, that sometimes assessments on young people tell you more about the people who are doing the assessment, than it does about the young person. So it was very important that ASSET was an aid to a professional process, to professional judgement. It was particularly important for it to be an aid to the management of resources that were available both to the YOTs and to the secure establishment.

ASSET is a tool for use. It is neither a substitute for professional judgement nor simply a paper exercise. It is meant to be part of the judgements that are being made by a wide variety of professions within the YOT system.

## What ASSET Does

- Takes into account static factors and dynamic factors, which help us identify targets for intervention
- Includes criminogenic and welfare needs
- Identifies problems and positive factors
- Combines numeric elements with an emphasis on evidence for decisions
- It predicts the probability of reconnections and measures change in young offenders

The ASSET system has to balance the differences between static and dynamic factors. Static factors are those factors about people's background which will not change (e.g. past convictions), as opposed to those which we like to call dynamic factors (e.g. factors which can be changed). It should help us to identify those targets for intervention. We had to enable the correct balance to be struck between negative and positive factors, and it was important that it coincided with the Department of Health's assessment process. So it has, not only with the criminogenic factors, but also with what are their welfare needs. (See Figure 1)

There was one big difference between the development of an adult assessment and one for young offenders. As Jenny Gray said, it had to be able to identify not only problems, but also the positive factors in the lives of young offenders. For, in the end, these positive factors can have a more important affect on future development, than a range of very negative, bad experiences. The system had to be able to combine numeric elements with an emphasis on evidence for decisions. So we had to create a scoring system which was underpinned by a mixture of static and dynamic considerations. For some YOT workers, this has been a challenge. They are happy to make judgements, but being precise and clear about the evidence, on which they make those judgements, is really quite a challenge to many of them.

We are not only interested in their present offending behaviour, but we are also interested in their previous offending careers, especially if some of their offending occurred before the age of criminal responsibility. Around the edge of the circle in Figure 1, we have the dimensions which are essentially ASSET. We know that all these factors, to differing degrees, have a potential influence on future offending behaviour. The many lines linking these factors, indicates their considerable impact on each other, outside their direct effect on offending. The offending behaviour of a young person can be considerably influenced by who their friends are, on their lifestyle, and their access to local resources, etc. It is vital to ensure that any assessment looks at the overall interaction of these factors with each other, and does not treat them only separately.

In addition to the above factors, we also assess:

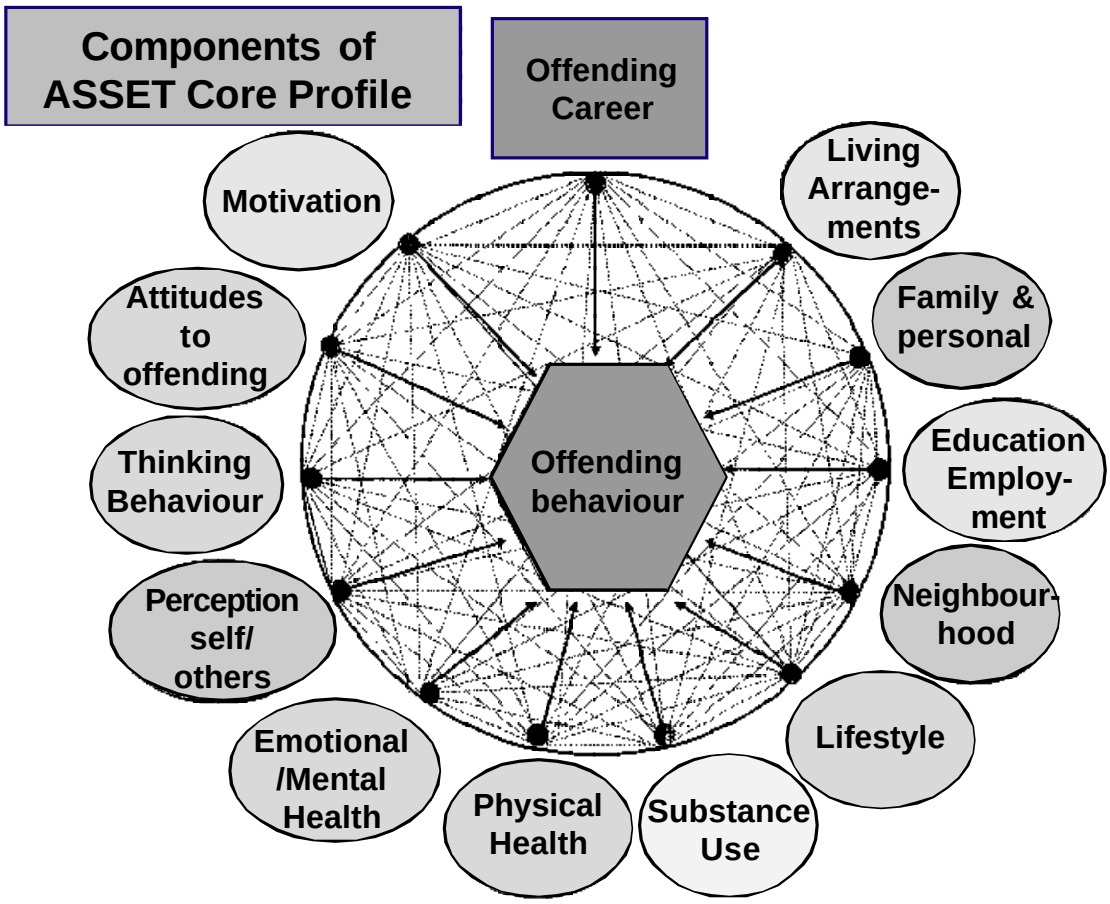
- Positive factors
- Indicators of vulnerability
- Indicators of serious harm to others

## The ASSET System

The system is IT based, and there are currently three versions of ASSET in an IT format. The most commonly used one is one by YOIS . The IT format is important, not only for the retention of the information that it gives, but it also makes it much easier to look at change over time. Interestingly, and importantly, the IT format in self-assessment is very attractive to some of the young offenders, who feel much more relaxed with computer screens and a mouse than with pen and paper.

The system consists of three main parts:

**5.1** Firstly, there is the **ASSET Profile**, which has 17 dimensions, like the ones in Figure 1. The Profile is completed by the YOT's staff at different stages in the process, at final warnings, or at the pre-sentence report stage, or on bail decisions. It is based on interviews with the offender, their parents and carers, but it is based also on indirect information from case files, depositions, criminal




records, school reports, etc. It is not an interview schedule. It is not intended to be a series of questions put to the individual offender. The process is intended to be used as a framework for assessing the young offender.

The second element is a self completion questionnaire for the young person themselves, which we call, **"What Do You Think".** This gives young people an opportunity to explore their own situation, highlight areas of concern for them, and facilitate comparisons between the assessment done by the professionals at the YOT with how the young person sees him or herself. What is very interesting, is that many of the young people identify things that the professionals have not identified in them, and that balance is important for effective help and interventions.

Self-assessment by the young person:

- Gives the young person opportunity to explore their own situation
- Highlights areas of concern to both them and YOT staff
- Facilitates a comparison with the main ASSET Profile form

The final element is the full **Serious Harm Assessment** which is completed only on those young offenders who have been indicated by the initial profile assessment, as having the possibility or potential to do serious harm to others. An assessment of vulnerability is contained in the main ASSET Profile.

## Early findings from the use of ASSET in England & Wales, demonstrates how ASSET can:

- Produce profiles of offenders
- Identify factors (negative & positive)
- Involve young people in assessment
- Suggest areas for further research

The following table summarises some of the initial findings from our current research on 4,000 young offenders who have had ASSET applied to them. ( Table 1, 2 and 3)

## Table 1: Profiles of Offenders

| | Main Sample | 4+ Convictions |
|---|---|---|
| ➢ Non-constructive use of leisure time | 58% | 81% |
| ➢ Associates with pre-dominantly pro-criminal peers | 43% | 73% |
| ➢ Young person sees him/herself as an offender | 25% | 44% |

## Table 2: Factors Most Closely Associated with Offending

| | |
|---|---|
| ➢ Thinking & behaviour | 69% |
| ➢ Lifestyle | 59% |
| ➢ Education | 54% |

Most frequently identified positive factors:

| | |
|---|---|
| ➢ Family/personal relationships | 76% |
| ➢ Living arrangements | 73% |
| ➢ Motivation | 59% |

## Table 3: Engaging Young People in Assessment

| | ASSET Profile | WDYT |
|---|---|---|
| ➢ Staying away from school/truanting | 41% | 26% |
| ➢ Rushing into things without thinking | 78% | 39% |
| ➢ Threatening or hurting others | 44% | 13% |
| ➢ Family are unaffected by offending | 29% | 17 |

## 6.4 Further Research

We are currently undertaking a validation and reliability study of the whole ASSET system. We expect, by the summer of 2002, to be able to report to the YJB on:

- Correlation between total scores and reconviction
- Correlation between particular question responses and reconviction
- Distribution of scores by age, ethnicity and gender
- Influence of professional background on ASSET completion
- Weighting of different sections

### 16. "The Psychological Needs of Child Defendants"

**Dr. Eileen Vizard**, Consultant Child and Adolescent Psychiatrist

Eileen Vizard, who works for the Young Abusers Project run by the NSPCC, introduced some of the main concepts about the psychological needs of children who offend. She expressed concern about the ambivalence surrounding children who offend, where large sections of the public labelled them as criminals, and showed a great deal of anger and hatred towards them. As had been discussed earlier, the welfare needs of these children were not fully recognised. She was also concerned about the lack of application of the Children Act in various contexts, where psychological issues were hardly discussed.

Dr. Vizard said that she was talking not only on the basis of her clinical experience, but also as Chair of a group set up by the Royal College of Psychiatrists, who were focused on the psychological issues which underlined the capacities and performance of child defendants. Their report was going to recommend good practice changes based on evidence and direct work with offending children.

## Children's Intelligence and Cognitive Abilities

This is a hugely complicated area, affecting a wide range of issues, of which the following may be relevant:

- vocabulary and comprehension
- problem solving abilities
- attention and concentration
- guilt, shame and empathy, terribly important when we are working with offenders who need to understand the impact of their behaviour on others
- mental age, which is a psychological concept, slightly controversial now, but helpful from a legal point of view
- 'theory of mind', the sort of deficit we see in disturbed young offenders with aspergers, autism, the difficulty of putting yourself in someone else's shoes
- moral development, the key issue which tells you about the rightness or wrongness of your behaviour in relation to others and in relation to society
- emotional development
- self control
- learning disabilities, which I am also going to mention

Our group starts from the perspective that we need a developmental framework for child defendants, which may look something like this:

'Such a developmental framework assumes that the child's cognitive, emotional and moral development starts in infancy and continues throughout childhood, adolescence and early adult life.'

It is not just a matter of opinion that children are not yet grown up. "There is extensive research evidence to support the view that important developmental changes continue through the teenage years", quoted the JUSTICE 1996 report, which is a brilliantly drafted and a well-referenced report. Other research, from Rutter, Giller and Hagell's book, 'Antisocial Behaviour' 1998, states *"…..young people's thinking tends to become more abstract, multidimensional, self-reflective and self-aware, with a better understanding of relative concepts"*. There is an excellent section in this book talking about the whole concept of the age of criminal responsibility and related research. These points are well made. Though this may seem extremely obvious, believe me, there are many people who still challenge the fact that children develop these capacities from age 10 onwards. I intend to present to you today the fact that there is an incontrovertible evidence base to show that children do continue to develop, and that they are far from being fully mature at age 10.

## Learning Disabilities

The issue of learning disabilities is another enormously complex area, so I will just pick out what seems to me to be the relevant concepts in relation to children who offend. To determine whether a child has specific learning disabilities, and to determine what the children have to go through on assessment. General learning disabilities need to be refined further into specifics. Does their learning disability amount to mental impairment in terms of the Mental Health Act 1983, in which case it will be associated with specific behavioural disturbance? Could they be clinically defined as mentally retarded, which is a horribly pejorative term, but nevertheless the term that is used within ICD 10 and DSM IV, the psychiatric classification systems? There are a great many issues around the descriptions and labels and so on, in relation to children and young people with learning disability, which need not concern us at present.

However, learning disability is highly relevant. Considerable evidence base comes from the United States, where Grisso and other colleagues have looked in great detail at the testamentary capacities of young offenders, and also how that links to deficits such as learning disability. Grisso recently said that there are worrying variations in cognitive capacities, that is the capacity to think and process thoughts, of youths with learning disability who are trial defendants. Grisso also indicated that from a legal point of view, the adjudicative competence of youths facing trial needs to be covered in four areas:

- they must understand the legal process
- they must appreciate the significance of legal circumstances

- they must communicate information
- their reasoning must be up to scratch

However, evidential capacity in the sense that we discuss in the College report, the ability to give an account of events and understand what is going on, is dependant, we believe, on at least 3 main components:

- a stable mental state
- cognitive ability, whatever that may be
- developmental status of the individual child

There is a wide individual variation in the degree of understanding between children at different ages. Take the bulk of evidence in the Justice report, which looked at these issues in relation to children who offend. It agrees that from a psychological developmental perspective, but particularly taking a younger age as a cut off point for criminal responsibility is not logical, because all these issues continue to develop.

## Sexually Offending Youth

From the sample of 128 sexually offending youth that we deal with in the Young Abusers Project, we extracted some data on learning disability. We found 38% with mild and some 2% with severe learning disability, which puts these young boys into the IQ range of 50 / 55 up to 70. These are children whose communication abilities are seriously impaired, such as their capacity to instruct solicitors, and their understanding of the events going on around them in court. Our findings are in line with studies of delinquent populations elsewhere, as well as the findings of the other 16 NSPCC Young Abuser Projects, as regards high levels of learning disability in their clients.

What is interesting is that we've looked informally at the psychiatric diagnosis of our client group and we find that they are very heavily co-morbid for other psychiatric problems, i.e. they have co-existing disorders. Conduct disorder, childhood onset, with all the life course persistent implications which that carries, and the connections with adult personality disorder, is our commonest diagnosis. But there are many other problems. These children have on average 3 Axis 1, (on DSM 1V & ICD 10), psychiatric disorders, so they are a particularly disturbed group.

Reverting back to the Royal College of Psychiatrists report, we propose to make recommendations along the following lines:

- that a sub group of children, yet to be agreed, need assessments. If they commit serious offences or very persistent offences over a long time, they must have a psychiatric assessment, definitely a clinical psychological assessment, and certainly a full social work assessment of home circumstances, etc.
- that the Royal College and the British Psychological Society examine the creation of some joint guidance on the above issue, at some point in future. Picking up on Bob Jezzard's point, nobody would want a batch of "experts" assessing these children in idiosyncratic fashion, outside of an integrated, coherent system. This would be counter-productive.
- that pre-trial therapy be made available to some child defendants, because of the huge prevalence of traumatic events in their childhood in relation to child development and communication with children and the emotional disturbance which they demonstrate. Pre-trial therapy is ethically necessary, and as we have often said, it will improve the quality of evidence contributed to the court.
- that training must be given for all disciplines.
- that child witness protection measures, currently in place, could also be extended legally to child defendants. We may suggest that those working with child defendants should consider the involvement of a children's guardian ( a Guardian ad Litem).
- that a child defendants pack be developed.

## Conclusions

There are a number of key messages, and I would be very surprised if most of them had not been alluded to during the course of the conference. I have attempted to summarise those messages that the evidence base indicates:

- Child defendants, their behaviour, and their psychological profiles are largely made and not born.
- That children are developmentally immature they are not simply shrunken down adults. So different considerations need to be brought to bear in relation to child defendants.
- Many child defendants have serious psychological and social problems, which affect their capacity to participate in a trial. A considerable evidence base exists for that.
- The criminal court system was never designed for children it was designed for adults.
- In our view, and certainly in my opinion, justice would be better served if child defendants were dealt with in a more appropriate court setting.

## 17.“ A Young Defendants’ Pack: Material Informing Young Defendants About Court”

**Joyce Plotnikoff**, Independent Researcher

The case for a Young Defendants’ Pack was self evident, said Joyce Plotnikoff. The system is awash with guidance for a wide range of court users, including materials for adult defendants, young witnesses, and the Power Pack launched this year for children in care. But we have had nothing for young defendants since the Children’s Legal Centre issued a leaflet in 1985, and there are no government plans to produce materials at the moment. Young defendants form a large group: Home Office statistics show that in 1999, about 50,000 young people were sentenced for an indictable offence and there will have been others who were acquitted.

### Introduction

The last part of the Young Witness Pack was a video called ‘Giving evidence - what’s it really like?’ When it was launched last year, Lord Chief Justice Woolf said that there should be similar guidance for young defendants.

The Young Witness Pack was a partnership between NGOs and government departments, although the children’s charities contributed most of the money. I think that a similar fund-raising strategy for young defendants may be more difficult, because they generally attract less sympathy than child victims or children in care. This is ironic, because we are often dealing with the same group of children. Many young defendants are in local authority care when they are arrested and charged. Young defendants are often themselves victims of crime, as a recent survey in Southwark of persistent young offenders has shown.

In the Thompson and Venables case, the European Court of Human Rights identified the defendant’s effective participation in the trial as an essential requirement of Article 6, and following that ruling, the Lord Chief Justice issued a Crown Court Practice Direction. This recommends that the court explain proceedings to a young defendant, and it reminds lawyers of a continuing duty to explain each step of the trial, and to ensure that the trial is conducted in language which the defendant can understand. Further guidance has extended the principles of the Practice Direction to the youth court. A Young Defendants’ Pack could assist young people’s ability to participate in the court process.

### Research

In the Thompson and Venables case, the European Court recognised limitations on young defendants’ ability to:

- follow the trial
- instruct lawyers
- take decisions in their own interests (understand their legal rights).

So far, I have been unable to identify any research in this country dealing specifically with the knowledge of young defendants about court, though there is work on what young witnesses know about legal proceedings. I have therefore drawn on research carried out in the United States, Canada, Australia and South Africa.

Concerning the first obstacle identified by the European Court, the young person’s ***difficulty in following the trial,*** NACRO mentioned something to me with which most of you will agree: ‘Many young people leave court without remembering a single thing that happened. This is partly due to stress but also due to the formality and the fact that they simply don’t understand what was going on’.

If you look at the research from other countries you get a consistent message. What young defendants know of the legal process is very basic and it is often wrong. Neither can you rely, in this instance, on older children understanding more. As Eileen Vizard has pointed out, those with cognitive and emotional disabilities take longer to reach their adult potential and are doubly handicapped in that situation.

Many people have said that if we have to prioritise, we should do something for children appearing in

court for the first time. They claim that persistent young offenders require less help, since many already understand the system. While this is true for some, it does not apply to them all. Research suggests that just because somebody is a repeat offender in youth proceedings, this experience does not necessarily mean that they understand what is going on. In fact, one Canadian study showed that youths with experience in the legal system actually demonstrated poorer understanding of legal concepts than those who had never been involved.

The second constraint on effective participation mentioned by the European Court was ***the young defendant's ability to instruct a lawyer***. Canadian research has concluded that you should look not just at the competence of the young client, but at the relationship between the lawyer and the client: at least to some degree, competence to instruct the defence lawyer can be taught. However, the youth has to understand the importance of collaborating with the lawyer, and they need to know about the advocacy role and client confidentiality.

Canadian and Australian research show that high proportions of young people across all age groups are unaware that information given to their lawyer is confidential. For some, it is not just skepticism that an adult will take their side, but it is actually a misunderstanding, because even if they think that the lawyer is there to help them, they confuse the defence lawyer's function with the authority of the court. Some American research on detained juveniles showed that about one-third believed that the role of the defence counsel was to defend the interests of the innocent but not the guilty.

The third limitation on effective participation identified by the European Court was: ***the ability of defendants to take decisions in their own interests***, which I interpret as their ability to understand their legal rights.

The US and Canadian research indicates that young defendants' understanding of their legal rights is overestimated, both by their lawyers and themselves. One of the basic difficulties is that even if they understand some of the factual information about court, they don't understand the concepts.

Where adults understand that a legal right is something that cannot be revoked, research indicates that children see rights as conditional. One of the American studies said that only about a quarter of young defendants aged from 14 to 16 understood that a 'right' meant an entitlement. When asked, "what does it mean when the police say, "You have the right to remain silent?" many replied "You can be quiet unless you are spoken to."

One of the Canadian studies found that, irrespective of the young person's age, virtually no subject understood the not guilty plea, and there were many misconceptions about the presumption of innocence. Most young people believed that once they were charged it was the defendant's job to prove they were innocent of a crime. This misconception was actually more prevalent with the older children. That project involved young people who had not been involved with the courts; however, a similar study in South Africa with young people on remand found that the children had no idea of their rights. Most thought that they had to answer all the questions in court and did not have a right to remain silent.

## Project Issues

In preparation for this conference, I wrote to a number of organisations about this project. All the replies were very helpful and positive. In answer to the question: "What sort of information do we need, and what sort of materials?" respondents proposed various combinations of the following:

- written materials
- audio
- video
- inter-active CD
- information on line, using the existing website www.cjsonline.org

There are obvious problems with literacy, so written materials alone are not the answer. Access to technology is also an issue, though an interactive CD was the most popular option.

The scope of the Pack needs to be broad, covering ages from 10 to 17 as well as the different courts. It was also suggested that there should be guidance, as in the Young Witness Pack, for parents and carers and for the person preparing the young defendant for court. Like the Young Witness Pack, the materials should be used alongside someone who can answer the defendant's questions. The critical issue is who is going to be that person? The survey results were unclear on this point. The Lord Chief Justice's Practice Direction stated that lawyers have an ongoing duty to explain what is happening. Many respondents expressed concern that solicitors did not have time and were not remunerated to do such preparation work with young defendants as was envisaged. They felt that this needed to be

explored with the Legal Services Commission. Some people suggested that YOT members needed to be involved, but they too are limited as to their time and involvement with defendants at the pre-trial stage. Parents and carers were suggested, but although they need to be involved, I do not think they should be expected to carry this responsibility.

Clearly questions around preparation of young defendants for court need to be explored, as does the timing of presentation of Pack materials. With the government's drive to reduce the time to first appearance and to trial, there are many questions when it is most appropriate and feasible to intervene.

## Conclusion

The next step is to seek funding for a scoping study to explore with young people what think they need, as well as what lawyers think they are able to deliver, and to consult other relevant people and groups. We need to look at what is already available to young people where they are held in remand. We would need to achieve some consensus about the messages to be addressed in a Young Defendants' Pack, as these could be highly sensitive. In addition, we would need to look at the cost implications, both for creating materials and for distributing them. This scoping study would provide documentation to form the basis of competitive tender, if the government decided to proceed with it.

Developing a Young Defendants' Pack looks like a much more complex exercise than the Young Witness Pack, something I did not think was possible! It will require a significant commitment of resources, but I do not think we can fulfill our European Court commitments without it. How can we feel confident that a young person will be diverted from further offending behaviour by a court process they cannot understand?

## 18. SUMMARY OF DISCUSSION GROUP RECOMMENDATIONS

It is vital that we do not lose sight of the fact that the primary aim of all concerned is to prevent children from becoming involved with crime in the first instance. Not only is this best for children, their families and for the wider community, but in the end, it is also the most cost effective.

However, thousands of children are involved, or will be involved with the present criminal justice system, and so the following recommendations are specifically aimed at improving the lives of these offending children. This is particularly important, since a large majority of these children have psychiatric disorders, substance abuse problems, have been victims of abuse, or have suffered recent bereavement, and many have been in care. It is vital that these children are treated as children in need, and that in whatever regime they are placed, their education and welfare is held to be of paramount importance, not only during detention, but also afterwards on release into the community. (Michael Sieff Foundation Conference, "The Employment of Children with Criminal Records", June 2000.)

## Policy on Child Defendants.

**1.1** Unlike children outside the criminal justice system, no welfare protection is afforded to young offenders by the Children Act 1989. This is simple discrimination.

**1.2** Discrimination also relates to poverty, access to services, and isolation as is the cumulative discrimination against young black men in particular, in education, mental health, employment and housing, that helps to contribute to their over representation in the prison system. Elimination of these areas of discrimination could go a long way to a reduction in offending youth.

## 2. The Age of Criminal Responsibility

**2.1** The present age of criminal responsibility in England and Wales (10 years old) is too low. The best comparison is with Europe where the age of criminal responsibility is higher, in the mid-teens.

**2.2** A government led consultation process should be started to review the age of criminal responsibility and associated juvenile justice issues (see 1. above).

**2.3** During the consultation process, there needs to be a well researched and cogently argued case developed for the age of criminal responsibility to

be increased, based upon expert knowledge, research and consultation with many sources, including relevant professional bodies, the Lord Chancellors Department, the Department of Health, and the Law Commission. A clear case for change in the age of criminal responsibility, can then be put to the Home Secretary.

## 3. Dealing with "Less Serious" Offences

**3.1** Certain "less serious" offences, to be determined by consultation, should be removed from criminal jurisdiction altogether, for all juveniles up to 16 years old. A huge amount of court time and professional resources are wasted by pursuing more trivial offences, which research shows young people will grow out of in early adult life.

**3.2** There should be more integrated interventions under Section17, by YOT's and social services together, at an early stage, to ensure that only serious and persistent young offenders enter the criminal system.

## 4. Dealing with "More Serious" Offences

**4.1** No court venue or mode of trial should be decided for young defendants until their full cognitive and emotional capacities have been assessed.

**4.2** If there was to be a trial, then the mode of trial should be determined from such options as Traditional Crown Court, Youth Court or Inquistorial/Family Court. This is not the full range of options and the proposed consultation process should look widely at other options. There needs to be research and development on policy to decide the most appropriate mode.

**4.3** Children should not be treated as adults and should not therefore be tried in an adult criminal court, but in a special juvenile court. All children and young people under the age of 16, charged with a criminal offence, should be tried by a Youth Court, possibly presided over by either a high court judge or a judge of equal standing, supported by a panel of two other professionals, experienced and qualified to deal with children. These professionals could include experienced youth panel magistrates (as suggested in the Auld Report), and suitably qualified experts.

**4.4** Children aged 16 to 17, charged with serious offences, such as homicide or rape, could opt for trial by jury.

**4.5** For persons under the age of 16, the terms murder or manslaughter should be replaced by a term such as culpable homicide or unlawful killing, which would not carry a mandatory life sentence.

**4.6** The court should have clear powers, at an early stage, to stop criminal proceedings against a young person, if it felt no public interest would be served by continuing, and there were better ways of dealing with the case.

**4.7** There is a need to improve the consistency of sentencing across the country, to avoid "justice by geography". A post sentence review of available community penalties in each case would help judges develop a more balanced approach to sentencing child offenders. This could lead to greater public confidence the juvenile justice system.

## 5. Young Children who Offend Under the Age of Criminal Responsibility.

**5.1** For children under 10 years of age, there is no age of criminal responsibility. Such cases, below the present age of criminal responsibility (10 years old) should be dealt with by "civil disposal", including containment / removal / curfew / treatment using inquisitorial approach / family court.

**5.2** If the age of criminal responsibility is to be raised, then all cases below that age should be treated as in 5.1 above.

**5.3** For children from 10 to 14/16 years,

- "lesser offences" to be dealt with as for under 10's.
- "serious offences" and "persistent less serious offences" to require an assessment, to determine if **that particular child** should be tried for a criminal offence.

## 6. The Role of Criminal Courts in Ordering Health and Welfare Reports.

**6.1** The court, as well as the local authority, should recognise that offenders are likely to be children in need and thus qualify for assessments and services under Part 3 of the Children Act 1989.

**6.2** The criminal court should have the power to make an order, under Section37, in relation to more serious child offenders below the age of 16, to have the local authority, either carry out an investigation to identify the social, welfare, education and mental

health needs of the child, or indicate why they are not providing services, as set out in the Children Act 1989.

**6.3** No criminal trial procedures for these serious child offenders should be undertaken without such a welfare assessment.

## 7. Training for all Professionals Dealing with Child Defendants.

**7.1** All people working in the specialist courts within the juvenile justice system, including those with managerial responsibility, should have inter-disciplinary training on the developmental needs of young people, on understanding them and on communicating with children. This training should focus on mental health issues in relation to children and young people, their reactions to trauma, deprivation, drugs, bereavement, etc. and the role of family factors in the development of offending behaviour. Training should also encompass the special needs of children and young people within ethnic communities and young asylum seekers.

**7.2** There should be compulsory training for people acting as appropriate adults for children arrested for serious offences, to ensure that the child is referred for a full assessment of his mental health, cognitive capacities and welfare needs.

**7.3** The potential introduction of a young Defendants Pack, highlights the pressing need for the Law Society to introduce a system for training and approval for defence solicitors representing children in the youth courts.

**7.4** No defence Solicitor should be able to take instructions from a vulnerable child or young person facing criminal charges, without being trained and accredited.

## 8. The Need for a Child Defendant's Pack.

**8.1** There is an urgent need to develop a Child Defendants Pack, along the lines of the Child Witness Pack, to inform the child defendant about court procedures, his place in those procedures and his human rights as a defendant.

**8.2** Government should invite applications for funding from the voluntary sector and from specialists, to design and develop a Child Defendants Pack.

## 9. A Restorative Justice Approach for Incarcerated Child Offenders

**9.1** Restorative justice is a problem solving process, involving conferencing, with particular emphasis on reparation, and is known to have the potential of being a positive and powerful means of intervention. It has already been included in the ASSET National Assessment Framework. It seems to meet the needs of the community, prevents the offender from re-offending, and assists in the recovery of the victim.

**9.2** It is recommended that a Restorative Justice approach is used more widely in work with young offenders.

**9.3** Restorative Justice approaches can only progress if those involved are trained, not only to involve the offenders, but also the victims, many who are reluctant to participate in the process.

**9.4** Restorative Justice can and should be used, not only with children within the criminal justice system, but also those diverted from it.

**9.5** Restorative Justice is a process with a great potential to do harm if not resourced properly, with the correct protocols and with properly trained staff. As part of any offending behaviour or cognitive skills course, victim awareness must be a key component, in order to engage and alter the thinking of the young people concerned.

**9.6** Research should be instigated, to show how restorative justice is operating in practice, how it impacts on the offender and victim, and how it impacts on the wider community.

## 10. A Multi-Agency Care and Crime Avoidance Plan for all Child Offenders on Release.

**10.1** It is no good releasing young offenders back onto the streets without having all the welfare, educational, training, housing and job opportunities in place and to which they have access, otherwise they simply return to their offending behaviour. Adequate resources must be found to ensure that these after care services are in place and accessible and are continuous.

**10.2** The 10 Co-Terminus Criminal Justice Areas, which co-ordinate the court, police, probation, social service, education etc., each of which has an area criminal justice strategy board, would seem ideally constituted to progress many of the issues concerned with reintegrating offenders back into the community.

**10.3** The YOT's individual training plans, working with Connexions Parterships, must ensure the continuation of training/education from within "secure colleges", right through to employment. Release On Temporary Licence, with suitable security, should be used to promote this system. At present children on DTO's are not allowed to go out for interviews for jobs or housing. They are simply moved straight out into the community on release, without preparation.

**10.4** To improve the ability of the YOT's to act as the central focal point for a comprehensive range of services, there must be a significant increase in CAMHS input from the NHS.

**10.5** It is recommended that the government should create a functioning mechanism by which employing Trusts can resource mental health input, i.e. psychiatry, psychology and psychotherapy, to YOT teams.

**10.6** The composition of YOT's should include a representative from industry, for the work experience and employment input.

## 11. The Need for a Public Awareness Campaign.

**11.1** The public in its widest sense, and also the media, need to be educated to accept that more child-centred approaches to young offenders, especially those who are seen as dangerous and destructive, is the best all round for both children and the community at large. A balanced view of young offenders as both disadvantaged and dangerous, needs to be put forward to the general public. The benefits of early intervention and the enhanced possibility of rehabilitation also need to be explained along with savings to the public purse of early intervention.

**11.2** A Public Awareness Campaign is essentially a national issue, which can only be government led, with all departments working together, with local communities and professional bodies.

## 12. Early Crime Prevention Initiatives with Children and Parents.

**12.1** Educational exclusion is one of the most important factors leading to offending behaviour amongst the young, and is crucial to their eventual rehabilitation into society.

**12.2** Schools should have systems in place that identify truants, and their reasons for dropping out of school. Such school based systems should include effective liaison with other agencies dealing with delinquent children.

**12.3** Schools should have trained outreach workers, who understand disaffected children, and their special educational needs, children with dyslexia, or other learning difficulties, should be referred to Educational Psychology services or to CAMHS for a full assessment.

**12.4** After school hours need also to be addressed, by providing a modern local youth service with a programme of meaningful activities to which all children can relate and can find help and advice. Such after hours school programmes would be most useful for socially excluded children.

**12.5** The training and education of young people in custody should be focused on individual needs and talents, which should be assessed on arrival. All activities should be geared to motivation and to acknowledging achievements. Children should have access to study in accordance with the school curriculum, and this should be continued on release, co-ordinated by the YOT.

## 19. Departmental Responses / Discussion

**Simon Hickson**, Head, Juvenile Offenders Unit, Home Office.

**Bob Jezzard**, **Jenny Gray**, Department of Health

**John Ringguth,** Head, Prosecution Policy Division, Crown Prosecution Service

**Roger King,** MD Community Intervention, Youth Justice Board

**Commander Stephen Roberts,** Operational Support Unit, Metropolitan Police, New Scotland Yard

**Simon Hickson**

David Blunkett's mantra, is delivery, delivery, delivery, and is imprinted in all his civil servants, including the Youth Justice Board, thus we have carried out a great deal of social inclusion work across government, and have introduced many other crime prevention initiatives. We have introduced a much more focused final warning scheme, a whole new range of court interventions, a reorganisation of the whole of the youth justice system nationally and locally, and speeding up justice and making it more intelligible to young people. There is a huge unfinished agenda, essentially about making the criminal justice system more effective in respect of the existing categories of young offenders. In due course we hope to reach areas to which this conference has pointed, especially concerning who should actually be dealt with in the criminal system.

The big issue of substance for the Home Office and for me is the age of criminal responsibility and how you deal with young people. Firstly, ministers will have to address the politics involved, not just with Thompson and Venables at the top end, but with the realities of life. People will not allow ministers to ignore the wave of medium level youth crime sweeping our cities, which is a big social problem. Any solutions they come up with will have to be seen to tackle these issues very clearly.

You can reclassify this low and medium level crime as significant anti-social behaviour, but it is still behaviour which affects others. What is it that society wants to do with those young people, irrespective of the process by which you get to the decision. This is important, because the process, must link to that. Society wants not only to tackle this behaviour effectively, but also to express disapproval. However, it may be easier, for example, in the wake of the Auld Report to look at the court structure for trying young people. But if you wish to tackle the age of criminal responsibility at the same time, there is a fairly powerful argument for maintaining a system, which looks something like the present criminal justice process.

How this should be taken forward? This is not an area where ministers are going to respond to pressures from their own civil servants. To respond to pressures about crime on the streets, they need people with other interests at heart to present them with ideas and external stimuli. It is too complex an area, to expect civil servants to leave this conference claiming to have solutions.

I think the final discussion may have missed the important gap between the conventional criminal justice process on the one hand and intervention by the social services on the other. In practice, there is a need for something in between, where you have behaviour still marked as anti-social, do not forget the idea of a civil process of some kind, which seems to be an interesting idea to fill the gap.

May I offer a note of caution about restorative justice? Like many people I have become quite exited at its potential, because it actually gets people around the table, too look jointly at problems and solutions, rather than imposing them. The Home Office has looked hard for evidence of its real effects, and as far as we know, any good evidence only exists abroad. As yet there is no good research track record in the UK, but that will change. The Youth Justice Board is carrying out a lot of work on it, and as Ismet Rawat mentioned, the Home Office is sponsoring three fairly substantial projects for adult offenders. We await results with cautious optimism, to see how it impacts on offenders.

**Bob Jezzard**

Our aspirations in the Department of Health are to provide a broad range of child mental health services, and to contribute more effectively to the cross cutting agenda dealing with crime reduction, and meeting the needs of young offenders. We fully appreciate the mental health needs of young offenders, but there are problems in ensuring that the resources are in place to deliver this agenda, within the context of all the other demands being made. These problems cannot be solved quickly as training of mental health professionals takes time, and the recruitment of suitable personnel is not easy.

We will try and feed into the development of the National Service Framework for children, the views and information that have been presented today. It will be a complex exercise, requiring a lot of external consultation, not only about the needs of young offenders within the community, but also those within the YOIs and so we are working closely with the prison health policy unit. The National Service Framework will give us opportunities to highlight the standards we expect, and to map out a clear route to delivery.

The advantage of being part of the National Service Framework is that the standards that are set will be those that can be realistically delivered within allocated resourses. I cannot imagine that the needs

of young offenders will not appear within the National Service Framework, when it is published.

**Jenny Gray**

I would like to pick up on a theme that has been raised many times, concerning the interface between the criminal justice and the child welfare systems, in terms of prevention through early intervention. It is a challenge, for all in government to identify effective interventions and to pull this together, not only making it accessible information to practitioners, but also ensuring it is incorporated into training programmes.

We will need to think carefully about how the YOTs teams co-ordinate their work with children and family teams in social services departments. We must work with the Youth Justice Board to ensure that we use information from our assessments to plan and design interventions, and consider who is best placed to ensure their delivery, and outcomes. So within the work we are already doing, we should be able to use the findings of this conference to assist us to think in a more focused way about the needs of offending children.

There is also a Quality Protects project, looking at children in the care system who offend, and the DoH has set a target to reduce the offending behaviour in this group of young people . The other piece of work that we have talked about is the guidance that we are developing to provide therapeutic help for young offenders. This conference has offered the opportunity to think again about some of the things on which we need to be much more focused, especially the implications for training for the range of different people who are going to be involved in delivering services, and also in terms of providing information for young people themselves.

**John Ringguth**

For policy makers, this is clearly a most exciting time to be working in the criminal justice system. We will shortly receive the Review of Lord Justice Auld, in relation to the criminal justice system. After the legal and procedural issues concerning youth justice that have been thrown in this conference, it may merit a much larger Auld type review of the youth justice system generally. However, in relation to the age of criminal responsibility, do not underestimate its controversial nature in a centuries old adversarial system. Whilst much useful work can be done on this topic, we must bear in mind that any civil disposal which involved compulsory measures, would need to have its ECHR implications closely examined.

I was absolutely delighted, that the child witness therapy pack has at last been published. It could be the model for further work for child defendants. Again, similar difficult issues arise such as coaching, disclosure etc. But like our colleague from the LCD, we will play our part in producing a workable document. It was frightening to hear that so many young people do not understand that it was not for them to prove their innocence. If the pack overcame this misunderstanding, it would be hugely valuable in itself.

It was very helpful to hear from Lord Kay about the role of the prosecutor and public interest discretion. However, I would advocate a note of caution with any such proposals. The CPS was set up as an independent prosecution service, to ensure justice in criminal cases, acting not only on behalf of defendants, but also in the public interest. We are accountable for our decisions in accordance with the code for crown prosecutors and indeed, accountable for a consistent application of those principles. My concern is that the proposal as it appeared to be evolving, could run counter to these issues of consistency and accountability. This is a danger that we would need to address.

Because the CPS has been specifically committed to training and specilism within juvenile justice since its inception, our approach to prosecution in juvenile and youth courts involves specialist prosecutors who understand the needs of the children. We therefore find it perfectly logical that the same form of specialism and training ought in principle to be the approach as far as the rest of the criminal justice system is concerned.

**Roger King**

The Youth Justice Board is a non-departmental public body, which has a huge energy for change. We have made considerable progress for the secure estate, including some cultural changes. We are working on standards in secure establishments, and the closer to home agenda etc. There has been huge progress on speeding up the justice agenda, though this could be a competing priority with some of the things that have emerged from this conference. I was reminding a colleague today that justice delayed is justice denied, and making the consequences follow the offence much more rapidly is very important for young people in the system.

Some 154 Youth Offending Teams have been

established in England and Wales, and each has now produced 2 youth justice plans, and implemented all the new orders. We have new initiatives we are still working to implement, such as the intensive supervision and surveillance programmes, mentioned at this conference, which offer great opportunities for very high intervention programmes in the community for persistent offenders. We also have the referral orders, mentioned today, which I think are a very exciting ways to get the community involved in dealing with people who are just entering the court system.

As Managing Director of Community Intervention, I have to try and get all the Youth Offending Teams working to high and common standards. Performance indicators for the 154 Youth Offending Teams show unsurprisingly a variation in performance, and we must get the resourcing and the leadership right in those that are struggling, to achieve greater consistency and common outcomes. We are also working on an effective practice strategy for the Youth Justice System, by identifying and applying best practice, from early intervention across all the intervention programmes.

Regarding the common objective of identifying children in need who were at the early stages of contact with the criminal justice system, I can agree to this providing it links with the statutory key aim of the youth justice system to prevent offending, which I think it clearly does. Politically speaking, talking purely about the welfare needs of young offenders in isolation is considered a little passe. Academics have developed the idea of criminogenic need, which deals with the full range of issues that caused these young people to offend. The most common criminogenic needs coming out of ASSET are faulty thinking, - the cognitive skills area, and education and learning deficits. If we do not tackle those two, we are not going to get very far.

I have picked up strongly what Jenny said about the linkages to main child care services. I was very struck about Jenny and Bob's presentation followed by Colin Roberts presentation, outlining two different assessment systems. There must be some ways of linking these two together, and Jenny and I have been discussing how there can at least be data transfer between different assessment systems, even if they cannot be pulled together. We are very proud that all 154 Youth Offending Teams and all secure establishments are running ASSET, and we are obtaining collective data which is helping us to monitor more effectively the standards of service, and also what we should be doing in future. We must link with other systems. I feel that social workers in Youth Offending Teams have become divorced from their mainstream childcare background, and this conference has convinced me that it is very important to rebuild those connections.

Concerning Martin Stephenson's comments about secure colleges within Young Offender Institutions, I think some sentencers have used the detention and training order as a means of getting education and learning deficits dealt with. So we are trying to get all the Youth Offending Teams properly linked in to their local education authorities, and also with learning and skills councils to get kids into further education colleges. We have to put an end to kids who kick start their learning whilst they are in a YOI or a local authority secure unit and on release, coming out to a mainstream service that does not meet their needs, or even to no mainstream service at all.

Finally, regarding social discrimination we have issued guidance to Youth Offending Teams. We have also got somebody working hard on the diversity agenda, where both minority ethnic groups and young women offenders seem to get a bad deal.

The conference has helped me to think very widely about the youth justice system, and how it fits in with other related systems.

**Commander Stephen Roberts**

Simon Hickson talked about delivery, delivery, but unfortunately, we keep failing to deliver. If you take street crime, because almost uniquely it is the one offence where we know a good deal about the perpetrator, even if we do not catch him, - yes it is predominantly a "him". In London last year, 56,500 real people were victimised by street robbery. That is about 20% up on the previous year, and which itself is about 20% up on the year before that. We know that our approach to juvenile crime is not working. We know that some three-quarters of the perpetrators of street crime in London are juveniles who have never been in contact with the criminal justice system before. That equates to something like 14,000 kids across London committing street crime once a year. We think that this is a relatively new trend, and it means that more kids are getting involved with more serious crime than before.

Interestingly, about 30% of the victims of street crime are also juveniles. Between 3:00 and 5:00

p.m. on weekdays, as children leave school, there is a definite peak in muggings, especially near bus routes. So we know that street crime is an offence which is of real concern if we are talking about the welfare of juveniles, both for the victims as well as the perpetrators.

We have evidence of a cycle which starts with early neglect and abuse of children by their carers, either parents or their others, which leads to those kids being on the street more often than average children. This leads them to being victimised, often quite seriously, at a very early age. They soon realise that being a perpetrator is much better than being a victim, and by the age of 10 they are involved in criminal activity themselves. They further realise that it is much better if you are involved in crime as part of a gang. This gang-based criminality is then preys on the next cohort of kids that grow up on the street, so it is a self-perpetuating cycle. In many cases we do not get to know about these kids in the criminal justice system until they start victimising older children and young adults. This self- perpetuating cycle is difficult, if not impossible, for the police service to break.

Probing into this issue, we found that although those children were not known to us, they were known to other caring agencies, mainly as victims of crime and criminal abuse. Disturbingly in some cases, they were victims of quite serious sexual assaults, but they had only told other professionals about this on condition that they did not pass on the information. This meant that if it was not reported to the police, nobody had the opportunity to intervene, and change their lives. That, to me, is deeply, deeply disturbing.

So, from our point of view, why isn't it working? Firstly, if you wish to intervene in the lives of children, it is difficult to find the funding. There are literally dozens of different government funding schemes available to fund any of these initiatives, all with different bidding regimes, different evaluations, different timetables, and last for different time scales. So it is actually very difficult for YOT managers to plan what they should do. There is also a lack of rigorous evaluation of which interventions really work, which presents a YOT with further problems. Even if finances are available, where are the skilled people who can do this work? Whilst there are many willing volunteers, there are not many people waiting to be employed to do this sort of work. This is a real long-term issue.

Another area of difficulty involves data sharing, around which there are three levels of difficulty. Firstly, there are many caring professionals who believe that the Data Protection Act prevents them from sharing personalised data. We have advice, that we hope to have confirmed, that is perfectly legal to share personalised information provided that it is done under an established proper protocol, for the public and the individual benefit. Secondly, even if it was proven to be legal, many professional groups think it is professionally unethical to share that sort of information. For example, the teacher who has been told in confidence that a child has been the victim of serious sexual assaults does not feel that they can share that information because of the confidential aspect. Thirdly, we have got to address the fact that many organisations do not have the systems to collect information it to enable them to share it, even if they wanted to.

What is being done about it? The Action on Youth Crime Unit has been set up within the Government for London, which we hope will become a model for the rest of the country. They are trying to identify an equivalent of ASSET, which will allow us to intervene with the right children to prevent them from offending. As regards the funding mess, we need an entrepreneurial civil servant who is able to look across the various funding schemes and find the right one for the YOT manager, or the local authority chief executive who wants to instigate a scheme. We are disseminating best practice, and very important, commissioning research to fill the gaps in criminal knowledge. We do not yet have sufficient information required to assess the degree of need in the above to generate a reasoned case for a large increase in funding for youth provision in the next comprehensive spending review, but that is what we are working towards.

## Discussion

**Valerie Howath**

Unfortunately, since we do not have anyone on the platform from the Department of Education and Skills, how do the panel see themselves linking into education from which many offending young people have been excluded and yet is vital to their development.

**Bob Jezzard**

All of us working in government departments now find that we have much more regular linkages across departments than we ever had before. It is very challenging making time to ensure that we can get together, but there is much productive

activity going on and the DfES is very much involved. The publication of the document on promoting mental health in schools by the DfES is but one example.

**Simon Hickson**

My great hope is the Connexions Service, which aims to provide a personal advisor for all 13 to 19 year olds to guide them generally, but particularly into education and training opportunities. Although there has been a great deal of discussion about its role in practice, we may have come up with a compromise: to provide personal advisers with much smaller case loads, working with the kind of kids that we have been talking about at this conference. We intend to make sure that this role is confirmed. Where it has been piloted by putting a personal adviser inside the Youth Offending Team, I've seen marvellous examples of kids coming back into the systems after having been out for years, with training schemes outside mainstream education, linked to further education opportunities. We must get these kids back into education, and the view of the Board is to access mainstream education, in preference to the simpler route of paying for a couple of teachers in a portercabin at the back of the Youth Offending Team.

We've got to end the culture of truancy and exclusion, with children who that nobody knows about. The Youth Offending Teams are picking up hundreds and thousands of them up and down the country, and we have to get them back into mainstream systems. Every Youth Offending Team, as part of their funding from the Youth Justice Board, has to come up with a strategy with their local education authority and Learning and Skills Council for getting all their kids back. We have made some progress, having agreed a joint objective with Connection Service, that they will assist us to get 90% of all the kids that we supervise back into education, training or employment. Over the next 2 or 3 years, this should really impact on offending.

**Ismet Rawat**

We have spoken in this conference about catching children before they actually get into the criminal justice system. I have recently been involved in some work with DfES who has undertaken a new initiative in terms of parenting orders. They now have a mechanism available in schools, for a parenting order to be issued involving parents and children as a family. However, how do you access those children who are falling through the net of all the educational services because they are simply not there, whether they are caring for parents or whether they are truanting?

**Elizabeth Haslam**

If we are so keen on education and training and jobs, what was the thinking behind the clause in the Skills and Learning document that excludes young people in prison from having day release to college? It is very difficult to find funding for these young people.

**David Simpson**

Simon, it is said that the Crime and Disorder Act is underpinned by principles of restorative justice, but that practitioners found out about that only after they had implemented the Act. With the Youth Justice and Criminal Evidence Act, it is clear that in many areas the referral panels are being established with training in basic principles of restorative justice, but it is not the same throughout the country. In some areas the reparation order has been promoted along restorative justice lines, and in other areas more on a community service line. We desperately need some departmental statement, adopted by the major criminal justice agencies, to clarify what we are talking about in terms of restorative justice.

Firstly, John I learnt very early on in my working life, that the last thing you did was to volunteer to take over a job from someone whom you felt was not doing it well enough. With this approach, I am quite happy to let John exercise his public interest and to discontinue appropriate court cases. However, I would like to see some flexibility in the system, so that if cases inappropriately get to the Crown Court, there is a way of quickly moving them back to the Magistrate's Court, or to the Youth Court, where they belonged. In these days of electronic transfer, this can be achieved overnight, it should not take days, weeks or months. Secondly, in those cases where children are under 14 and where their welfare interests really do take precedence over the public interest, then the Youth Court should have the authority to transfer the proceedings to the Family Proceedings Court. I think those two issues, by just increasing the Youth Court's and the Crown Court's flexibility, we would have greater justice, and it should not be that difficult to achieve.

**Roger Toulson**

Simon Hickson gave a very clear summary of the political landscape against which we have to look at any suggested change in the age of criminal responsibility. I see two "nettles" which need to be grasped. "Nettle" 1 is a point that has been made by many people, but Arnon put it very succinctly when he referred to it as the false dichotomy. Do we see the young person as a nasty, dangerous offender attracting disapproval and displeasure, or do we see him as a victim in need attracting sympathy? The public and the media like to put him in one pigeonhole or the other. But those involved with the system know that it is a false dichotomy. Now how is that "nettle" to be grasped? I am persuaded that one only has to look at both sides of the system to see the child as both, by having a fundamental change to our system of jurisprudence for children. Here I would concentrate initially on children under 14, and would want to put an alternative method in place for the young anti-social person, involving a unified jurisprudence rather than a civil and a criminal system which we presently sit uneasily together, and which encourages this polarisation of approaches.

"Nettle" 2, refers to any alternative system propounded by law reformers, which must be devised and presented in a way which is not and does not appear to be soft on serious anti-social behaviour, and which is also compatible with the European Convention, the point by made by John Ringguth. Now, it seems to me that lawmakers will only be persuaded to grasp "nettle"1 by forceful arguments presented from the outside by informed groups, but these same groups will have no prospect of success in advancing their arguments unless they grasp "nettle" 2 in a convincing way. Therefore, it seems to me, that the approach that we have provisionally arrived at, suggesting that this is an area for further consultation, is correct. But perhaps written into our final recommendation it needs to be tilted slightly more towards the need to ensure that any alternative system of jurisprudence is aimed to protect society. Without that under-girding it, the recommendation is not even going to reach base camp.

**Peter Harris**

Such an exercise is going to be a difficult and complicated one, not least because it will impact on so many ancillary agencies. Therefore, in order to carry it forward beyond the suggestion formulated so articulately by Roger Toulson, it needs a body which will work it up rather more, before it can be seriously put forward as a politically acceptable proposition. Whose help do we enlist, and what sort of referral can we make, because I think it is quite beyond the Sieff Foundation and conferences such as this to work up these proposals in detail? Nervertheless it is an absolutely crucial concept to take forward, because it is so fundamental to the whole thrust of what we are trying to do.

**Eileen Vizard**

I am sure we would want to contribute very actively in any such consultation process, and there are individuals here who would have much to contribute. We are talking about who could take the lead, and which body or grouping would be best to try to co-ordinate the grasping of "nettles" 1 and 2. We can certainly write these up in the recommendations in our report, but people would ask "what now?".

**Peter Harris**

Maybe we ought to think about Justice or one of the children's charities, which has the necessary resources, both in terms of skills and in terms of time and money, to work up these proposals in much greater detail.

**Eileen Vizard**

We have to be sensible about where substantive funding would come from, to support such an initiative. I am sure the NSPCC would want to be on board.

**Steve Hart**

I wonder whether there is a case for another meeting of the conference steering group, to develop ideas for carrying recommendations forward, once they are in their final form. This document could be appended to the conference report, so that people could then contribute further if they so wished. Can this be done effectively at this stage without having recommendations in their final form?

**Eileen Vizard**

We could certainly do that. But Steve to whom do we address the letter in terms of getting a positive response?

**Sharon Moore**

As a member of the Children's Society, I can say that many things mentioned are in tune with our

views. I cannot commit my organisation at this stage, but we would be interested in moving these issues along.

**John Ringguth**

I was just thinking how you could take this forward. The Auld review will, of course involve a number of months of public consultation, depending on the recommendations for the youth justice system. It may well be that the Sieff Foundation would want to put in some representations and comments on the back of the findings of this conference.

**Simon Hickson**

Concerning the Auld Report, it will talk about the courts and court structure, and although mainly on the adult side, as John as said, it will be a peg to which you can attach your report.

**Eileen Vizard**

We could feed our conference report into the Auld consultation system, with a request for some clarity to be sought concerning the person who is going to take a lead in future changes. It is clearly impossible to give a simple answer today.

**Sue Bailey**

Justice may not have the money, but they have the brains to grasp the "nettles", based upon their experiences in Europe.

**Alan Taylor**

I am pleased to see the Police Commander here because his presentation was one of the most powerful illustrations about realities on the street. But as regards who should take the report recommendations further, it seems absolutely clear that it is the Youth Justice Board.

**Roger King**

It is the Home Office who actually puts any legislative reform in place. Our job is to advise the Home Secretary on the functioning of the system, collect and publish information and implement changes. Finally we have covered a whole range of issues and I expect the conference report will contain a number of recommendations. Is it possible to identify those issues that can be taken up under existing legislation separately from those issues requiring more fundamental change? This debate is welcome and the timing in terms of the new government, and the Auld report, is ideal.

## 20. Closing remarks by Eileen Vizard

Eileen brought the conference to a close by thanking everyone for attending and taking such an active part in discussing the large number of very complex issues. In writing up and distributing the report, she confirmed that the Foundation would bear in mind the suggested ways forward.

Eileen also mentioned that in conjunction with Sally Howes and Michael Lawson's chambers, she and Elizabeth Haslam, through the Foundation, would be organising a one-day follow-up conference in Temple, possibly in spring. This conference would concentrate much more on the complicated legal issues, thrown up by this conference. She hoped that those interested would be able to attend, and she would let them have details in due course.

## 21. Acknowledgements from Lady Haslam.

Elizabeth expressed her thanks, on behalf of the Chairman and her fellow Trustees, to Eileen Vizard, Trevor de Tute and the Conference Planning Group, for all their hard work in organising the conference, and to the speakers who clearly put a great deal of time and effort into their task. She also thanked all the delegates for participating so actively and positively.

Finally Lady Haslam paid tribute to Sir Robert Ogden, CBE, LLD, for his continued generous financial support for the Foundation.

## 22. Summary of Conference Recommendations

**1.** Government to initiate consultation to raise the Age of Criminal Responsibility and associated juvenile justice issues.

**2.** Raise the Age of Criminal Responsibility in line with other European countries.

**3.** Remove "Less Serious Offences" from the criminal justice system and have a "civil" disposal using an inquisitorial approach/family court, to allow for court-ordered interventions which could include removal, treatment etc for 10-16 year olds.

**4.** "More Serious" offences, for 10-16 year olds, need:

a) Health Assessments

b) Welfare Assessments

c) A Mode of Trial Decision based on a) and b)

**5.** Under the Age of Criminal Responsibility (currently 10 years old), children who have committed "more serious" and "persistent less serious " offences, should have a "civil disposal" as in 3 above. Children under 10 years old, with "more serious" and "persistent less serious" offences (persistent young offenders), should have a long-term Health and Welfare input and their progress reviewed regularly by a court-designated statutory body within the context of a court ordered Multi Agency Care and Crime Avoidance Plan.

**6.** Criminal Courts to order Health Trusts to provide Mental Health Assessments [4a)], and Local Authorities to provide Welfare Assessments [4b)] in order to assist the criminal court in making a mode of trial decision [4c)].

**7.** All professionals from all disciplines dealing with child defendants between 10-16 years old must have accredited interdisciplinary training on the developmental, cognitive, mental health and welfare needs of children and young people.

**8.** Recognise the needs of Child Defendants in the court system by providing a child defendant's pack to inform him about court procedures and his human rights as a defendant.

**9.** In custody, child offenders should be dealt with using a restorative approach to help them understand their crime, its impact on victims and the offender's role in society.

**10.** On release, a Multi Agency Care and Crime Avoidance Plan must be implemented for the child offender. This plan should encompass any necessary Children Act '89 Orders and child protection measures, health re-assessment and all the child's welfare needs including education, housing and job opportunities.

**11.** Mount a campaign to raise public awareness of the needs of child defendants and also to address evenly their unacceptable antisocial behaviour. Provide information about their disadvantaged backgrounds and the benefits to society in terms of public safety by taking steps to prevent them re-offending.

**12.** Give priority and a clearer focus to existing government initiatives to prevent youth offending and extend them urgently to include interventions with young children from 12 years downwards, their parents and carers.

# DELEGATES - page 1

**Dr. Richard Alexander,** Chartered Psychologist

**Ms. Liz Atkins,** Head, Policy & Public Affairs, NSPCC

**Dr. Arnon Bentovim**, Consultant Child & Adolescent Psychiatrist and Trustee Michael Sieff Foundation

**Dr. Sue Carvalho**, Head, Forensic Clinical Psychology, North London Forensic Service

**Mr. Gordon D'Silva**, Chief Executive, Training for Life

**Mr. Trevor de Tute**, Administrator, Michael Sieff Foundation

**Mrs. Mary de Tute** Co-ordinator, Conference Proceedings, The Michael Sieff Foundation

**Chief Inspector Brian Dowling,** Criminal Justice Office, Metropolitan Police

**Dr. Michele Elliot**, Child Psychologist and Director Kidscape

**Ms. Barbara Esam**, Lawyer Protection Awareness and Public Advocacy NSPCC

**Dr. Donald Findlater,** Deputy Director, The Lucy Faithfull Foundation

**Ms. Elena Fowler MA**, Chief Executive Officer, National Youth Advocacy Service

**Ms. Dorothy Gonsalves,** Head, Youth Court Section, Home Office

**Dr. Lesley French,** Forensic Psychologist, Young Abusers Project

**Mr. Richard Green**, Practice Development Officer, NSPCC

**Mr. Peter Grenville**, Neighbourhood Support Fund, Department for Education and Skills

**Mr. Peter Haddon**, Lawyer, and Manager of a CPS London Branch.

**Ms. Yvonne Harlow,** Prisoners' Learning Skills Unit, Department for Education and Skills

**Mr. Peter Harris**, Trustee Michael Sieff Foundation, and formerly Official Solicitor to the Supreme Court

**Mr. Steve Hart**, Social Services Inspectorate, Youth Offending Services, Department of Health

**Lady Elizabeth Haslam**, Founder and Trustee, The Michael Sieff Foundation

**The Lord Haslam**, Chairman, The Michael Sieff Foundation

**Mr. Colin Hawkes,** Probation Officer working with Young Abusers Project

**Ms. Thea Henley**, Director Legal Services, National Youth Advocacy Service

**Baroness Valerie Howarth OBE**, Trustee Michael Sieff Foundation and recently Chief Executive, ChildLine

**Ms. Sally Howes**, Criminal Barrister, Experience with child witnesses and child defendants in Crown Court

**Mr. Rupert Hughes CBE**, Trustee Michael Sieff Foundation

**Ms. Louise King**, Research and Policy Officer, British Youth Council

**Mr. Terry Lee**, Director Priory Services for Young People

**Dr. Michael Little**, Trustee Michael Sieff Foundation, and Dartington Social Res. Unit

**Mrs. Louise Littledale LLB**, Legal Services, Oxfordshire County Council

# DELEGATES - page 2

**Ms. Nicola Lowit**, Education Advisor, Juvenile Operational Management Group, HM Prison Service

**Professor Christina Lyon,** Faculty of Law, University of Liverpool

**Ms. Linda Mason**, New Deal for Young People, Department of Education and Skills

**Ms.Sharon Moore**, Manager, Youth Justice Programme, Children's Society

**Ms. Dinah Morley,** Professional Services Manager, Young Minds

**Mr.Theo Mutali**, Youth Justice Board, Consultant Child and Adolescent Forensic Psychiatrist

**Dr. Lesley Noaks,** School of Social Siences, Cardiff University

**Ms. Tink Palmer,** Manager, Bridgeway Project, Barnardos

**Mr.Grantham Pulford**, Head, Youth Justice Branch,Lord Chancellor's Department

**Lady Susan Ramsbotham**

**Ms.Ismet Rawat**, Juvenile Offenders Policy, CPS Headquarters

**Mr. John Ray-Price,** HM Inspectorate of Prisons, Home Office

**Dr. Judy Renshaw**, Head, Inspections and Restorative Justice, Youth Justice Board

**Ms. Safron Rose**, Area Manager, Childrens Services, NSPCC.

**Mr.David Spicer**, Assistant Head, Legal Services, Notts. County Council, and Hon. Sec. BASPCAN

**Mr.Chris Stanley**, Magistrate, and Head, Youth Crime Section, Nacro

**Mr. John B. Stevenson,** Ofsted

**Mr. Bruce Tate**, PE Governor, HMP Regime Services

**His Hon. Judge Alan Taylor**, Youth Justice Liaison Judge for Birmingham

**Lady Elizabeth Toulson,** Chair Elect, The Children's Society

**His Honour Mr. Justice Roger Toulson**, High Court Judge

**Ms. Sara Trikha**, Research,Statistics & Development Directorate, The Home Office

**Mr. Brian Waller**, Chief Executive, Homestart U.K. Previously Director of Social Services, Leicester

**Ms.Penelope Welbourne**, Dept. of Social Work, University of Plymouth

**Mr. Richard White**, Solicitor Specialising in Child Law and Trustee, Michael Sieff Foundation

**Ms. Caroline Whitehead,** Visiting Advocate, Voice for the Child in Care

**Dr. Julie Withercombe,** Consultant Child and Adolescent Psychiatrist

**Mr. Norman Woodhouse**, Chief Executive, Direct Communications, and Media Adviser, Michael Sieff Foundation