



# Alternatives to prison

## The second of three public consultations



In partnership with the Independent Inquiry into Alternatives to Prison, funded by the Esmée Fairbairn Foundation

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**Nicola Heywood-Thomas:** Ladies and gentlemen it is a great delight of course to see so many of you here. We have limited time so I should stress that from the outset and it is a great delight that so many of you are interested enough to attend this evening. Of course it is a public consultation forum as I'm sure most of you know, organised by the Royal Society of Arts, to support the evidence gathering of the Inquiry.

Now this is one of three events around the UK, views and contributions from the audience therefore do form a very important part of the Inquiry's work and it is, as again I'm sure you're aware, an independent inquiry. It is funded by the Rethinking Crime and Punishment Initiative of the Esmée Fairbairn Foundation and started work in the spring this year; it will take a year to complete the work.

I would like to introduce to you the members of the Commission here this evening. We're delighted that the Chair of the Inquiry, Lord Coulsfield is with us. His Lordship served as a Judge in Scotland from 1987 until 2002, he'd previously practiced at the Scottish Bar, took Silk in 1973 and has chaired a number of committees connected with the reform of court procedure and legal education. He was also a member of the Scottish Court in The Netherlands which dealt with the Lockerbie air crash.

With us too, Andrew Flemming-Williams, one of the five Commissioners working with Lord Coulsfield. Andrew is Treasurer of the Prison Reform Trust and an external member of the Senior Management Team at Wandsworth Prison. He retired at the end of 2002 from a career in insurance and was a Justice of the Peace between the years of 1988 to 1993.

And finally, Valerie Keating is the Secretary to the Enquiry. Valerie is on secondment from the Home Office.

So ladies and gentlemen that is our panel, I think it would perhaps be useful before we get into our case studies to ask his Lordship, Lord Coulsfield, a little bit more about the reasons behind the Inquiry and the remit of that.

**Lord Coulsfield:** [IA] ... raise the standard of the debate. The Inquiry proceeded... the initiative proceeded by making grants to a number of organisations to carry out research but the Trustees came to feel that that was not sufficiently focussed as it was developing and that it would be useful to have an inquiry into alternatives to custody and they asked me to chair it. The basis on which we took it on, I and the other members of the Commission, was that it was strictly an independent inquiry and nothing to do with any number of campaigning organisations putting forward one point of view about the right approach to the criminal justice system, or another view that our endeavour was to be to take a fresh and independent look at the problems which arise.

As I'm sure all the members of this audience appreciate the number of people in prison in England and Wales has risen spectacularly in the last ten years from something around 45,000 to something over 74,000. I don't think everybody appreciates to quite the same extent that the number of cases actually dealt with in Court has not increased over that period, not significantly, according to recent research carried out by Professor Mike Hough at South Bank University. That's quite distinct of course from the question of what is the amount of crime, is there increase in the amount of crime in society. But the number of cases actually being dealt with by the Courts has not increased and there's nothing much in the statistics to indicate that there's been any great increase in the seriousness of the crimes which the Courts have been dealing with overall. What has happened is that there has been a sharp increase in the proportion of cases coming before the Courts in which a custodial sentence is pronounced and has been... there is evidence of an increase overall in the length of custodial sentences. So that there appears to have been over the last ten years a quite distinct moving away from other forms of non-custodial treatment, fines included, towards custody. And of course we all know that prison is very expensive, we all know also that if it is the right way to deal with the threat to society

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posed by crime to put people in prison for longer periods then the cost is something that may just have to be borne but it did seem worthwhile in this context to have a look as I've said about the evidence which can be gathered about non-custodial disposal, just to see whether there is an alternative to the rapidly increasing prison population and what the proper contribution of non-custodial disposal should be. So it's with that in mind that we have taken up the RSA's offer to organise these roadshows for us and in the hope that we would receive comments, impressions and suggestions which would be of assistance to us. We are of course here to learn not to pronounce on anything. The way we thought of going about it was by taking one or two case scenarios which Nicola will introduce in a moment, as our means of trying to focus people's minds on the sort of questions which do arise in the Courts and as a further means of trying to focus the reaction which the audience may have to one way or another of dealing with this sort of case. But the scenarios are not so to speak so much important in themselves but we hope may provide a way into a discussion of a proper approach which should be taken towards questions of crime and punishment, prison and its alternatives.

**Nicola Heywood-Thomas:** Thank you very much indeed. We can move to the first of the scenarios which Lord Coulsfield just referred to there. I believe there are copies of these around but just to briefly run through the first one. We'll take the first one on the sheet which is the case of a young man aged 17, 18 assaulted a middle-aged woman in the street in the late afternoon. He knocked her to the ground and seized her bag. In the course of taking the bag he twisted her arm to force her to let go of it, the victim sustained bruising to her arm, leg and shoulder and was very upset. The offender pled guilty at an early stage of proceedings, he wasn't employed and depended on benefits but he had had two short periods of employment since leaving school. He had two previous convictions for taking and driving away motor vehicles and a general history of destructive behaviour. Pre sentence reports showed that he had had a history of truancy from school and exclusion from classes and had

left school without qualifications of any kind. They were however cautiously optimistic about the possibility that he might respond to probation or community service.

The questions we're asking is should this offender get a prison sentence? Is there another way to deal with this case, and if so what would you suggest? I've been suggested that Graham Beech from Crime Concern would like to start us on this, so a comment from Graham if you would Graham.

**Graham Beech:** Thank you. Good evening. I think the way we would approach this is to look at three issues: one is the severity of the offence; the next is issues regarding the offender and then address the sentence itself. In terms of the severity of the offence, irrespective of the long term physical impact on the victim, this is a serious offence which did impact on the victim and as importantly will have impacted on the fear of crime in the local community, which is a huge issue, particularly in Wales. In terms of the offender it seems that his offending is becoming more serious and there's a degree of pre-meditation and/or persistence in this particular offence in that it wasn't just an incident which happened in a flash he did persist in order to get the bag off the person. He also displays other risk factors such as the truancy, such as the periods of unemployment etc. We would also say he's in that difficult age group which is sort of between that which is dealt with by the Youth Offending Team and that which is dealt with by Probation and therefore how he is dealt with; his age is going to be relevant to that. Certainly there needs to be a robust form of sentence in this case which does address both the severity of the offence and the risks he poses, that we would say that it needs to be community based. Whether that means a period of detention or not the period in the community needs to be community based, needs to be relevant to that person and shouldn't just be about reporting to an office many miles away from his home and many miles away from where the offence was committed and from where he lives, it also needs to draw in different sectors of the community in the

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sentence. Possibly allowing for a degree of reparation and mediation. Yes, a custodial sentence would take him off the streets for a very short period of time but it's unlikely to impact on his long term offending.

**Nicola Heywood-Thomas:** Thank you. Many thanks Graham.

**Maggs Lyons:** My previous work was actually working with young people in Cardiff Youth Offending Team but specifically around drug issues and I have experience of visiting young people who have had a custodial sentence and when I asked this young man 'what have you learnt from your sentence' and he said 'oh when I come out I will be able to do dwelling house burglaries' and sometimes restorative justice is a far better option than actually giving somebody a custodial sentence where they sometimes meet with people that are not going to be that sort of intervention in their future behaviour.

**Nicola Heywood-Thomas:** So in this particular instance certainly not a custodial sentence but would you like to be specific about what you would recommend?

**Maggs Lyons:** I think closely working with the Youth Offending Team there are some such things as orders that have curfews attached to them and ISSP, good monitoring and some sort of reparation but... it's very difficult to actually get victims to be involved in reparation, which I can understand because if somebody had hit me on the back and sort of stole my handbag I don't think I'd want to be involved with them, but actually encouraging more victims to get involved and getting young people to actually take responsibility for their actions and see what effect it's had on the victims.

**Nicola Heywood-Thomas:** Thank you very much indeed.

**Sandra Skinner:** Thank you very much. This young man sounds rather like a number of young men that we're dealing with, with the Duke of Edinburgh's Award throughout Wales, some of whom are involved with Youth Offending Teams and some of whom are on probation. There seem to me to

be a number of issues here that would need addressing and we need to go back in time really looking at his destructive behaviour, his lack of education and the way that he's come out of school, those are the areas that need addressing in order that he's able to take up employment perhaps and to regularise his life style. But that doesn't mean to say of course that you would dismiss the seriousness of this offence and obviously that needs addressing as well, but a community based order would seem to me to be a much better option, giving him the options of some sort of education, building towards employment and gaining success in parts of his life through programmes such as the Duke of Edinburgh's Award.

**Nicola Heywood-Thomas:** Sandra, thank you, and anyone else from the floor who would like to speak...

**John Trew [National Officer for Victim Support of Wales]:** I think one of the interesting things about all the previous comments is that they've all been putting the offender at the centre of the process, and I think that's wrong, I think the victim needs to be at the centre of the process. We're fed up of blind justice, justice being blind but to take the blindfold off and so that the effects on the victim are seen and taken into consideration. Yes, this woman may have been knocked to the ground, she may have slightly twisted her ankle but many of the victims that we're working with, have much longer term and debilitating injuries, psychological injuries than the simple cuts and bruises, especially when they are attacked in this way. Many of the victims, when they see community punishments they believe it to be a slap on the wrist. As an organisation we don't make comments about sentence length, the one thing that I would say is that victims needs, if we are to take alternatives to prison and custody then those victims need to have an understanding, those community punishments need to be visible and the victims need to have some faith in them that they will work.

**[Inaudible comment from the floor]:**

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**John Trew:** We would support, Victim Support supports these moves towards RJ, restorative justice, in fact only today I was talking to a woman whose sister was murdered ten years ago and she is keen to speak to the murderer to find out why he did it, to put some sort of sense on it, to find out what made him do it. The man pleaded guilty and therefore because of that the details of the crime were not made known to her and still not after ten years and we would support moves like that, to move restorative justice from just work with young offenders but to all offenders and even in serious cases like murder.

**[Inaudible comment from the floor]:**

**John Trew:** I haven't, I haven't. I am, I would be... my colleagues who work in the field though have supported those, one of the... they support them and have shown that when victims do take that big step it can be very powerful in their healing process because one of the things that victims feel is why me, what did I do wrong, what mistakes did I do, what steps did I take to cause this. And one of the good things about meeting the perpetrator, meeting the offender is that they say 'well you were just there, it was just random' and that's often a relief for a lot of the victims.

**Roy Morgan [Criminal Defence Practitioner – Cardiff]:** Great sympathy with victims obviously, but unless this process involves putting the offender at the centre of the process we're going to continue to have offenders, continue to have offending, continue to have victims obviously. The lady behind you mentioned an ISSP. ISSPs I think in reduced form can be dramatically effectively as an alternative to custody. One of the problems is as I understand it that one of the main criteria is that the offender has to have had a previous custodial sentence and therefore they've been through the system, they're entrenched in the system and often it's too late. Compare that with some of the other youth projects which are front loaded to avoid offenders becoming entrenched in a system and you keep them out of custody and you take them out of the system at an early stage and they work.

**Valerie Keating:** What about, you were saying on victim support, that there was a need to ensure that the victims understood community punishments, I mean what is the element in community orders of various sorts that would be sufficiently punitive, I mean given that people see prison as punishment, what about community orders, where is the punishment element there that you can get over to victims?

**John Trew:** What I would say is that prisons are visible; you know you've probably walked past or driven past it, people understand what that is. If you ask people what a community punishment is have you seen one, do you know anybody who's been on one, the answer is probably 'no' and most victims simply believe that to be a slap on the wrist. Now I've actually had some contact with that and they can be very, very effective but the victim has to believe in it and has to understand it and we have to do some work on selling that to the public, to ordinary citizens out there, what this means, so it's visible and they can see it.

**[Lecturer in Criminology at Cardiff University & Former Social Worker]:** I just wanted to say I think understanding of community based orders actually needs to go beyond victims to the general public because I think that's where a lot of the problem is that the first speaker talked about this needing a robust sentence and I think anything other than prison fails to be seen as a robust sentence and actually the new orders that are in place do actually take out of people's leisure time, make much more demands on them and there almost I think needs to be a PR exercise about selling to the public what you describe as the punitive elements of it so there is... we go away from this public demand for being tough on crime and that only being seen as imprisonment basically.

**Michael McGrane [Past High Sheriff of Mid Glamorgan]:** So I have no professional knowledge other than diverse opinion which I gained from visiting prisons and the like. And I would make it a worthy proposal that in this instance perhaps a combination of both may be worthy. It was

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noted that first prison attendees if you like get a great shock in the first fortnight to three weeks, after that they join the club; it becomes unimportant, three months, four months, five months and again this club, a social sort of gathering one way or the other. So I would suggest that perhaps a short term in prison, three or four weeks, no more and then they're brought back into the community for a community spirit.

**Nicola Heywood-Thomas:** Thank you. Can I just ask you if that is the case and the shock element of prison in its first few weeks, if the sentence itself were limited to just a couple of weeks would it still be as shocking to an individual do you think?

**Michael McGrane:** As long as they know that they're going to have to do other probationary duties if you like to some extent. I think the proposal I'm putting forward would satisfy the offender, in fact who has said he has some justification, but more important is the person who's been offended against and it's a serious problem in point of fact, street crime, it's worthy of a prison sentence, but make it a long way and it doesn't effect. There has to be some marrying of both processes in my opinion.

**Anna ? [Housewife, mother & student]:** I have no expertise in this area but I would just like to make a comment, having read this profile of this young man who is aged 17 to 18, I think one component that we are not focussing on is the family itself, that he is from. Somebody mentioned restorative punishment and we're all talking about custodial sentences and we're looking for alternatives and in my mind I think there ought to be some sort of corrective justice which is worked out from a social level, where you not only correct the actual person who's committed the crime but as well as treat the family. So I would want to see some sort of a system in which the family is also involved in trying to not only correct the person but themselves in the fact that they have neglected his upbringing and the fact that he's gone by the way side. It all boils down, from my point of view to family values which sadly in Britain today are something that we don't seem to pay much

attention to. And hailing from an Asian family to me that's very, very important. So I don't know whether this point is relevant or makes sense or not but I feel I ought to make it.

**[Comment from the floor]:** I'd just like to follow on from that lady, I think there are two elements in any such case, there's a therapeutic behavioural change and there's a punishment. Obviously the victim has to feel that justice has been done and there have to be consequences of any action. But I support what the lady just said, there's not enough behavioural change going on here, now whether that is because of a family or not I think has to be evaluated in each case. I wouldn't want to make a blanket statement that all families are to blame for such offences, but I think even as a support network as part of behavioural change and therapeutical intervention, alongside punishment I think families are important, and I think the non-custodial, probation type sentence gives time and opportunity for more therapeutical intervention with that person with potentially the threat of custodial sentence if they don't comply.

**Simon Fordham:** I'm not speaking as somebody from the RSA here but somebody who in their previous incarnation ran for three years the Services Corrective Training Centre in Colchester and also six years ago was responsible for, or partly responsible for opening Park Prison at Bridgend where we had a large number of young offenders. I've two observations to make really, one, I entirely agree with what the lady said about the family support, if it's there, and that's the whole crux of the matter, where it's there then you can build on that but so many of the young men and women that I saw in my time the problem was that that family support had long gone. As early as 11 and 12 young men would say to me they'd started in institutions and had just built from one institution to another institution until they found themselves in Park Prison with absolutely no future whatsoever. The other element I think which doesn't appear to have been mentioned although I may have missed

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it is the question of electronic monitoring and I think that we, the company I work for, actually pioneered it in this country and I do feel that that is an area where we can make better use of it. It's interesting to note that the soap 'Coronation Street' at the moment is running with one of its rogue characters as being tagged and it's an interesting reaction to see, I know it's a soap opera but it's interesting to see how that has sort of gone into that particular story line there. So I think where we've got things that we can build on the family then added with monitoring there's a way of building up real alternatives but where there is no family then I brave to say then that much of what is said there really is, it's a problem as much as anything else.

**Nicola Heywood-Thomas:** Simon thank you very much indeed. In the interests of time ladies and gentlemen we will have to move on but just as an interesting exercise could I ask for a show of hands. Let's do it the other way round, those people who don't think that in this instance the offender should be given a custodial sentence, all the people who don't think that this offender should be sent to prison? It is very unscientific ladies and gentlemen but it looks just about 50/50 in the room. So we'll leave it at that, thank you.

Let's move on to the next of our cases. The next scenario is a woman aged about 30 pled guilty to supplying heroin over a period of about 8 months. The supply was on a relatively small scale involving about a dozen regular customers who bought from her once or twice a week and a few other casual customers. The value of each purchase was no more than £10 or £20. There was no evidence of encouragement to the purchasers who were already established users. The offender herself was a user of heroin, she had a string of convictions for shoplifting and had twice been imprisoned for short periods. She was a single parent with one child aged ten. Reports gave a picture of a pretty shiftless lifestyle and were not optimistic about the chances of improvement. She had not been the subject of any previous probation requirement or similar intervention.

Well ladies and gentlemen, would anyone like to start us...

**Nicholas Cook [QC and a Recorder]:** These are the sorts of cases that might well appear on my list so I actually have to do these for real, as is true of the lady and gentleman sitting on either side of me. Number two is interesting because that probably is a case where we would now have an option of considering a non-custodial form of disposal whereas very recently we wouldn't have done so. Because she does appear to be a candidate for what is called a Drug Treatment and Testing Order although there's controversy about the use of that for people who are concerned in supply because of the opportunities that it gives them to meet other customers, that has a good deal to do with the way in which the order itself is regulated. Clearly there are the options there in preserving her contact with the child, keeping her out of custody and so on and so forth. It might not work but it's the subject of periodic review and that's the contribution in relation to that and I wonder what people think about whether that's a good move, whether we ought to be able to so deal with it. It requires periodic submission to testing in an attempt to wean her off drugs, identifying her own heroin use as being at the root of her offending. Before shutting up and handing over to someone else and to put it in perspective I ought perhaps to indicate two points which relate to this case and to other cases. Increasingly guidelines fetter the discretion of Judges at the first instance and that may be contributing to the problem that's been highlighted as to the increasing prison population. The second point is that there is now a prosecution Right of Appeal in relation to lenient sentences, that has also contributed to the erosion of judicial discretion as to sentencing. The first example, number one, if I just briefly go back to that to put all three in perspective: clearly caught by guidelines, almost inevitably custodial sentence of two to two and a half years. If you did pass a non-custodial sentence you'd be quite likely to be referenced, that is appealed by the prosecution and that's the position. I wonder looking in fact at Victim Support whether victims realise

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that, street robbery, custody. Almost night following day. That's my contribution, thank you.

**Nicola Heywood-Thomas:** Thank you very much. Now, however, tempting it may be to return that first case, can we stick to the second scenario.

**Maggs Lyons:** I work for a Drugs Agency and we see a lot of people in the same circumstances. A lot of people actually fund their habits, they're not big huge dealers, they are supplying [IA] but they're actually just selling their [IA] to pay for their own habit. This person I would think actually... from my work we have an arrest referral, Chris who's on my left is an arrest referral worker, which this young woman at her point of arrest would have been picked up and we would have referred her into a treatment agency. There are long waiting lists but if you have a dependant you go to the top of the list, and she would be a candidate for priority treatment. We've a long-term view perhaps of looking at stabilising, reducing use, detox, rehabilitation. Prison hasn't worked in the past for this young woman and it might be sort of controversial to say but we do assessments with a lot of people day in, day out and over the last five years in our drugs history lots of people actually say where did you first use heroin and it was during a custodial sentence that they have actually first tried heroin. So I mean that's something perhaps that's a bit controversial but it's what we hear time and time again. So I mean the community option is the best thing for this woman. She needs treatment, she is drug dependent, she needs treatment as opposed to punishment.

**Julian Williams:** I'm just a citizen not representing any organisation at all. My remark was only to my neighbour that it's perverse that so many drug users apparently start their habit in custody. How can it be in such a regulated environment where there is discipline amongst the staff and hopefully amongst the residents that drugs can so easily get in to prison. But, maybe someone else will have the answer.

**Rudi Plaut:** I too am only an ordinary citizen with no experience in this area but it seems to me that what really matters is

preventing the next crime, because that has victims. So if we care very much about victims we want to prevent future crime and that therefore to me must be the central thing. The second thing then is making a person who has already been affected by crime feel better about it and that is largely a question of relativity of what they feel sentences normally are. So if there was a feeling that two days in prison was already a punishment and a week was quite severe and two weeks was very severe then all our sentences could be much shorter. It's largely a question of how these sentences are perceived which is why people are given life sentences [IA] of a sort because the public think it is, it sounds terrific. And so it's a question of how we can sell sentences rather than what they actually are. If we can get the idea across that one day in prison is already quite a shock and that a fortnight is a quick a long time and perhaps the best time then the public might start getting away from that idea there's got to be years and more years and more years which is where we are at the moment.

**Mark Crowley:** I'm a local solicitor. I'm principally practising criminal work, the gentleman's comments regarding how drugs get into prison can be evidenced by simply visiting the gates of the prison where they put up a daily tally of the number of people who've been arrested in this year in both Park Prison and in Cardiff Prison and one would be astounded at the numbers that are recorded. That's the entrance or the main entrance I'm afraid and I think it's indicative of the fact that there is a huge amount of trafficking going on in prison itself and that is where a lot of people, and I do endorse the lady's comments over here, that a lot of my clients are first introduced to heroin, Class A substance abuse in the prison system itself, that's where they actually come into contact with it and once they're addicted to that I'm afraid then it tends to be a downward spiral. Can I come back to the point that Mr Cook made just a few moments ago, I think he made the comment about rigidity of sentencing, I think that that is one of the problems that I feel that in the local Courts that is a problem and defining this is as [IA]

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comments, not to go back to the first point, there is a reference there about the gentleman who was the former mid-Glamorgan Sheriff made a suggestion that in the first case there would be perhaps a combination of sentences and one of the rigidities of sentencing policies, perhaps not seen so much in the Crown Court but in the Magistrates' Court is the fact that the Probation service are confined to giving initially a probation order or recommendation and then to giving a community based penalty recommendation. The use of a combination order is considered at the top end of that scale and only used after those two forms of sentences have been effectively exhausted before a remedial custodial sentence is imposed. I come back to Mr Cook's comment that I feel it is the rigidity of the sentencing imposed by Parliament and indeed by perhaps public demand for more custodial sentences, which is the root of our problem. Can I just perhaps take one further comment which is not directly related to this particular example which is one of my pet theories has been the abolition of a suspended sentence in all but extreme cases has been I think one of the worst facets of our judicial sentencing exercise. That was a facility that was available, it proved quite effective in a great number of cases, for people going in towards the top end of the scale where custody was clearly considered and it was a great deterrent for a great number of people from

re-offending, going back to the gentleman's point in front of me, that it was in fact a great deterrent. That sentencing option is not available except in exceptional circumstances and I know people like Mr Cook and other people sitting as recorders in Cardiff tend to almost sometimes to strain the exceptions as much as they can in order to try to impose suspended sentences where they can, although, strictly on the guidelines. That is often a strained scenario. So I'm sorry if I've taken up far too much of your time.

**[Inaudible comment from the floor]:**

**Mark Crowley:** Yes, Lord Coulsfield. The Probation Service work locally within very confined parameters and their position would be that they would recommend a probation

order initially and then they would recommend a community service order, then they would recommend a combination of those two orders, but only after the first two recommendations would be exhausted and going back to the gentleman's, over here, point, a combination is sometimes actually what is required but in this particular case, as Mr Cooke said, judicially the response at the moment would be an immediate custodial sentence to number one and they would not perhaps consider a more flexible approach and I do regret that, I think that is very much at the heart of this and this is why we have a burgeoning prison population and it's almost, not out of control but certainly at record levels and with no sign of abatement.

**Graham Beech [Crime Concern]:**

I'd like to first of all respond to that issue. I can't talk for the Probation Service but as a former Probation Officer I can say that that is not the way that the Probation Service approaches pre-sentence reports. They don't approach it in the terms in that tariff like way, to go for that, then that, then the other, they do weigh up the risks of the offender and the needs of the offender and suggest to the Court the appropriate sentence as a result of that. I'd like to come back to the case though and I think it's important that we don't underestimate how difficult this case is going to be to work with and that progress is going to be inevitably slow. We're faced with the criminal justice system having to solve a problem that doesn't necessarily belong within in and that sending this person to prison is going to make that progress in terms of drugs rehabilitation even slower and so we've got the severity of the crime versus this person's need for rehabilitation and we know that this person at the moment does not look promising for rehabilitation and a Drug Treatment and Testing Order, the demands that that kind of sentence is going to place on this individual is going to be extremely severe in terms of time and this person may not be faced with being able to cope with that kind of regime and it will end up failing.

**[Comment from Self-Employed Psychotherapist]:** I do work with offenders

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and have done reports to the Court. This woman is clearly in my mind, and it's personal opinion, not material for custodial sentence. It hasn't worked in the past, it's going to provide her with a wonderful opportunity for obtaining drugs and she has a dependant. In my mind until she gives up the drug habit she's going to carry on offending. The second point is I think there's a need for a multi-agency approach for this person. She has a dependant; social services may well be required to lend support. I don't think it's a case of just one agency working with her, but this leads me to a real concern. If, for my experience, the circumstances occurred such as in a case I'm working with now, a gentleman, who obviously will remain nameless, who I'm working with now, I provided a report to Court, the Judge presiding thought it essential that this person continued to have therapeutic support, imposed a community service order which the offender is carrying out but there has been a clash between a therapeutic intervention for myself and the requirements of the community service. And there was also no teeth to therapeutic intervention. If for example I was to report back to the Court that he is not attending nothing would automatically happen and I think this is a real problem if you look at a culmination of community service and therapeutical intervention there has to be far closer links between the different agencies to ensure that this programme does take place and I'm very mindful that the presiding judge stated that this therapeutical approach was of critical importance in this person's non-custodial sentence at that time.

**[Comment from the floor]:** Can I first of all endorse Mark Crowley's points at the back, we have a similar client basis I think, and I share his concerns. There's an innocent victim here, and that's the ten-year-old child. If this lady goes into custody the costs to society will be immense. We don't the background, shiftless lifestyle, I suspect there's little family support, social services may well be involved, care proceedings may follow, the costs, the ramifications will become immense. This lady should never go into custody, she clearly is, possibly, she has no previous probation requirement or intervention it says, she may

well benefit from that, but can I perhaps turn this on its head and give you a real life example from just last week.

[IA] referred to a Drug Treatment and Testing Order and that clearly is a possibility in this case. I've brought a report along, a pre-sentence report from a client I represented last week, who will remain nameless but I asked if I could use this tonight because I think it perhaps sets a scene and shows an alternative concern. This is a man who's 34 years of age, I've represented him since he was 12 when he first started offending. He has an enormous record, he's been in custody many times, well a few times, I've done my best to keep him out for 22 years, but he's served several custodial sentences, he's had just about every type of treatment, rehabilitative and otherwise that could be administered to him. Earlier this year he was given a Drug Treatment and Testing Order. He was cocaine, heroin and amphetamine addictive. That, for those that don't know, what that order involved amongst other things was that five days a week he'd attend at Boots the Chemist he'd be given a methadone prescription, he would take it to the testing organisation in St Mary's Street not too far away, where he would take it in their presence he would sign a register and he would go away. Once a week he would attend a one-hour session with half a dozen others who he said simply just messed around, a bunch of crackheads, his words, were fooling around and it wasn't doing me any good. He breached that order twice and last week he was due for sentence. This was the conclusion of the pre-sentence report, and I'll call him Mr Smith.

Mr Smith appears before the Court today for offences which are sufficiently serious to warrant a custodial sentence, a custodial sentence would serve to prevent the defendant from committing further offences and also protect the public for the duration of his incarceration. It is unlikely that custody will serve as any deterrent for Mr Smith as the prison environment holds no fear for him...

And the last paragraph...

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Mr Smith's recent behaviour has demonstrated that he presents a clear risk to staff and is poorly motivated to comply with a community penalty. For these reasons I can make no positive proposal for sentence.

There was only one sentence that could be imposed, and that was custody, he received 9 months and he was delighted, he was expecting a far greater sentence than that. He'd been remanded in custody for a couple of months and this is the turn of events, having kept him out of custody for the best part of 22 years with some exceptions and it hurts me to say this next bit but he said to me that 'had I not been remanded in custody I couldn't have done this on my own.' He voluntarily referred himself to the drug assistance within the prison, he was given support and assistance throughout that time whilst awaiting sentence, he has cleared himself of amphetamine, of cocaine and of heroin, he has put on a stone and a half in weight and he looks far better than I have seen him in at least a decade. He says 'I've benefited from being remanded in custody' quite astonishing. Now that may say a lot for being remanded in custody or it may say a lot for the type of treatment that he was given beforehand. I just pose it as a question.

**Sandra Skinner :** I'd like to endorse what the gentleman on the right hand side has said about a multi-agency approach here, I'm involved in a project in North Wales, the DAWN Project where a number of agencies come together, including probation, a drugs agency, NACRO, SOVA and the Duke of Edinburgh's Award and the Drug Treatment and Testing Orders, although new and not really having had probably sufficient time to evaluate their effectiveness bring to that particular group of agencies a number of clients and they're able to move between the agencies to get the appropriate treatment that they need, to pick up on education, to find they're willing to work on occasions, and to gain support for their family life and clearly this particular individual fits into that case I think where she needs a number of agencies giving specific support and treatment being high on that list.

**[Comment from the floor]:** I kind of come here as quite ignorant of the subject

except in exposure to I suppose the agenda in education and probably meeting some of these people before they ever get to this stage. I work in education on rethinking schools, basically, but also we've done some pro bono work in terms of setting up drug rehab. I think there's several things that emerge and I kind of bring it back to the lady's comment earlier about family and community. I think within this agenda there's a need to realise what government cannot do and I think it's interesting to think about if people had family, if people had a connection in a community and the real reality that seems to have been explained that one of the reasons why people find prison attractive is because there is a community, and there might be an alternative somewhere in looking for alternative interventions part of which might be to build people back into the community and to use community resources in terms of existing family, staple families and community groups, which are non governmental and non agency. In the States I've seen examples of for instance the role of grandparents who have much experience that could help a woman like this. And I think a key question must be how do these people become re-engaged emotionally with society so they have a sense of responsibility to a local community or a local family? When people mention multi-agency that kind of brings traumas to me because I think some of the problems arise because these people actually are passed agency to agency but my key point is particularly for a woman in this circumstance, she has a ten year old and she needs a family, she needs some means of community and government cannot be a family and neither can an agency.

**[Inaudible comment from the floor]:**

**[Response]:** My learning from the States is that people who most oppose those approaches are agencies because there are commercial incentives, even in the public sector, for them to stay involved and the kind of solution that you've described and that I've seen are no-cost, low-cost solutions and that would mean less bureaucracy and less officialdom but more outcome.

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**Sue Davies:** I've been a local solicitor for many years and I'm now researching non-custodial sentences at the University here so there's one thing I do want to agree with other people, the lawyers probably here, especially saying about the rigidity of the tariff and there are a lot of sentences which aren't really available to give to people who are coming into the system at an early stage, for example the DTTO which has been mentioned, the drugs order, it's not really used for people. For example, this woman, if she'd come before the Court at a much earlier stage for shop lifting it probably wouldn't have been considered whereas it is a very, very demanding order and perhaps another thing that I could say about it is that although I've seen it very, very successful in certain circumstances and in Cardiff here are some very good success stories as well as the failures, one of the reasons it fails is because although there is a lot of engagement with the offenders there is also very, very strict enforcement which means that a lot of people fail and then go straight to custody for breach of these orders and for other community orders whereas maybe a slightly more flexible, more encouraging system rather than the very demanding enforcement system that we have at the moment might be better in reducing further offending.

**[Comment from the floor]:** I just want to go back to the points that people raised about children and families and we've been quite sort of negative about very little happening. I just wanted to say that I've recently been involved in evaluating a project, initially run by the Home Office and then the Children and Young People's Unit which has targeted children aged 4 to 12 and their families and has actually involved parenting groups, many people have seen the playground peacemaker mediation scheme with school pupils, it was televised last week. Lots of these pilot projects actually going on and very successful and they're really showing that it's very early prevention of these children actually ever getting started on being involved with crime and over time that will be evaluated further but I think there is an enormous resource issue here of these being small pilot projects and having the resources to extend them. I understand the scheme last

week, it was suggested it won't continue necessarily, there isn't the funding and it just seems we find the money very quickly for more prisons but in an era where this morning on radio I heard that not all looked after children have a social worker then it's very difficult to find the resources for these types of preventative family based schemes and it really is a question of re-distribution I think of resources towards that level of prevention.

**Nicola Heywood-Thomas:** Thank you very much. Professor Levy I think is our last person to speak on this particular scenario.

**Professor Levy:** Thanks. I'd intended to excuse myself from speaking but I couldn't refrain any longer. I find this a particularly difficult case because if we'd been here perhaps 50 years ago this woman would have been prescribed heroin by her doctor and probably none of this would have happened. She's performing a public service to regular heroin users who know where to go so she does have a kind of community location. She's actually, it appears, not committing any offences, or at least undetected ones apart from the profit she's making from supplying her chums which she's using to fund her own habit and that's why I find this particularly difficult. I mean I would tend to go as low down the tariff as it's possible to go. If she was supplying new users then that would be a different matter but she's supplying regular people, as far as we know none of them are getting into trouble, I hear an advocate for the defence. And she's got a child who has been cogently argued would be made very much worse. Now whether something low on the tariff would survive the appeals so cogently put before us by the recorder is another question but it does seem to me that we're so much the worse for appeals. Until we have a rational penalty structure simply normalising tariffs is not taking this very far.

**Nicola Heywood-Thomas:** Thank you very much. I'm sure Lord Coulsfield has a point to add here.

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**Lord Coulsfield:** I was just going to say that of course it's perfectly right that she would have been prescribed heroin at one time, it is however also right that if we come down from 50 to perhaps 30 years ago or 20 or even 10 I think she would have been probably in the High Court and sentenced to four or five years straight off on the view that the drugs menace was so severe that any kind of involvement in trafficking had to be condignly punished as it would have been put. The other thing I would like to say at this stage is that I, from my own experience, I know that if one talks to Judges in other jurisdictions like France or Germany they will say that a sentence of one year or two years imprisonment is a very severe sentence which we only pass in extraordinary circumstances. Perhaps it would be of interest to change the public perception about what is a severe sentence. And I would rather like a hint of how that might be done.

**Nicola Heywood-Thomas:** Thank you very much indeed. Time is pressing on and I would really dearly like to move on to the third scenario. Before we do shall we do the unscientific show of hands again. Let's ask the question in a different way, which of you, ladies and gentlemen would give this woman, 30-year-old offender, a custodial sentence, who would imprison this woman? Well that's fairly resounding, thank you. That was no hands in the air, for the benefit of the tape. Goodness me, I'm starting to sound like something off 'The Bill', which is a very bad thing to be doing, especially in the august company. Now this gentleman wants to say something, are we going to go back to another case now?

**[Comment from the floor]:** Before we leave it I'm here to learn and I've heard twice this evening how demanding of an addict the drug treatment and testing order is. Now I'm not from this field at all but I would be very interested to know, somebody like this lady certainly is not short of time on her hands so it can't be demanding of her time, what is it that is so difficult for a lady, a woman like this to handle in a treatment order like that?

**Nicola Heywood-Thomas:** Thank you for that. The answer should come from Maggs Lyons because you're from the Inroads Project.

**Maggs Lyons:** I wouldn't go for a DTTO with this young woman because basically the DTTOs right are for persistent offenders with major, major drug problems, basically you'd be mixing this young woman in a group of quite hardened people, okay, been there, done that, worn the t-shirt and I think you can't stick everybody in a group. I think everybody has got... If you've got a drug problem you may be using heroin, I may be, your reasons are completely different to me, you can't stick everybody in one group and think that you're going to sort them out, prescriptions is a small percentage. You do need stabilising prescriptions to stop people using illegally, that's about 10%, you need a therapeutic input and I think to get that and to get it right we're all individuals and that actually, DTTO is not for everybody. And I think actually that [IA] community rehabilitation orders along with a condition to attend a drugs agency [IA]. [IA] addictions unit has a probation officer based there so it all could be part of national standards and you're there as an individual, not with a group of a people stuck in together really and thinking you can address people's needs en masse.

**[Inaudible response]:**

**Maggs Lyons:** Yeah, and I think actually not thinking what's happening... Yeah what's happening at the moment is somebody comes with a drug problem and DTTO [IA] and a lot of that [IA] is there's a very long waiting list for treatment in Cardiff so they think stick him on the DTTO and they'll get the prescription they need but it's not for everybody, it's a short cut to get prescribing for people who've got individual needs and you can't just load people all in together. So I think more linking into the health services and some community rehabilitation orders and partnerships.

**Nicola Heywood-Thomas:** Thank you very much indeed. Ladies and gentlemen we do really have to move on otherwise we don't get to the third scenario and so I do want to move you on to that because again this is a very interesting case. You'll see from your sheets of paper this is the case of a man

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aged 27 who burgled an unoccupied house. He was seen to ring the doorbell of that house by a neighbour who went to investigate, the man ran away. The French window had been smashed with a piece of concrete to obtain access, causing damage which cost about £500 to repair and cash and property to the value of about £700 had been taken. The accused was convicted of burglary after trial in which he maintained he had been wrongly identified and he continued to deny guilt after conviction. He was also charged with theft of three shirts by shoplifting to which he pled guilty. The offender had a number of previous convictions for minor dishonesty offences, such as shoplifting and had been placed on probation for two years when he was 19. He had a disrupted childhood and only a sporadic history of employment. He has a long-term partner and a daughter now aged 8 who resides with foster parents but whom he sees at weekends.

Initial thoughts ladies and gentlemen on this case scenario...

**John Trew:** It's quite crucial really what you mean by 'unoccupied' is that somebody is not living in the house or they've just gone out for a few moments, at the time. I think that's a very important point. One of the things that we find is that when people have had their houses occupied, have been burgled is they have a feeling of being defiled that... they're very, very unsettling, recent Home Office research has shown that people over the age of 65 and have been burgled are twice as likely to die in the following three years as people who haven't. We're talking about something that has a very serious effect on victims here.

**Andrew Flemming-Williams:** I did some research on burglary about 30 years ago and one of the most interesting findings we had was that although everybody when you asked them this kind of scenario, burglar yes should go to prison, we did that with samples of people etc, when you ask individual victims what would you like to see happen to your burglar, the person who burgled your house, a surprisingly small percentage of them wanted to see them sent to prison and this would be a very typical case because they would say well it

wasn't really a burglary, the person was disturbed and ran away and even if the person got in they quite often say it wasn't really a burglary they didn't break anything up, they didn't destroy the place, they just took a small amount of money, so normally I would like to see a burglar go to prison but not in this case. And I think we can... it's rather, I don't want to go back but the first one is you know street robbery. Robbery is a very serious offence, burglary is a very serious offence, but what we're doing is taking the image of that offence, the legal definition of burglary and saying everybody must go to prison because they're a robber or they are a burglar. In fact burglary and robbery have a huge gradation from very, very serious to not very serious at all and so in this case I think personally I would go for non-custodial actually but I think we have to get out of these categories of particular types of offence. That's the problem. I'll stop.

**Nicola Heywood-Thomas:** Thank you very much, could I just remind you, could I just pull you back to the case itself. The French window had in fact been smashed with a piece of concrete to obtain access, damage was estimated at about £500, cash and property to the value of about £700 had been taken [inaudible] okay, just so we clarify and we don't go up another alley. Andrew...

**Andrew Flemming-Williams:** No I hadn't read on to be honest. I stopped at 'ran away' yeah. Well I mean the problem is, the problem with this whole debate is that we're not starting from a kind of theory of sentencing if you like, you know what principles we should sentence on, are we sentencing on the actual seriousness of the offence, or as an attempt as a deterrent, to rehabilitate offenders, to punish etc. etc. So I've a major problem with the whole debate. We're getting to those questions in a roundabout route but actually I suppose it comes down to do we punish all, does a thing called burglary always have to be punished by prison is what I was getting at. In this particular case, and also should we taken into account the actual impact on that victim, going back to the victim support point or

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should we just say what a reasonable person, kind of thing, would be expected... what impact you would expect that offence to have. So it's an incredibly complicated set of issues here. I suppose what I would say about this individual case, if you pin me down to that, again I'm in danger of not reading it properly but I don't think he's done burglary before has he? Is that right?

**[Inaudible response]:**

**Andrew Flemming-Williams:** Yes, so this is a case where somebody's moving into quite a serious offence, going up from shoplifting to this and so then in a sense he wouldn't probably be sent to prison or previously for those other offences I would guess, so the question is do you treat this as almost as it were as a first step, as a first offence as it were, on another level and do you give him a chance with that. He's had probation before but that was a long time ago, that was eight years ago, I would go for somebody mentioned this intensive supervision, I forget the letters IPCC, something like that, or the toughest type of non-custodial actually because of what I said.

**Nicola Heywood-Thomas:** Thank you very much.

**Ian Fox:** Good evening. I am the National Probation Director and Regional Manager for Wales. I'd like to follow on from Mike McGuire's comments here because I find this an incredibly complex issue. I've been a probation officer long enough to know that here we have a phrase coming back into fashion, 'alternative to custody,' and it's pleasing to see. I guess that for me looking at each of these cases, I've dealt and supervised and prepared reports on cases like this all through 30 years of being a probation officer up to a chief officer and so forth and it's easy to add just one additional ingredient to each of those scenarios to completely change the picture and for me this debate is about tolerance on one level, it's about the level of tolerance which judges and magistrates exercise on our behalf and I started this by coming at it from the position of who should go to prison. So, for whom should there be no alternative other than custody and I've

spent a number of years putting together protocols with police colleagues and prison colleagues on serious sexual and violent offenders. For those of you who don't know there is a nationwide and by that I mean England and Wales, set of multi-agency arrangements which identify, assess and plot, if you like, serious sexual, violent offenders. The outcome of this is purely containment and if they re-offend there is no suggestion from anybody that they should not go to prison and they do, so I would suggest that there is no disagreement in this audience as to prison should be reserved principally for people who pose that serious threat to individuals either by virtue of the offences they've committed or ones they might commit. So that is one tolerance level and the other point I'd like to make following on from Mike's point is that I have a lot of sympathy for sentencers I really do, the paradox here is we have a prison population higher than we've ever had before and yet I don't think in my time there's ever been such a great variety of sentencing options available to magistrates and judges and I think Mike's getting to the nub of this question for me, it's about balancing, what the aims of sentencing are, I mean I came into the probation service the use of custody, prison, was seen as a last resort and somehow over the intervening years prison is now seen, rightly or wrongly as possibly a first resort for some. Now if you take principles of sentencing, punishment, rehabilitation, reparation people have talked about, the first example we talked about is very similar, very familiar to me, I did a case like this, and I introduced the victim to the offender in a very similar case with a street mugging and I spent a lot of time bringing offender and victim together, the victim went to court and spoke on the defendant's behalf and he was given a non-custodial sentence. So I think people who've made a comment that there is unnecessary constraints in sentencing are absolutely correct, I think it's about information as much as anything else. But the point I wanted to make from a probation perspective is that there is raft of information research available about what actually works and if I was a sentencer

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balancing those very difficult sentence aims, punishment, rehabilitation and reparation and so forth I would want to know what works, if I'd been asked to take a risk on behalf of society with the person in front of me then I think I'm entitled to know, better than I dare say the probation service currently does, how effective will be a non-custodial option that I am being asked to consider and I think there's a huge communication exercise here. I think magistrates and judges are susceptible to this hysterical tabloids, they're also subject to being confronted in the street in their own communities about sentences they recently made, so I've got a sympathy for them but I think from a probation perspective there's a huge communication gap which we need to fill urgently because there's no doubt, absolutely no doubt that a lot of things do work.

**[Comment from the floor]:** I have a question for Ian, what happened with that offender who faced the victim?

**Ian Fox:** It sounds so chivalry and liberal doesn't it, I mean, basically he tended their garden for six months and became employed as their gardener.

**Nicola Heywood-Thomas:** Thank you very much indeed. Thanks Ian. Now then, we've got about four people wanting to make points. I would urge you ladies and gentlemen to get your hands up now so that we know, oh goodness me it's even more than four. Please be brief because we are running on a tight amount of time.

**Nicholas Cook:** I'll be brief in relation to this one, the gentleman on the far side of the room I think hit the nail on the head in relation to the objective/subjective conflicts. Sentencing needs to be subjective, sentences need to have large amounts of discretion, this case, and I've got experience over a long enough period to tell you is a good illustration of the effect of rigid guidelines prompted by politicians, I suspect wanting to give the right messages they perceive about dwelling house burglars objectively. When I started off at the Bar I would have fancied my chance in a case like this of keeping this chap out if I had a decent bit of litigation. My successors who

would have dealt with such cases over the last ten years would have been wasting their time because the guideline message was dwelling house burglary, custody. Roughly two years inevitable, no subjective consideration. That's what has to change if you want to open up alternatives to custody.

**[Comment from the floor]:** There's one factor in this case that didn't feature in the first two and that's this defendant's pleaded not guilty, he went to trial and he's convicted at the end of the trial and he still maintains his innocence saying he was wrongly identified. I suspect Mr Cook would bear me out but at the end of a trial this defendant would almost certainly, well he would go into custody, without a doubt. There's an outside chance, even with your skills, Mr Cook I'm sure, there's an outside chance that the young members of the Bar today would be able to keep this defendant out of custody if he pleaded guilty and defence advocates are duty bound to advise their clients now that big credit will be given for an early guilty plea. I won't mention Panorama but you're in South Wales and we had a plethora of miscarriages in South Wales, I wonder if this young man was given two years, he would serve 12 months, if given leave to appeal, his appeal might be heard just about the end of those 12 months by which time he'd have served his time. As a rider to your unscientific question at the end Nicola, I wonder whether you might want to ask the question whether people here feel that somebody convicted at the end of a trial should have a much longer sentence than somebody who pleads guilty.

**Nicola Heywood-Thomas:** Let's ask it now, and a show of hands then – okay, so the question is, someone convicted at the end of a trial, should they have a much longer sentence than somebody who pleads guilty, yes or no. Yes? Prison sentence, yes, all those who think that they should. Much longer. There we go, okay, let's take the third, a third longer, yes, yes, yes, but in the minority. Okay. Thank you very much indeed. We do need to move on because we've got a lot of questions.

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**[Comment from the floor]:** I just wish we'd had a separate vote on the very first one on the option of restorative justice on top of the other options, which brings me back to the third case we're looking at now, it does seem to me that this is actually a non-starter for restorative justice. Here's a defendant who has pleaded guilty to certain matters but completely denies the offence in question, I don't see how he's in any sense available for meeting the victim for just another nasty row.

**[Comment from the floor]:** If I could I'd like to comment on this one, not in the capacity as a therapist but in the capacity of someone who's been a victim of such a burglary, while my home was unoccupied, by an equally inept burglar actually. And yes it was a violation and yes it made me somewhat paranoid for a period of time about locks, burglar alarms and so forth but I have a real concern in this case. I hear what's being said about whether or not he could be given a non-custodial sentence because of his possible failure to engage, he hasn't admitted his crime. But if he goes to prison, I mean clearly he's not good at it, if he goes to prison he's going to come out very good at it. I'm mindful of my very close friend who recently was burgled unfortunately by someone who was very good at it, cleared his home, got his car keys, took his car, far worse than what I suffered and far worse than this person who's in the example suffered. Whether or not a custodial sentence would work as a deterrent or a behaviour change I'd be very concerned about all that would happen, he would have a kind of training course while he's in there and come out worse, as a victim that's my concern.

**[Comment from the floor]:** If beauty is in the eye of the beholder then surely the sentence must be in the eye of the receiver; and one of the things that kind of strikes me reading this and the other cases is that we're living, I believe, in days where there's a huge shift in social infrastructure and social understanding, and those of you who watched Michael Portillo being a single mum, I think one of the most telling moments in that documentary was when Michael Portillo sought to describe the lady's community and her reaction to it when he

criticised fathers, because she said there are lots of fathers here, they may not be here but they're doing the very best they can for their children. And I think there's an issue here in terms of the understanding that this man and these, the earlier man and the woman, grew up with and there may be solutions here which are far more meaningful to the receiver of the sentence if we understood the world in which they live and the world that they come from and the things that are meaningful to them as opposed to the things that are meaningful to us as professionals, many of whom in this room, our livelihood depends on these people. Because if these people were not here we wouldn't have a livelihood and I think there's some work that needs to be done to really understand if you're to impact the re-offending rates, what life means to these people and if anyone's interested I would recommend you read Danziger's 'Britain' because he has some real insights into these people.

**Nicola Heywood-Thomas:** Thank you very much indeed. We are fast running out of time which is always inevitable in a public forum like this so I'd like to invite the Chair of the Enquiry Lord Coulsfield to give us his final comments, thank you.

**Lord Coulsfield:** Well what I'd like to do first of all is to thank everybody very much for what has been a very active and a very enlightening discussion in quite a number of ways and which I'm sure will be a great deal of help to us. I think I might perhaps say that of course it is true that the purpose of sentencing is a social, philosophical question which it would be very important to answer fully and correctly, if one could. From the point of view of what we are trying to do however I think the difficulty that we have is that if we were to do anything at all that can have a practical effect it's not going to be possible for us to resolve all the problems of different approaches to sentencing. If I have an impression from the debate as a whole, leaving aside all the many useful points and helpful points that have been made it is that there is in this room, generally a readiness to look at the offender's

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position as well as that of the victim, now there may be different prioritisation of the importance of looking at the victim's perspective and looking at the position of the offender, but generally speaking there is a readiness to look at the offender's situation in deciding what should happen to him. There is a world out there and I think this is related to the other points about how you understand and how you alter people's perceptions about what the effect of particular sentences is, there is a world out there, I strongly suspect, in which people do not take that approach at all and think that the correct way of approaching sentencing is to look at (a) what is the effect on the victim and (b) how can the offending process be most expeditiously stopped, even if the stoppage is only temporary. It may be that one of the reasons for the huge increase in the prison population which you've seen is precisely that, is that the world out there and the view which I've indicated is the one that has been coming to predominate over the last ten, or you might say the last 20 or 30 years. If so, one of the questions we have to consider is whether that is something that one ought to argue against. We didn't as I said, come here to express a view, we came here to try to listen and learn and repeat that we are extremely grateful to you for the extent to which you've enabled us to do that and can I say particularly thank you to Nicola for her conduct of the proceedings tonight and for her conduct of the phone-in in which we were to a certain extent at least in contact with what I've called 'the world out there' for people that have a different view. I'd expected to see fairly strong views, I hadn't expected to hear the stocks and the pillory specifically urged upon us as the appropriate course for some of these cases but so it turned out to be. Can I just say thank you all very much and thank you Nicola.

**Nicola Heywood-Thomas:** Thank you very much indeed.

**Michael Levy:** I had a week in week out television so called debate where there was also a phone-in attached where the Welsh public had a kind of vote on what they thought would be the most effective method of reducing crime in Wales and the answer came back

'capital punishment.' I'm not sure what proportion of the population they had in mind! But even before Mike McGuire mentioned his research on burglary I was going to point this out. I think it's rather interesting that work was done what about 25 years ago, the research on it published about 21 years ago; in the interim we've had a kind of, well it's not been uninterrupted, it's certainly arising penal populism of a very major way fuelled by the media, but also on the beliefs of politicians that you get more votes from, somehow reflecting the public's view and one of the things which I think has emerged from this deliberation as it has from the deliberative polling that the Esmée Fairbairn Trust took whereby people actually discuss issues in the round rather than just phoning in their views is that, I wonder if the result would be quite the same today, that if victims of crime would have been conditioned to expect that they should give a different response to their own burglary experience from what Mike found all those years ago. If that's not the case then I think that's encouraging, if it is the case I think it shows you what a monstrous society we've sort of created for ourselves. That does leave the question, which Lord Coulsfield raised about not in terms, but how we get from here to there, you know how do we actually address these issues of penal populism given that Michael Howard would now be regarded as a relatively liberal Home Secretary if he were to pertain that office again. The final point I want to make and I think it's emerged that I'm very grateful to some of the judicial officers here for making it, is the importance of this generic terms like burglary, like robbery etc in constraining behaviour, it's a curious world in which judges are seen to be far more liberal in penal terms than the politicians, but I think it's fair enough. And I think perhaps if we'd found some way of graduating the offences rather than just giving them the same generic title and also perhaps separating prison sentences in days rather than years then those kinds of graduations a diminishing marginal utility of extra punishment might be made more apparent to people.

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So thank you very much for gracing our university with your deliberations, thanks to everybody for coming, it's been a really excellent evening.