



# Alternatives to prison

## The third of three public consultations



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

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Moderator: **Lesley Riddoch**

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University of Edinburgh

### **NB**

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**Lesley Riddoch:** ... is for them to do as much listening as speaking, because that after all is the very purpose of this inquiry. It's a public consultation forum organised by the Royal Society of Arts to support the evidence gathering of an inquiry that has been funded by the Rethinking Crime & Punishment initiative of the Esmée Fairbairn Foundation. Right that's the long words. In short, why is there a rising in prison population against a background of static crime? Now you could argue every bit of that sentence I've just said, you could say it's not static in some places, you could say it's questionable in what way the prison population is rising. You could look at trends over time, you could pull it to pieces as you will, and I hope you will do.

But one of the key things that the inquiry is keen to hear about is whether or not the public trust, the alternative dispositions, the community alternatives to prison. There is a perception that media - you're nodding already madam, in fact I am so tempted to see why you nodded, I'm off before I even finished it. So finish my sentence...

**Member of the floor:** It's only from reading the media... I mean I work... I used to collect statistics on the rising prison population, so I sort of read around the subject. And you can see, 'he was let off', when he was given probation, and it's a failure of understanding.

**Lesley Riddoch:** Right, so you think media is pretty well in the dock?

**Member of the floor:** I wouldn't use words like that.

**Lesley Riddoch:** Right, so how would you say it then, because you nodded like billy-oh there? The media are... please finish the sentence as you will.

**Member of the floor:** I think the media, they have to get the message across, and they want to sell papers, but I don't want to... I think we've been at an [IA] talks about this, and I think I've not got much else to add.

**Lesley Riddoch:** Right, so in other words, go away. That's all right, that's okay. Now that did in any case interrupt the flow of what I was trying to explain at the time, but I do

like to see a spontaneous bit of reaction to things. Obviously the media are a key thing there. The other thing as well is the media do know what will sell, so is it just that they will sit and hit alarm bells that are completely absent in the minds of the public? You do have to ask them of that. I'm not here to stick up for the media, and as radio and particularly BBC radio, we do tend to have a more sort of... well [IA] to say, but we have a mission to be a bit more balanced, perhaps. Perhaps some of you who heard Lord Coulsfield on with me today, might think that that was not the case. The Commissioners who are here or travelling along in a motorcade somewhere, listening to snippets of it, but I mean what we are here today to hear is really hear your views, which are probably a lot more focused, because many of you are in the legal profession. Many of you are in services that support it, and all of you, obviously have enough interest to have turned out tonight to say something. So that is the key point.

Lord Coulsfield will probably be familiar to you, who sits in the midst of it raising his eyes in a kind of modest, 'yes it's me' capacity. He is the Chair of the Inquiry. He served as a Judge in Scotland from 1987 to 2002. He has chaired a number of committees. Perhaps his most celebrated involvement recently was as a member of the Scottish Court in the Netherlands, which dealt with the Lockerbie air crash.

With him, the rest of the Commissioners, Marcel Berlins is legal columnist for the Guardian. He is presenter of Law in Action on Radio 4. You see how big we are, we can even talk about the opposition. And he is author of a number of books on law and crime. Andrew Flemming-Williams... in fact perhaps as I go along perhaps you could wave in a kind of... there we are. He is treasurer of the Prison Reform Trust, and an external member of the senior management team at Wandsworth Prison. Cedric Fullwood is Chair of the Cheshire area of the National Probation Service. He is a member of the Youth Justice Board, and a Vice President of the Centre for Crime and Justice Studies. Annabella Scott is a magistrate, and currently

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sits in youth family proceedings and adult courts in inner London. She is also a member of the Youth Justice Board. And Valerie Keating is the Commission Secretary, and she is on secondment to the enquiry from the Home Office.

So the Inquiry started its work earlier this year. I think your road show so far has brought you to Nottingham and Cardiff, so here you are in obviously the best location you will possibly get in the entire tour. Let me just hand over to Lord Coulsfield to just be a bit clearer about what exactly he would like, and the Commission would like to get from tonight.

**Lord Coulsfield:** Thank you, Lesley. I am speaking, I think, to an audience some of whom are expert in the subject that we are dealing with, but some of whom are not. We are interested in learning not only from the experts, but also from the others, and perhaps in some ways particularly from the others.

The Inquiry has been set up because of concerns that arose in the Esmée Fairbairn Foundation, and they carried out an initiative called Rethinking Crime & Punishment, which was stimulated by the rise in the prison population. They began to think that it was necessary to have something a bit more focused than just a number of pieces of miscellaneous research, which were financed by them, and so they asked me to conduct this independent inquiry, which goes without any preconceptions.

**Lesley Riddoch:** Forgive me for being so intrusive, but those at the back can't hear properly, so can I possibly...?

**Lord Coulsfield:** Can you hear now? Can you hear? Now I think everybody knows that the present population both in Scotland and in England and Wales has been rising spectacularly over the last 10 years. It now stands at about 74,000 in England and Wales, and about 7,000 in Scotland. It's perhaps less appreciated that the number of cases which the courts are actually dealing with have not increased. There has been some research in England which makes that point very clear; the number of cases actually dealt with in the English courts is approximately the same as it

was 10 years ago. So the increase in the prison population points to an increase in the use of custodial sentences, sending people to prison.

That has been borne out by a very close analysis of the figures, which shows not only that the proportion of cases coming before the courts in which somebody is sent to prison has increased, and the length of sentences has also increased. This has happened at a time when alternative means of dealing with people have been made more and more available, and in fact there are more alternative ways of dealing with criminals now than there ever have been before. The main alternatives of course are probation in one form or another. In England you have to find probation hiding under various other titles, such as Community Penalties, Community Supervision. But Probation, meaning Supervision, Community Service meaning unpaid work on behalf of the community, and various forms of stricter control and supervision orders such as drug treatment and testing orders, which try to control people's drug taking. There are a number of other schemes which are in operation.

Whether crime has actually increased is a different question, and it is a very difficult one, and as far as I'm concerned at the moment it's one on which I would want to reserve judgement, because there are some very complicated statistical arguments about whether or not the actual amount of crime in society has been increasing. But what we do know points to a turning away from community penalties in favour of more custody.

Now prison is expensive - everybody again I think knows that. Many prisoners re-offend very soon after they are released from short sentences, or indeed long sentences. But it's accepted I think by everybody that the essential function of the Criminal Justice System is the protection of the public. Therefore one can say that if it is necessary to send all these people to prison then that must be done at whatever cost in constructing prisons, and indeed at whatever cost in

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difficult conditions in prisons in the meantime, because of overcrowding of prisons is itself a problem. But it did seem worthwhile to us to undertake this examination just to see whether such a large prison population is necessary, and to look at the alternatives to see whether people have confidence in alternative ways of dealing with them. If they have confidence - why? If they don't have confidence - why do they not have confidence? What explains this phenomenon which is obviously a worrying one, because if you have to keep double the number of people in prison today, whom you had to keep in prison 20 years ago, there is obviously a question; something is not right.

So we are here, as Lesley has said, to try to explain what we are after, and to hope that you, inexpert or expert, will help us to try to understand the phenomenon that we are looking at. Thank you.

**Lesley Riddoch:** Right. Well thanks for that. Just a few questions on that, but which [IA] before, do you think it is the perception of professionals in the legal... well those within the legal profession that the public are basically paying for prison at all times? This comes back to this question of whether this is whipped up by the media, or just a residual view. If you get the chance to speak to people, does that perception change?

**Lord Coulsfield:** Well there is some interesting investigations have been done which tend to show that if people are presented with simply a broad question, should criminals be sent to prison, then they tend to say, yes, bad criminals ought to go to prison. But if they are given the opportunity to look at cases in detail, and to have circumstances explained to them precisely what happened, precisely what the offender's situation is, and why this happened, then things maybe different to a certain extent. People's views do get modified.

**Lesley Riddoch:** So do people know, for example, enough about Community Orders or Tagging or Probation, do they know what it means?

**Lord Coulsfield:** Well I think I would have to ask the audience that. I think many people do know; many others perhaps don't.

And probably there are some who think they know but actually don't know correctly.

**Lesley Riddoch:** Can we just see if there are any questions or points to make really, because we are after thoughts, statements, opinions as much as questions here, just on that very basic point. I mean we are really trying to look at alternatives to custody. Do you have views on whether or not it's clear what they are; how they work, how tough they are; how effective they are; have they been assessed; have they been evaluated? There must be people who work in that kind of field. I know there are, I'm looking at one, and Maggie I'm going to pick on you soon girl if nobody else shows. Come on folks. Maggie [Millan ?] don't wear such prominent jewellery - that's all I can say to you.

**Maggie Millan:** This wasn't particularly something I meant to talk about. I think personally I do know what all the options are, alternatives to custody, and I think some are better than others. I'm not sure what the public... well I'm pretty sure the public think that it's better to... that prison is the default position and you are lucky if you get off. But I suppose something I was thinking early on as people were talking is that what we never acknowledge... well not never, but hasn't been said so far tonight, is that those who go to prison are mainly very poor people in our society, and certainly the young people we work with it's the poor people. And it's actually front page news when somebody middle class gets jail, the doctor or the head teacher or whatever. And then people seem to think that's a terrible thing to happen to somebody. They realise how it destroys your life to go to jail.

So I suppose we should be thinking about that about anybody who goes to jail, and particularly very young people, because it does actually set them on a trail of criminality. And of course they go back and back, it's like cutting somebody's legs off and then expecting them to walk afterwards. So I don't know actually if that answered your question, but you dropped it on me, so...

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**Lesley Riddoch:** Yes I did, rather. Right, we had a bit of nodding going on from you. You're going to see dangerous body language is in this context.

**Member of the floor:** Very dangerous beside you. I am intrigued with one thing, and before giving my opinion, can the panel tell us how much it costs to keep the 81,000 people in prison? Because it helps then to look at alternatives and the prospect of that - in round terms.

**Lord Coulsfield:** It's £35,000 to £36,000 per annum per prisoner.

**Lesley Riddoch:** That's on average.

[INAUDIBLE]

**Lesley Riddoch:** Can I just parade this for one second, do we have Bev with us? This gentleman looks like he may well end up as a useful other person at the end of this microphone, since a hail of questions are likely to follow now. Could you just connect the microphone. What's your name sorry, I should recognise you probably.

**[Ed Vershanak ?]:** I work for the Scottish Prison Service

**Lesley Riddoch:** Right, hello there, thanks for coming out of the corner. Right. So the question is there, £35,000 a year, but you are saying in Scotland the figure was, Ed?

**Ed Vershanak:** £27,000.

**Lesley Riddoch:** £27,000, right. Do you want to ask how much the Community dispositions cost?

**Member of the floor:** Well you have asked it, so what's the answer?

**Lesley Riddoch:** Is there a round figure for community alternatives, so they have a general sum?

**Member of the panel:** I'm a prison researcher.

**Lesley Riddoch:** Right. £6,000 for probation?

**Member of the panel:** It's going to be cheaper.

**Lesley Riddoch:** There was an estimate I saw during the course of today that was even less than that, it was about £1,500. Oh, there you go, a little bit more nodding. You seem to know.

**Member of the floor:** I think it's about £1,200 to £1,500 for about 6 months community sentence, from memory.

**Member of the panel:** But obviously it depends which programme you're doing, because obviously a drug treatment and testing programme is liable to cost more. So it makes it difficult to give a single figure for community.

**Lesley Riddoch:** Okay. However, I sense that this gentleman might get frustrated if he wasn't allowed to make his point.

**Member of the floor:** I was going to make the point further in the debate. I am a great believer that by the time you are talking about alternatives to prison or prison, you are trying to hold the stable door long after the horse has bolted. And therefore we should be looking at alternatives to the activities and the lifestyle of the people who sadly land up in prison or land up in the courts. And one of the alternatives that has been going through my mind - and I wondered where there were any statistics to support this - is that some form of... you can hardly refer to is as national service without provoking considerable discussion, but it's quite interesting that during the last week there has been talk about holiday homes and activity for English pupils during the holiday in the summer, going to camps or something of that nature. I would like to consider - and would be interested to know your views - if some form of national service, which is partially military - all three services obviously - and partially charitable work is a compulsory consideration for 16 to 18 year olds. And whether that might be an alternative to crime... a lifestyle of crime, which then in turn might be able to reduce the prison and the probation service requirements?

**Lesley Riddoch:** I imagine that actually the bit that you're interested in hearing from people about is really the bit

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between the court and the prison door. Now this is not to exclude either the prison or what precedes the court appearance, but the difficulty doubtless is for everyone who is sentencing, that they could be well aware of a revolving door, or difficulties in home life, of all sorts of stuff, but they can't go back in time. And what they are looking at here is, once the offence has been committed where do you go.

**Member of the floor:** I appreciate that, but you asked me the question, and I said I would do it further in the discussion. I have been catapulted into that situation, so perhaps if we could address it later on?

**Lesley Riddoch:** That's fair enough. Right, now this is what happens when I go arbitrarily jumping on people, so does anyone have a question in this area?

**Barbara:** I'm interested to know whether any reparation type schemes that might actually change people's behaviour come within your remit?

**Lord Coulsfield:** Yes, the answer is simply yes. And we're interested to know what kinds of schemes people know about and what they think of.

**Barbara:** I think from the victim's point of view, they need to know that the perpetrator has some understanding of the impact. And witness statements, impact statements coming in, in Scotland, this kind of initiative may help witnesses and victims to feel that their voice is being heard. That is a need that they have.

**Lesley Riddoch:** Does that move further though, into restorative justice? I'm not saying that as in, that's a bad thing, I mean do you want to move further into some of the areas that people have suggested, which is that someone should be offered the option if both parties are willing for the victim and the perpetrator to talk to each other, to work something out that way?

**Barbara:** I think victims come in all shades of opinion, and some of them just want the person who did this to them to be banged up and that's it. Others do have a more reflective

attitude, and would wish to participate in restorative type programmes.

**Lesley Riddoch:** And what about the alternatives, because again the people to whom the media and everyone defers most... well you may not feel this, but if there is a victim of crime then basically nobody would question their right to be angry and to be vengeful, and to want to demand jail. How do victims... I mean are victims as vengeful as perhaps they sometimes seem to be portrayed?

**Barbara:** They feel angry and they feel hurt and they feel sad, and they feel depressed, and all the other feelings you have when you have a loss. But as I say, they come in... anybody can be a victim, you or I tomorrow, and therefore reactions are equally varied.

**Lesley Riddoch:** Okay, so there's nowhere where people would just think the victims basically want jail?

**Barbara:** No, it's not as universal as that. And we very often see them in the very early stages after incidents, and therefore a stage where they might well be at the angry stage when that is what they want. Perhaps later on when the witness service comes into action, again people... there's a tense periods when the case comes to court. I can't really speak for people so often at a later stage.

**Lesley Riddoch:** Is that because you lose contact a bit?

**Barbara:** Yes it is, it's very much a crisis led service dealing with the immediate problems.

**Lesley Riddoch:** So in the wee bit of time that you do see them, do you see any general change in people's... well I can't think of a good way of expressing it, but that sort of vengeful... that they need to have very stern justice administered?

**Barbara:** I think in the early stages they are very concerned with their own feelings which can be very frightening to them, and just reassurance that the reactions you have when you've had a serious incident are very normal. The reactions are common.

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**Lesley Riddoch:** I remember interviewing in fact - and I'm ashamed to say I've forgotten the name of the gentleman who lost I think is daughter at Warrington in one of the IRA pub bombing. Does anyone remember that guy's name?

**Member of the panel:** Was it [Parry/?]

**Lesley Riddoch:** That's right, and he was an extraordinary guy to speak to because he now is so keen on the need to try and change the prison system and the tendency to imprison, despite having had an appalling loss. He's very thoughtful about the whole situation. But anyway that's one example. Is there anyone from the panel that wants to come in at this point on these comments?

**Member of the panel:** I was just going to ask if from your kind of collective knowledge of what victim support schemes around Scotland feed in - I don't know whether there is some mechanism whereby they feed in their thoughts as to two or three things that actually might make a difference from the victim's perspective?

**Barbara:** I'm sorry, I'm not perhaps...

**Lesley Riddoch:** It's all right, this could be a tag team, are you looking at anybody else? Is there anybody else here that can answer that kind of thing?

**Member of the panel:** I'm not wanting to put you on the spot, it was just if there were things that we really ought to hear about. And maybe there are some things that people could write to us afterwards.

**Lesley Riddoch:** It's okay. We've finally stimulated the tag, the wrestling tag team into action here. Who are you, it would be great if people felt they'd want to identify themselves. If you do, go for it.

**Neil Patterson:** I'm the Director of Operations for Victim Support. I wish it was that straightforward that there was three things that were standing there clear bright and shining that we could actually contribute to the debate that would somehow cut through all of this. I wanted to echo what Barbara was saying, victims come in all shapes and sizes, and it's not really easy to... it would be

certainly wrong for me to represent a position that was actually representative of all those opinion, it's just not that straightforward unfortunately. I mean all the key things are that people are actually getting information about what's happening in their case. It doesn't always extend as far as actually having an input into the disposals in the case. I think that's a much more risky and perhaps challenging step to take, and not one that we would want to go down without some serious consideration.

**Lord Coulsfield:** Can I just come in, Lesley. One of the things that is sometimes said in this debate, is that the fact that greater attention is being paid to the position of victims because of organisations like victim Support - but not only because it's them - that's because of the way in which cases are reported. It's sometimes said that the stress on victims' positions is actually contributing to this rise in prison population. Would you have any comment on that?

**Neil Patterson:** Yes, I mean I've read that research too. It's not just confined to Britain, I think it was worldwide evidence that says those things have come into consideration. It would be unfortunate if victims' views were actually being used to drive the debate in that particular direction, because as I say, from our experience working with people, it's not something that you could actually take forward as being a completely consistent point of view. Barbara articulated the experiences of victims very clearly, and I think she's absolutely right to stick to the fact that it isn't a consistent position.

**Lesley Riddoch:** Okay. Other views on this or any of the other aspects of why it is... why is it we've got this prison population the size it is with static crime rates?

**Michael Casey:** I'm Modern Studies teacher at George Watson's College. Our pupils were over in New York over half term, and we visited the Red Hook Community Centre in Brooklyn in respect of restorative justice. And what they said there was they felt their system was working because the victims felt a sense of community. That the

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whole community had been regenerated or were in the process of, and they felt that's what the key was to restorative justice in that part of Brooklyn. You can't just take one thing, you have to take everything; the whole society of that part of South Brooklyn has to be on board.

**Lesley Riddoch:** Were any of you guys at the Brooklyn thing? You all were, right. So what did you make of it?

**Callum:** I thought it was a very good idea. The impression that I got personally was that it was working, and I think the guy said that we should steal that idea as well as something we should look at.

**Lesley Riddoch:** I mean we've just heard from Victim Support about the misgivings people might readily feel having to come face to face with someone who attacked them or stole their stuff. Did you see anything as sharp end as that?

**Callum:** No we didn't see any of that. But if it was me I don't think I'd support that, but if it seems it's working... if I could...

**Lesley Riddoch:** I'll tell you what, it is you. We want to know what you think, so what do you mean, if it was you, you wouldn't support what?

**Callum:** If it was me who had my stuff stolen I wouldn't really want to meet the person and ask him why he did it, I'd just want to see him... I'd want to get my stuff back and see the necessary action taken. But if I could see that the system was working and it was benefiting society it would probably be a good idea.

**Lesley Riddoch:** Right, so this is fine, because you're being honest. Are you - and I'm not trying to put words in your mouth but subbing your thoughts somewhat here - are you saying you would want to give them a doing?

[INAUDIBLE COMMENT]

**Lesley Riddoch:** And what could he do with having the teacher right on his shoulder here. Okay. What about the rest of you here, you were there as well?

**Member of the floor:** Yes. Can I just make a suggestion at this stage, because the Red Hook Brooklyn project, which I'm sure

many of you know, it's really a community project, but it's not just restorative justice. What it depends on is having all the agencies together in one building, so to speak, including the judge. And the judge can just send someone up for testing, send someone to counsel and so on, and get immediate feedback, postpone the sentence. And he can say, well I won't send you to jail; if you come back in the three months and you are still clean - all that sort of thing. It depends hugely on two things, one is the personality of the judge, who integrates himself into the whole thing, the other is resources, and especially the resource of that, the multi-agency resources that are necessary to back up what the judge is trying to do.

The community aspect is important, but all these factors need to be there. I've just done a programme on Liverpool, which is going to become England's first Red Hook Brooklyn project to be chosen. It hasn't started yet, but it's going to be damn difficult to do that sort of thing in English and presumably also Scottish conditions.

**Lesley Riddoch:** Well that's interesting - why? So how does that...let's just find our some 'why' thoughts from the audience. Who 'why'd' in the middle of here? Was there a 'why' that wishes to repeat itself?

**Anne:** Could you explain why - and I don't know if that's possible - we have an executive, and indeed represented here tonight, who talks about joining up governments. Surely the one thing, and I agree with David [IA] said, we need a joined up society. And until we face that challenge and fund and resource and commit ourselves to it across all generations, we're going to, I suspect, land in the same situation. And I would support David's view about going a stage further. I am profoundly in favour of some type of national services. Not necessarily in the armed services as was, but maybe on a system as in Germany where you can commit to social service. Because it's an enormous way of giving young people self esteem, self confidence, skill, social skills, teamwork, all of those thing, which actually begin to turn them into responsible adults.

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**Member of the panel:** I want to come back to the young person from George Watson's, again without putting him on the spot. But he said, if he had property stolen he'd want it returned - that was one thing - and the other was - and I forget the words he used - but to see the appropriate thing done to the offender, I assume was what he meant. And I think it's that that's at the heart of some of this, what is the appropriate thing to be done? And I know that will start us talking about, it depends what the crime was, etc, etc. But it's you feeling confident that the appropriate thing is being done that I've picked up from your comment. I don't want to lose it really.

**Lesley Riddoch:** Do you want to come back on that?

**Callum:** It does depend, I think, on the crime. If it was a repeated burglar or something who is constantly stealing things, obviously I would like to think that a prison term would be to be deserved in that case.

**Lord Coulsfield:** Why don't we try an example? At some of the previous meetings we've had we've just put little statements of facts to people, just to see what they think. These are not complicated cases, they're pretty run of the mill, but we hoped they might just illustrate... bring out views as to what should or should not be done. Do you want to read...?

**Lesley Riddoch:** Yes. Well here is the second one first, just to do it kind of about turn. 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 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, had twice been in prison for short periods. She was a single parent with one child aged 10. Reports gave a picture of a shiftless lifestyle, and were not optimistic about the chances of improvement. She had not been the subject of

any previous probation requirements or similar intervention.

Right, now any thoughts... is there anything you need to know more about this woman before you put an opinion about here? Callum, who now wished he had never spoken<sup>††</sup>

**Callum:** It sounds like she's perhaps struggling in life, financially perhaps, that's why she's resorting to stealing. Or maybe because she is on her own, she's a single parent with a 10 year old son, and I used to be one of them so I know how expensive I could be.

**Lesley Riddoch:** Yes, but look how you've turned out boy, don't worry. [IA]

**Callum:** Yes, that's true, and it's [IA], but I do feel a small degree of sympathy there, just because...

**Lesley Riddoch:** Sure. Now the thing with [BADO?] as well, just when we were on the previous example, you had said that if somebody was doing a string of burglary offences you would want them to be banged up, basically. That would be towards the end of things you want to see something serious done to them. Is that in the belief that prison actually interrupts patterns like that, or just because you are getting mean?

**Callum:** Well if it was string of burglaries and they kept doing it, they could be seen as a danger to society, because if they get caught doing it they could lash out to protect themselves. So prison would be a suitable way of making sure they weren't a danger to society.

**Lord Coulsfield:** I wonder if that's... is that a general view, if we got the burglar doing a string a burglaries, should he go to jail?

**Maxwell Craig:** I'm not a professional in this field, but I am a member of a visiting committee at Polmont Young Offenders Institution. My comment on this matter is that... the background of it is that something like 83% of sentences are for less than 6 months. If I talk to any of the prison officers I speak to they say, if we have someone

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here for only 3 months there's virtually nothing we can do for them. Now what that says to me is that whatever sentence is appropriate around 6 months, the place cannot be prison, it must be something else. I put in a wee piece of paper that was based on the conviction. What we were talking about was Scotland. Scotland is a land with some large urban centres from which most of our young offenders in Polmont anyway come from, and a huge amount of wide open spaces. We should use the wide open spaces for these young folk, who most of them probably have never been there.

There are lots of places, I am convinced, way up in different parts of the northwest corner, which I know quite well, just in case anyone thinks that the folk of [Lochinvar?] wouldn't be terribly excited to have a large number of young offenders lodged close to them. And I would really plead that we stop this wasteful business of having sentences of 6 months or less, because they are no use to the prisoner, they are no use to society, and latterly less importantly, they are very expensive.

**Lesley Riddoch:** Maxwell, could I ask you something? You've got the view that anything less than 6 months is a wasteful experience for everyone connected with jail, and there might be some agreement on that. In fact can I just take a quick show of hands? How many people agree with that statement? Let's not go to Lochinvar yet, but let's just get to the 6 months; that anything under 6 months it's pointless really to put anyone in jail? That is about half, isn't it?

**Maxwell Craig:** More than half.

[INAUDIBLE COMMENT]

**Lesley Riddoch:** Yes, that's perfectly true, but if I hadn't asked any question we would have known absolutely nothing. Would you like to suggest a refined question that might help to just... I'm not trying to be funny. Is there another question anyone would like to ask? I'm still interested in the Lochinvar solution, by the way Maxwell, but anyway...

[INAUDIBLE COMMENT]

**Lesley Riddoch:** Okay then, on you go, sorry.

**Member of the floor:** I must say I didn't have a burning desire to speak, but I can speak as someone who has my house broken into on three occasions and lost a lot of stuff that both myself and my family were very distressed to lose. But taking the point of the young lad, I honestly don't believe that the people... they caught the people who did this, and what they stole they either turned it into some cash terms or threw it away, they weren't actually interested in the distress that it causes the people, because that isn't there issue. And I'm not actually sure that sending them to prison actually solves any problems whatsoever. It's why you get people who think that somebody else is so much less important to their immediate needs is the issue, and I don't think actually... or whether you send them to prison for 6 months or whatever actually address that at all.

**Lesley Riddoch:** Okay, but meantime have you any thoughts about... we've got to the 6 months, just as we were earlier with Maxwell. Now people might want to take issue as to whether billeting in Lochinvar or national service is the solution, but have you got any thoughts about what would have been better?

**Member of the floor:** Well what would have been better is if they weren't in that position where they thought it was perfectly all right to break into my house in the first place.

**Lesley Riddoch:** Right, and in between you have no views. Fair enough, that's okay. But just on that though, what I was interested in is, are you shooting off towards getting the kids out of the environment because you've no confidence about the ability of let's say social services or anyone else to be numerous enough, skilled enough, tenacious enough - I don't know what enough - to make a difference to the kids where they live?

**Maxwell Craig:** I think it's very difficult for social workers in the area in which they are, given the extremely complex situations which cause a young person and many young people I have been involved with

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to commit a crime. I think that to take the person forcibly out of that situation, into a totally different situation, but not prison, where they would have an extremely full programme... and I base this on the fact that 50 years ago George McLeod used to take folk from Polmont Borstal to an old fishing station on the Island of Mull, which had quite an experience on them, and indeed which is the reason why the new hall at Polmont is called Iona Hall, because of that link. Now it seems to me that there was seed of something there which really we have largely forgotten.

**Lesley Riddoch:** Okay. Right, I am still alert to who still wants to speak, and I will keep looking round behind me.

**Bob Sheehan:** Again Visiting Committee. Many of the short sentences are because of fine defaults. Now it seems to me if there was no alternative to paying the fine then we wouldn't be in the position of having so many on short prison sentences. As an example, and I know it's dangerous to argue from an anecdote. I was in reception in a prison when a man was being received in for non-payment of a fine. He had more cash in his pocket than he needed to pay the fine, but he chose not to do it. Now I wonder why when there's no alternative if a custodial sentence is handed down, you go to prison, why there should be an alternative if a fine is imposed. There ought to be means of securing the payment of the fine without sending the person to prison.

**Lord Coulsfield:** It's certainly true that a great many of the receptions into prison at the moment are fine defaulters, and I think everybody would be happy if there was a means of enforcing the fine as a fine which could be relied on. You wouldn't like to - without putting you on the spot - suggest what it might be? Can I just add to that before you say anything if you want to, and that is that part of the research to which I referred earlier makes it very clear that the fine as a penalty has dropped quite dramatically. The figures I would refer to have been closely analysed in England. There's a project going on to analyse the comparable Scottish figures at the moment, but the position does appear to be similar. The fine as a

disposal is becoming much less used, and the reason of course, part of the reason may well be that a lot of the people who are brought before the courts do not have, or apparently do not have the resources to make a fine useful.

**Member of the floor:** Could I just put something in as a point of information, as the statistician who worked on it, and I have colleagues who work on court sentencing. One of the reasons for the apparent reduction in use of the fine by courts is because of fiscal fines. In other words people get fined before being proceeded against at court as an alternative to prostitution.

**Lord Coulsfield:** I know that is suggested, and I am bound to say I have some scepticism of whether that's... how much of the drop in the fine is actually explained by that. But that's a technical question which I think is being looked at.

**Lesley Riddoch:** Could I just stay with the fine bit for a moment then, because there had also been... I mean there are two developments that have hit the news recently. One was a suggestion that some fine defaulters were getting so cute with the system that they were turning up on Thursdays in the knowledge that they would get basically one night in jail and then be discharged the next day. Now there's a lot of nodding going on at that, so that's something that people are aware of.

The other one seems to be that the Scottish Executive had talked about trying to stop all fine defaulters going to prison, and that social work intervention should happen as an alternative. We were talking about that today, and whether indeed there enough social workers to do that. And in the view of one who I think is not here, Richard Simpson, he thought that there was some snippiness among social workers in not letting people who were less skilled help out in the simple business of making people turn up at places. I don't know whether that's off beam, or whether it summarises all that's been in the news, because you are the experts. Does anyone have views on that area of thought about how

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to deal with fine default, and whether there is - as the gentleman in the middle suggested - a large tranche of people who can pay but won't pay. Or whether the bulk is just sheer poverty? Views?

**Joe Platt:** I'm here from the Law Society of Scotland. Speaking personally rather than having any great expertise in these matters, it does seem to me that it needs simply the wee political rule to ensure that fines are simply directly deducted at source. I think it goes against the grain sometimes to consider that people on benefits have any extra income from which to pay a fine. But of course that is what the court takes into account when assessing the amount that a person has to pay. And I think that although fine defaulters count for a great deal of the intake into prisons, they don't probably account for a huge amount of prison nights in that the time served is very short. But if you're talking about economics then saving the cost of admitting people to prison for a few nights is something that ought to be achievable I would have thought by way of direct deduction of fine.

I think though that cost is not really what's in the public's mind in relation to prison sentences. There does seem to be perhaps a greater desire for retribution nowadays than perhaps there was in the past. And I think that maybe be one of the drivers behind the length of sentences, but you do have to look also at whether or not remission is too extended and that leads to lengthening of sentences as well, because the court is aware of the actual sentence that will be served.

One thing I would say, though, is that are we really looking to America for any solutions? I think the last statistics I saw showed that one in 250 people in America were in prison. But then the last statistic I saw showed that one in 250 people in America is a lawyer, so I don't know if the two things are connected or not.

**Lesley Riddoch:** Right, let me shunt along here. A great interesting set of thoughts.

**Bernadette:** [IA] I think the problem when it comes to fine defaulter is it's very difficult to distinguish between people who

actually can't afford to pay and people who just won't pay. We have been involved in Supervised Attendance Orders for a good few years now, and the problem is that they are an alternative as with most community sentences, they are an alternative to something else. So...

**Lesley Riddoch:** This may annoy the hell out of you, but can I just check, how many people here know what a Supervised Attendance Order is - be honest? Right, try again.

**Bernadette:** They're essentially a fine on your time, so if people default from the original fine then they can come and attend for up to 100 hours. Well they have to come if the court makes the Supervised Attendance Order. They have to attend for as much as 100 hours and do various modules, plus work placements etc. We have found that it's actually a very constrictive penalty in that we are... [INAUDIBLE SECTION]... and making sure that we don't re-offend, but the problem is that Sheriff's were reluctant to use the Order because if the person breaches they end up in Jail when they wouldn't have ended up in Jail for the original offence. But I think it's worth saying that the Scottish Executive are piloting Supervised Attendance Orders as a first sentence, and not as an alternative, and maybe that will help.

**Lesley Riddoch:** Okay. Dangerous nod here from yourself.

**Laura Irvin:** I suppose it was just to pick up on the point about the Supervised Attendance Order being a direct alternative. I'm here representing the Howard League for Penal Reform, but I've also worked in the past as a defence solicitor, and have dealt with people who have been fined. I did a lot of work in the district courts, and I just remember dealing with not a huge number, but certainly some women who had defaulted on fines and are coming back. They simply couldn't pay, they had child care costs etc, and the alternative being imposed. But you had to be very careful as a lawyer giving them that advice, because as soon as they defaulted on that Supervised Attendance Order they were

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facing a prison sentence, and they had child care problems obviously. And so that was a real difficult choice for the women to make.

**Lesley Riddoch:** Can I just be clear, it maybe just me that is not getting this, but what we were worried about originally was that fine defaulters were sent to jail. Now you are saying the problem of doing this alternative is if they fail they could be sent to jail. But surely the original scenario we were worried about was that they were sent to jail. I mean what happens to a fine defaulter if they basically are had up other than jail at the moment - even taking the alternative out of it?

**Laura Irvin:** Well if they don't pay their fine then they're brought back to court and they then have to argue that they should either be given more time to pay the fine, or if they simply don't have the money then there is this alternative option of the Supervised Attendance Order. And other alternative is to be sent to prison to serve the alternative, which would be a 7-day sentence maximum.

**Lesley Riddoch:** Okay, I just can't see what the downside of the alternative is if it ends up in jail where in fact they would have just gone straight to jail, do you see what I'm saying?

**Laura Irvin:** Yes, the alternative would have been to give the women further time to pay their fine, and that is what tends to happen most often, because especially in the district court they're quite reluctant to impose the alternative because obviously the original offence is going to be quite a low stand.

**Lesley Riddoch:** So this is what can just lead to a case going on and on and on and on and on. In your experience, how long could it go on and on and on? Years?

**Laura Irvin:** Yes. I mean especially if... if you have people who are living in a very dysfunctional life and they are moving from address to address, it's very difficult to trace them. I've had experience of people being lifted by the police with outstanding warrants and being held in custody overnight in relation to warrants that relate to fines three or four years old.

**Lesley Riddoch:** So it sounds like what you are saying is, nobody wants to grab the bull by the horns here and say, well we've just got to deal with you or we could be at this for years because none of us really know what to do?

**Laura Irvin:** Well people disappear into the system so these things may be outstanding. And sometimes the individual themselves doesn't remember that the fine was imposed if they were going through a particularly... especially if they are drug addicts, they just don't realise what's happening to them.

**Lesley Riddoch:** So do you think that alternative then that was outlined there by Bernadette, would that work better if it was in some way decoupled from, it's jail if you boob?

**Laura Irvin:** Yes, I think that is a very good idea, because you don't want people who have fines imposed on them who have committed very minor... especially in the district court they will have committed very minor offences, and there's absolutely no point in them going to prison. It's just a ridiculous waste of resources.

**Lesley Riddoch:** And can I just ask between the two of you then, just to complete this wee thought, and indeed if anybody knows more about this please chip in here. What is the falling out rate on these courses then?

**Bernadette:** I don't have figures off the top of my head, but I know that we have worked with... oh god I don't know in the last year how many people completed the order, but the drop out rate isn't high. And I think that's because people actually get something from the order. They are looking at things like managing money, debt awareness, etc. They are working on what they need to do to make sure that they can live in the community without re-offending and getting another fine, etc. And they are also given the opportunity to look at work placements and college places, etc. I think that's always an ongoing discussion, and it was a fine line because it's meant to be a punishment, but there can be

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benefits to a person completing the Order. So it's not just a case of they turn up and they don't have to do anything, people turn up and they're actually willing to look at their situation and see how they can sort it out. And I think that's why we have had success. So I don't have figures off the top of my head, but I know that we haven't had a lot of people who have actually breached it once they have actually signed up to come along and work on their issues.

**Lesley Riddoch:** Why aren't these things evaluated so that somebody knows?

**Bernadette:** There is an evaluation that the Scottish Executive did on Supervised Attendance Orders.

**Lesley Riddoch:** Pointing in an intriguing direct - where is it?

[INAUDIBLE COMMENT]

**Lesley Riddoch:** Just name one, come on.

**Bernadette:** I'm not going to do that now.

**Lesley Riddoch:** Well let me find them, come on where's the evaluators there, because this is pretty key stuff. If we don't know what the outcome was... where are the Scottish Executive Evaluation people? We don't even need to know your name or your star sign - come one. Right, you're the girl.

**Member of the floor:** I can't off the top of my head say what the result was, but we did an evaluation of the pilots for ACOs and that was positive. It showed that in fact there was a benefit - as Bernadette has said - that people not only were paying a fine on time, but they were actually re-offending less as a result of that. And because of that we're all doing it nationally. What we are now going to do is to introduce them so that they can be instead of a fine to start with. But that will be piloted. I think the issue that is here is, if you don't have the deterrence will other people stop paying their fines. And that's the argument against using ACOs.

**Lesley Riddoch:** So if everybody is to get real about this and be honest, the worry is

then that it will look like you get rewarded for defaulting on fines.

**Member of the floor:** So you don't get the punishment and the public might think the right punishment was that you should go to prison.

**Lesley Riddoch:** Right, do people think that, listening to that little scenario? Are there people who worry about that and think actually, that is rewarding the crime?

**Member of the floor:** I think I'm not quite going to answer that question, but suggest perhaps we're talking about this in the wrong end altogether, that we should be talking [INAUDIBLE] fines again as a [INAUDIBLE]. To get the fine in its place again that it used to have when it was widely used, with appropriate minimal intervention in people's lives. In other words, if you can get people fined at a level they can afford to pay you might avoid a lot of these difficulties. There was a botched attempt in [IA] a few years ago to introduce income-based fines. It was botched and it was chucked out for some ridiculous [INAUDIBLE]. I think perhaps if revisited that and see if we get a more sophisticated way of assessing whether people are able to pay fines rather than a quick word with a solicitor, and who's poor but actually, oh yes I can pay, I can pay if I get out of trouble. It's time to have another look how we fine people in the first place.

**Marcel Berlins:** May I remind you why that scheme failed. The unit fine scheme in England and Wales, which was a rather good scheme, which really made fines payable according to your income. The trouble was that quite soon after its inception some multimillionaire was fined something like £800 for throwing away a crisp packet. And the middle classes rose up as one and threatened to riot, and that was the end of it. And why won't that happen again.

**Member of the floor:** Well I think it would be a pity if we reject it on pieces of one incident like that and surely... if we're going to spend millions of pounds - it does cost millions of pounds to send people to prison

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for short period - isn't it worth investing a bit and getting ways to make these things work.

**Lord Coulsfield:** The difficulty is perhaps a little greater than that, because one of the things that I noticed people saying as part of what you might call the punitive argument, that is the argument in favour of actually sending more people to prison. One of the arguments that is used about the present state criminal justice is that the police and the prosecutors spend far too much time and give far too much importance to trivial things when they should be catching burglars and rapists and people who commit assault. And so if Marcel's example of the crisp packet leading to an £800 fine is correct, you not only hit the middle class resentment, you also hit this rather sensitive point about what is the criminal justice system doing in imposing a ridiculously large penalty, never mind the ability to pay, for a trivial matter. Now I don't say that's right, but I think that's one of the items that you run into.

**Lesley Riddoch:** Does anyone want to pick that one up?

**Member of the floor:** It wasn't on that point itself, but I was thinking that we haven't asked the question, what prison is for, and that that is really a key question. Because unless we can actually say why we send people there we haven't really got much of a basis for deciding why we wouldn't. And I personally think that prison should be reserved for people who are a danger to society and who cannot... whose danger can't be controlled in any other way, and that certainly isn't most of the young people who do go to prison. But they do then become some of those very dangerous people. So I think maybe we need to look at what prisons are, because we just assume that these Victorian institutions that we've got are somehow the right place to send people, even when they do need to be locked up. And I don't think that's the case, and they tend to be sort of universities of crime and corruption and inculcating criminality. So maybe we need to think of other ways of removing people from society that isn't Victorian. I mean it's two centuries later.

**John Francis:** If I could just follow that point. There are other countries where a great deal of effort has been applied to try and find alternatives to custodial sentences, and I know for example in the Solicitor General's office in Canada, particularly the young re-offending males, they apply intensive cognitive therapy techniques on a one-to-one basis. And they have had a remarkably positive result from that over a considerable time. So they are not going down the trail of putting people into prison as a first option, they are really looking carefully at the needs of the individual, how the offending behaviour develops, how it can be dealt with, acknowledged and treated. And that it seems to me is what we have to do in this country. The problem is there are real costs involved, and some countries are prepared to face up to it and make the investment.

**Lesley Riddoch:** Do you know from what... I mean if you think of particular countries, do they have a backlash? Do they have papers saying this one lot has now cost the tax payer £0.25 million in seven different specialists, N different therapies, has that happened?

**John Francis:** Well you can't generalise, but I mean the whole point is that in a therapeutic environment people will come to terms with their own behaviour and be prepared perhaps, working with the sentences, to find alternatives that work. And this whole issue of what works, prison doesn't work.

**Lesley Riddoch:** So just on that, does prison work for anything?

**John Francis:** But again you can't generalise, it depends if we are speaking about high incidence of petty crime which involves young people going to prison, then prison certainly doesn't work.

**Lesley Riddoch:** If 60% to 70% of cases involved drugs... does anybody have problems with that statistic? Well if that's true, should they be there?

**John Francis:** Well again that's another form of deviant behaviour, and it has to be addressed in those terms. If we simply

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try and police it out of the society it will not go away. It has to be addressed more carefully and progressively, by a series of steps for each individual who finds themselves face to face with that kind of crisis.

**Lesley Riddoch:** Okay, and if Anne, for example in the front, and her colleague was saying, listen it's simple, national service, something that just changes people, takes them away. Or the point that was being made earlier about just get people out of their environment. Because you are going to spend a lot of these specialists.

**John Francis:** Heaven preserve us from collective solution of that kind.

**Lesley Riddoch:** Right. Off we go here.

**Jim Keegan:** I'm a criminal defence lawyer. I'm really interested in two things so far as criminals are concerned, and that is punishment and correction. I am not really interested in therapy because we could come up with these grand ideas and grand schemes about therapy for this one and that one, but I see the starting point as encouraging people in a society to have a sense of duty rather than, I've got rights. So that's the first point. The next point is that I think we should try anything, which is appropriate towards punishment in the first instance, and correction in the second instance. And if it involves fining people that's fine - if you will excuse the pun - if it involves alternatives because of the social circumstances of the individuals involved, we must always make sure that in an orderly society the first objective is to bring order to a society. And if we've got to take pretty stringent steps towards that I think we should be prepared to do it. And we should also...

**Lesley Riddoch:** And the Tories were trying to find a new leader, eh...

**Jim Keegan:** I think they should also be prepared to look at all alternatives. I see nothing wrong with encouraging people. Not just people that commit crime, but encouraging other people to get involved in work in society as an alternative, taking a year out from university or before they go to university.

Provided they get rewarded for it if they are not forced into it; and if they are forced into it, provided they get something out of it - punished first of all and corrected secondly. And if they are not prepared to do that then I still see prison as the only alternative. And I say that as a defence solicitor.

**Lesley Riddoch:** So how do people get corrected in your experience? What things correct people best?

**Jim Keegan:** I think a good heavy prison sentence is what corrects people best, frankly. I don't see any other way frankly, of dealing with repetitive offenders other than to bang them up, and bang them up for a good long period of time. That's the bottom line. Because you get fed up seeing the same faces time and time again coming in and telling you the same story, time and time again. And where does it take us? I'll tell you where it takes us, it costs us an absolute fortune as a society, and we spend money that we could be spending on health on crime, and I don't think we should be doing it.

**Lesley Riddoch:** But then in this scenario of the kind of revolving door, where you do get the same guy in time and time again, is it that he's getting off, is it that the sentence is too light, what is wrong? Because at the moment many of the people who have spoken regard the current system is broken because it does put people into jail. It sounds as if you are saying it's broken because it doesn't put them in long enough.

**Jim Keegan:** Well I heard a speaker say earlier that 3 month sentences are not good. I would agree with that. I think the answer to that is we just increase it. Now I'm not saying that you just bang people away for years, what I am saying is this, you should perhaps say right, here's a sentence, the sentence is 6 months, but we will suspend the sentence provided you carried out unpaid work etc. If you don't carry out the work properly, or if you offend again - and we've got an element of that in our sentencing process anyway - then you will go to prison for that period. I'm all in favour of setting a minimum period if that's what people want to

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do. I'm not in favour of sending people to prison for very short periods. The idea of the short sharp lesson doesn't see to work, I accept that. But I always think that there has to be a big stick waiting to bang somebody over the head if they default on things. And if we start to shy away from that then I think we're only going to create more difficulties for ourselves in the future.

But it think in fairness we should also try and get back to basics, and the basics being trying to instil in young people at a very early age at school, that the idea is, I have a duty to society, it's not the [IA] 'I've got rights'. They can say that when they understand that 'I've got duties', that's how I see it. So I think we've got to start with education. But in the meantime I'm afraid we have to keep the big stick.

**Lesley Riddoch:** Right. Anybody want to come back to Jim on these things?

**Catherine Smith-Mason:** I'm here as a Fellow of the Royal Society of Arts. And I would endorse that my opinion and opinion of a lot of the dinner table conversations that I get involved in would be that unless there is a big stick in the background, then it is very, very difficult to maintain any kind of civilisation. Because there are always elements who will in fact embroider the way to take more than what society deems is their fair share - whatever the roles of society are in different circumstances. But the other issue is that this whole discussion of whether or not prison is the right answer seems to me from all the discussion I've been hearing tonight, to be driven more by the present, the contemporary preoccupation with costs per head and the need for cost cutting of the obvious costs, rather than that basic question of correction. And in searching for alternatives, it is too easy to throw the problem over the wall. And we've got to be very careful, as one person has already said this evening, not just slavishly to follow approaches which are being used in other countries with different social structures, with different culture and with potentially very, very radically different problems. And in a specific instance of that I can quote that at the present time I have a brother in law who is suffering very severely from back injuries because the training

organisation in which he was contracted to be a teacher, had itself contracted, without his knowledge and without providing himself and any of his colleagues with appropriate training, to take on a very large number of new students to [IA] from prison. He ended up having to separate a brawling crowd with knives. And that is one danger of following statistics to solve problems which appear in budgets rather than looking directly at the problems of that part of the community who are not behaving in a way which is acceptable to the rest of the community. And we've got to be very, very careful not to import the wrong kind of alternatives to solve our statistical problems.

**Eileen Francis:** From Values Education Council. I think I would come at duty differently because I feel that many young people may have experienced the big stick already, and that perhaps what they need to experience are some models of community or support systems of people who care, rather than just the exercise of a justice system. So that's why I have been feeling enthusiastic about what has been said by the people from the...

**Lesley Riddoch:** Everyone but Jim... you can take it can't you Jim.

**Eileen Francis:** I mean it's the way of duty, but it's very interesting that you can approach that sense of being of duty in society from quite a different perspective. And that you can actually build a sense of the need for duty and that you are never going to be successful if you are going to try to impose a duty. And I agree to a certain extent that we have got out of kilter in our talk about 'rights'. Rights and responsibilities and the emphasis very often and... I think the reason that we did get out of kilter talking about rights so much is because very often there were injustices in terms of rights. And so perhaps there has been an over-compensation and one would hope that programmes on citizenship education, for example, wouldn't just be about political literacy, and they wouldn't just be about rights, but they would emphasise some of the kinds of things that other people have been emphasising this evening.

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**Member of the floor:** I've just recently finished as a prison chaplain, and I'm currently involved with Chaplains in Scotland. The big issue that somebody touched on that we have still not really got to the heart of is, what is prison for? Words like protection were used tonight by the panel. Somebody used the words retribution and punishment, and then the question of rehabilitation as it were has been moved around. I think until we get to the heart of that issue and society gets to the heart of that issue, we can't move much further forward. As part of a working chaplaincy we saw a very effective supported community in the jail I was in working. It was limited because of finance to 10 prisoners, but they began to address through the prison staff some of the issues about behaviour and allowed prisoners to reflect on that.

Over a period of time it was a supportive environment that began to work. But because of financial pressures and keeping us down at the £27,000 per person as it were in our establishments here, they pulled the plug on that system because of the cost of it. And that indicated to me that perhaps executives or others, there is not the financial commitment within Scotland to actually address the issue of breaking the revolving door syndrome, which is at a shocking rate. Six month sentence, yes that was what our average prisoner was in for, but they were in fact most of them serving life sentences, six months at a time, and that was going on and one, and nothing to break the cycle and to help that. And until we move into that area and put some resources into that area, I'm afraid to say I don't see any hope for the system.

You mentioned earlier, Lesley, 60% to 70% of crime was drug related, and perhaps the reason we're here tonight is because of that very fact, that it's now an area of concern. And that factor has crept into the Scottish system and made that impact. Maybe that's the one thing that needs to be focused in on and addressed if it's at that kind of level.

**Lesley Riddoch:** I wonder, just in regard to the course that you described, which was standard, did it only work because they were in jail?

**Member of the floor:** In fact it did because you actually had folks there who... they had to make a choice to be in it, to commit to it, and they took a bit of a hard time from the other guys who weren't on it. But you have in effect within the prison system; you actually have the mechanism for working with people in a supported community. The establishment I was in had a dormitory set up, maybe 20 prisoners in it, so you had potentially lots of small communities that you could work with there.

**Lesley Riddoch:** But this is an irony that came up in a programme we did with some ex cons. Two of them had got off drugs in prison, and they completely accepted that for many people the experience had been quite the opposite. But they said... I mean the point was they had time, and they finally kind of came to, as it were, they could see that there was something they could do with it. And if they had the resources of people who are prepared to put time into them, then it was actually better than being outside where there are all the distractions and whatever else happens.

That's perhaps an usual point of view, but it certainly worked, weirdly, for a lot of the guys in Northern Ireland who ended up being philosophy students by the time they came out, and who are now populating politics with some very strange outcomes, because the extremes of their politicians seem to be a lot more sensible than their mainstream compatriots who stayed in the community. So are there any views on that as to whether strangely prison could be the right place if only it was resourced?

**Member of the floor:** I'm a medical doctor and I special in learning disorders, things like dyslexia, and dyspraxia and attention deficit disorder. And I don't know if people know, but a very, very large majority of people that end up as drug addicts, and a very large number of people that end up in prison have been shown to have one of these learning disorders. And we've recently been doing a trial in a prison, and we've had some very exciting results. I worked with a company who are treating these conditionals

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medically, and we've been putting the prisoners through the programme and getting great improvement in literacy and lowering of depression scales and improvements in attention. But we haven't yet followed on to the stage to see if that's going to follow on to a reduction in re-offending. But it is exciting work that we've been doing, and we've just finished with them and we've had Somerset and Avon police have now approached us as excited by the results to see if we can put young offenders in their area through the programme.

So this is another line that could be taken. And ideally yes, you get them in schools and attack the problem there and hopefully they never end up on drugs and in prison. But if they once got to that stage, then as you say you have an ideal community that you can work on and maybe get them to the stage where they won't re-offend in the future.

**Lesley Riddoch:** Can I just ask you, is there a reason why that work that you've done hasn't been evaluated yet?

**Member of the floor:** I've got the draft report here. What's holding it up is we have to have the final approval from the prison, and they're dragging their feet at the moment.

**Lesley Riddoch:** Right, I was terribly tempted to probe more, but I won't. Let me just finish, before I hand back to Lord Coulsfield, just starting with the guys at the back. Have you heard anything that's surprised you? Have you heard anything that's made you go, errr? And are you all like renegade Jim, point of view, or the groovy liberal people point of view?

**Member of the floor:** I just want to say to Jim that surely if people are re-offending so much it's better for them to be sort of rehabilitated to stop them re-offending than just putting them in jail for longer where they will just get worse.

**Lesley Riddoch:** So that was the main thing that came to you, you didn't agree with that. Okay. Amongst the people who are looking down, you know it doesn't work in school, it doesn't work with me either. What

did you reckon? Is there any of you listened and thought, ohh that's a bit different?

**Member of the floor:** I think Jim's argument was a bit...I don't know, not very progressive. It seems to be going back to Victorian kind of... putting people away as long as possible, and I think that's what we saw in America. No one seemed to be wanting to look forward, apart from this Red Hook place. The general consensus seemed to be that the public want to put people away, so that's what we will do. No one seems to want to be open to these new ideas that I think people have to address of why people are offending. And getting them into programmes which actually stop them from re-offending rather than just having to [IA] a lot of people have.

**Member of the floor:** When he was talking about his big stick theory, and people on the head and what not, I don't understand how we have to have... if we have to stop at a point and have people educated, rehabilitated and all that, do we just start that now, or do we bang everybody on the head so to speak until we get the situation sorted, then we can start that.

**Lesley Riddoch:** Yes, what do you want to move onto first? I feel awfully tempted to give Jim a chance to respond, but perhaps you've had all the criticisms in your life before Jim, and it's water off a ducks back, is it? Anyway just a wee word before the summing up, do you want to say anything.

**Jim Keegan:** Well basically I still believe that before you get rights you should earn them. You are born with rights obviously, but you could forfeit them. And if you forfeit them then you have to earn them again. And I suppose ultimately it's up to society to design how that should be brought about. And you can do that certainly by putting people in prison in order to correct them and to punish them if it's a serious enough crime. Maybe we should be prepared to look at correction centres. Maybe we should be prepared to look at work in the community in a different way, like happened I think in Franco Spain - and I'm not advocating

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that. but there was a time when people were required for example to join the army, which I am not in favour of, but also to join the nursing services and so on and so forth, which I would be in favour of.

**Lesley Riddoch:** Does number five get any groovier?

**Jim Keegan:** No.

**Lesley Riddoch:** Okay, so I'm going to stop you there. Loads of interest, we could probably go right round again just on the products of those thoughts. But we have to draw the event to a close. I'm just going to hand back to Lord Coulsfield to make his remarks.

**Lord Coulsfield:** Well I'd like to thank you all very much indeed, first of all for all the contribution that have been made. As I said at the beginning, we came here in the hope of listening, and we have been able to listen, and a great many interesting things have been said. I'm probably going to suggest to my colleagues in the High Court that Jim Keegan should henceforth be known as Victorian Jim. But you might be interested to know that had Jim's comments been made at the consultation which we had in Nottingham, I think they would have had clear majority approval. Because there are, and this is part of the problem, there are very widely differing views, and many of them very strongly held views. That is indeed why we are trying to listen to what people say to see if there are common themes or reference of reconciliation views which we can take account of and proceed on.

I think some of the suggestions that have been made, with all due deference to Maxwell, are really out of our field, because no one would deny the importance of training and help for young people, and indeed for some older people. But the organisation of that is really a matter for society as a whole. And what we have to confine ourselves to - and in fact we begin to think that we've taken on a pretty heavy burden in even looking at that - what we have to confine ourselves to is how we deal, how the courts ought to deal with the people who come before them, who therefore by definition have already committed some

offence and whose lives are therefore already in disorder.

One particular point that was made concerned the 6 month sentence. And that connects with the question of what prison is for. Because obviously if prison can make a positive contribution towards rehabilitation that is a very valuable thing. But I suspect - and I am thinking aloud really, because we have reached no views, and we are still in the process of collecting information and ideas - but I suspect that one also has to accept that for some people at least prison has only one purpose, and that is to keep people out of the way for a longer or shorter period. And there may be cases in which one is driven into that position.

The point about 6 months has been made a number of times, and I can really see the importance of allowing prisons to have the opportunity to do some good work with the people who go there. But if you are saying that the courts shouldn't pass 3 months or 6 month sentences we maybe putting judges in the position in which they have to jump from a community penalty of 100, 200 even 300 hours community service to what - 9 months, 12 months? And if that is the position, then that may put judges in a difficult position because so to speak there will not be a range, a continuous range of benefits from which you can choose. There is going to be a threshold; you stay below the threshold and you keep people out of prison, and then there's a huge jump, and that might be a difficult operation for... that would be a view which might well create difficulties for sentences.

Much of what has been said I think has been very helpful on the question, which is central to our deliberations, and that is, what is the public attitude, and what is the public confidence in the non-custodial penalties? And that is what we are going to have to try to concentrate on when we try to write our report. So may I once again thank you all very much indeed for the contributions which you have made, that I and my fellows have been much interested by, and which will be of great value to us.

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**Lesley Riddoch:** Thanks very much. I'm just going to hand over at the end to Veronica Linklater, who is now Baroness Linklater, Chair of the Rethinking Crime & Punishment initiative for the Esmée Fairbairn Foundation, and who are of course funding this commission, for a few closing words.

**Veronica Linklater:** Well I found it an absolutely fascinating hour's discussion. And for us at Rethinking Crime & Punishment, it's also a very exciting moment for this moment to have been reached, as it were. We decided that about 2½ years ago that we wanted to commit some of our resources and Esmée Fairbairn to looking at an issue where we hoped we might make a difference. And the result was a three-year, £3 million project called Rethinking Crime & Punishment - a modest little title. And in the course of the last 2½ years or so, we have funded about 50 projects.

The aim of these projects has been to raise the level of debate, raise the level of information that is around, and to encourage more participation in issues to do with particularly prison and its alternatives. It was indeed triggered by the fact that then, and increasingly so now, our prison population is rising at an entirely unacceptable and frightening rate. So much so that many prisons are now becoming almost... I mean all the things that we hoped that we might find possible in prison are becoming impossible. We talk about education programmes, health programmes; people are being as you know shunted around from prison to prison, so that the work that prisons might do with the people who might suitably be there is just impossible. So what are we to do about it?

The ultimate project for Rethinking Crime & Punishment is this Inquiry. And looking at community penalties and their alternatives is, we feel, a hugely important and central feature of the whole debate. And we have high hopes of John and his absolutely outstanding team, who we hope are going to be reporting in roughly June or so, anyway the summer of this year. And I think that it's from that that we will have to draw some important lessons. But I have been so interested today with looking at from the most practical

problems of the gentleman who was burgled, and possibly what is to be found out of restorative justice strategies - which have not been raised, funnily enough. Nobody has talked about restorative justice today, this evening. To the problems of what is prison for, but even possibly what is punishment for, and what is punishment? Is punishment truly prison? We will see.

Anyway, I want to thank, just on behalf of RCP, John and his team for the work that they have done so far. I want to thank the RSA for the work they have done there, tremendously professional way that they go about arranging these meetings for us. Indeed the Playfair Library and those associated we must thank, and of course above all, we must thank you for being here, and for giving us the benefit of your expertise, your knowledge and your views. Thank you very much indeed.