

**POLICE FOUNDATION  
LECTURE  
10 JULY 2001**

**LORD WILLIAMS OF MOSTYN**

## **LORD WILLIAMS: SPEECH TO POLICE FOUNDATION , 10 JULY 2001**

### **A JOINED-UP CRIMINAL JUSTICE SYSTEM**

Now, as Leader of the House of Lords, I would like to share with you some thoughts and reflections on the progress we have made in developing a joined-up criminal justice system and what are some of the important challenges ahead.

As Attorney General, I was one of a triumvirate of government ministers, the others being the Home Secretary and the Lord Chancellor, with collective responsibility for the Criminal Justice System. The phrase “the Criminal Justice System” is one that has been used to describe the combination of all the various bodies that are involved in the issue of crime in our country. But it is only recently that we have been justified in describing the combination as a “system”.

Much progress has been made, but the Criminal Justice System is very complex and we cannot expect to transform it completely in a relatively short time. There have been major successes – such as the transformation of the youth justice system and reducing delay in cases progressing through the system. We now want to build on those successes to transform the performance of the Criminal Justice System as a whole.

In fulfillment of our new, common agenda the Home Secretary, the Lord Chancellor and I met regularly to work out ways in which the system could work better, supported by a team of senior officials. We looked at the system as a whole, and not from any territorial perspective. We tackled issues such as how to reduce delays, how to improve the service to victims and witnesses, how to improve efficiency without sacrificing fairness and equality. We needed to do this because it is difficult to deliver fundamental change if the various parts of the system are not working co-operatively and harmoniously towards the same end.

There is more to be done, as I shall explain later. But we have made a good start, and we are positioning ourselves for the fundamental changes that are to take place over the next few years.

## THE HUMAN RIGHTS ACT

Of these, I have little doubt that the most fundamental change to affect the criminal justice system is the Human Rights Act. Early signs are that the judges are fully aware of its potential to change the way in which public authorities discharge their responsibilities, and of their own role as judges in securing that change. The Human Rights Act enshrines in our law the fundamental rights and freedoms that should underpin any decent modern society. The UK led a war-scarred Europe to the Convention in 1950, but our citizens have had to wait half a century to see the ECHR given real teeth in our own country.

The Human Rights Act has been in full force only since last October. It is too early to judge what effect it will have on the justice system. However, we have certainly not seen the chaos in the courts some were predicting last summer, before the Act came in. Nor has our statute book been found badly wanting: we have seen only three declarations of incompatibility under the Act – and one of those was overturned on appeal. Having said that, it would be wrong to say that the Act is making no difference. We have given the citizen enforceable constitutional guarantees, and put all public authorities under a duty to act compatibly with them. There are bound to be some surprises and not all will be comfortable for Government. We need to take an adult view about this and not view every challenge as an impertinence or every defeat as a disaster. We can and should work in partnership with the courts to give the best possible deal to the public we all serve.

The ECHR recognises that rights cannot be unlimited. Balances and limitations are required to the rights of individuals to reflect the rights of others and the needs of the wider community.

## CONFIDENCE

One of the aims that we set ourselves when we published our business plan for the criminal justice system in February was to improve public confidence. There is much work still to be done.

The criminal justice system can sometimes, I think, seem unnecessarily detached from the public which it serves. The reasons for this are, perhaps, partly historical. In the 17th to the 19th centuries when many of the traditions of our legal system were being formulated, the institutions in this country were much less firmly established; and civil strife, with the incipient threat of revolution, was never too far away. The 17th century did of course bring a revolution in this country, and the succeeding two centuries did so in most of the countries of Europe. It may have been to establish the place of our institutions and to inspire respect for them that we invested them, and particularly our legal institutions, with such majesty and dignity. Perhaps I am speculating too far, but whatever was the reason, I think that the system has become too far removed from the public which it is there to serve, and that the time has now come to correct this.

Many members of the public still regard the key characteristics of the system as being expense, incoherence and opacity. Its ceremonies, procedures, forms and customs are confusing to many. They probably serve to exacerbate rather than diminish the distressing experience for victims and witnesses of giving evidence in court. The public understands fairly well the way that the police operate, but, beyond this, research shows that there is little understanding as to how the system operates or how well it performs.

We are taking steps to ensure that the criminal justice system becomes less anonymous for members of the public. The names and faces of Chief Constables are normally fairly well known within their areas. The Crown Prosecution Service is making a big effort to increase its profile, and in particular the profile of each of its chief crown prosecutors. All chief crown prosecutors have established contact with their local MPs, and local media. Some have appeared on television, many in their local newspapers. All reports by the CPS Inspectorate on the performance of areas and branches are published, warts and all. I hope that we can see the Crown Prosecution Service opening its doors to members of the public in future, showing people round offices and explaining what they do.

I know that the other bodies such as the courts themselves, magistrates court committees, and the Probation Service are taking similar steps to demystify their organisations. The police have much to teach the other agencies - you are the most transparent of all the various organisations in the system. This is important because public confidence in the criminal justice system is crucial, and part of establishing and building this involves increasing familiarity with the institutions that make up the system. It should also help to change the culture within the organisations themselves. Greater contact with the public will give our institutions a greater sense that their purpose is to serve the public, and that they are accountable to the public.

## CJS MODERNISATION

In terms of its performance, I do not believe that the criminal justice system is yet a truly responsive public service, nor is it perceived as such by the public. And yet the public has a legitimate interest in the system. It is not a by-stander looking in from outside. The criminal justice system directly affects the public, it directly affects us all. If the system fails, each one of us is touched by its failure. And that is manifested in the confidence which people have in all manner of everyday things:

how secure they feel in their homes or walking the streets or going about their business. It is manifested too in the fears they have for the safety of others close to them: parents, children and grandchildren.

The joined-up working that we have begun at a national level still has to be replicated fully at the local level, but we have made huge advances and some areas can justly claim to be ahead of the game. One crucial step has been to align the boundaries of the various agencies in the criminal justice system to improve the sense of local ownership of the criminal justice system and facilitate local co-operation. We achieved our aim of matching CPS areas and police force areas and from April this year, the magistrates court committee areas and probation service areas have also been grouped around the same boundaries. We have put other mechanisms in place to secure the same end: more local partnership groups such as Crime and Disorder Act partnerships, youth offending teams and drug action teams; and the Criminal Justice Strategy committees chaired by judges.

Another important development has been the introduction of a new criminal justice system joint reserve of £525m over 3 years. Each Department also has its own allocation. The establishment of the reserve is however the first time that money has been available to the criminal justice system as a whole – not allocated to an individual Department. It is to be used to address pressures across the system and support new joint initiatives.

In February, The Government unveiled its vision for a modern, efficient criminal justice system to help police, prosecutors, courts, prisons and probation deal more effectively with offenders, provide a professional service to the general public and step up support for victims and witnesses. 'Criminal Justice: The Way Ahead' was published jointly by the Home Office, the Lord Chancellor's Department and the Attorney General's Office and set out proposals and ideas for reform. In order to deliver a new criminal justice 'service', every part of the existing system from

detection, prosecution, punishment to resettlement of prisoners, will be subject to reform and modernisation.

## AULD REVIEW

An important part of this thinking is a reappraisal of the whole courts system in the criminal field. We have to tackle the point that it can seem so remote from the public which it serves. I look forward to reading Sir Robin Auld's report. I know that with his experience and acumen there will be much wisdom in the reforms he proposes, reforms that must be aimed, ultimately, to enhancing criminal justice in this country, providing the public with the service it deserves, and promoting public confidence in the rule of law.

Of the reforms Sir Robin is considering, is the decriminalisation of some misconduct. For example, television licenses and council tax enforcement could be taken out of the criminal courts, freeing them up to focus on more serious casework. Sir Robin has made it clear that he believes there is a sound case for retaining lay magistrates along side Stipendiary Magistrates – now known as District Judges.

Nonetheless, he has consulted on ways of re-casting the courts system. He has consulted on the merits or otherwise of a unified court structure combining the present two levels or perhaps introducing an intermediate tier. In this model, cases could start in the tier they will be tried in. Very minor crimes would go to the lower tier and the most serious cases to the upper tier. In the intermediate tier, many cases we presently know as either-way offences could be tried, by a District Judge sitting with two lay magistrates.. This intermediate court could have enhanced sentencing capacity over the lower tier.

In parallel to a new court structure, we wait to see whether Sir Robin recommends specialist court and specialist tribunals. Should expert assessors hear complex

fraud cases? We already have experimental specialist court hearings handling domestic violence cases: should these be expanded?

One final matter to mention under this heading of courts, their structure and jurisdiction. The advantages as I see them come in terms of greater clarity of the law for practitioners, avoiding many of the silly mistakes and errors that prosecution, defence and judges fall into and greater transparency of the public's justice system to the public it serves. There would need to be codification of the substantive offences, laws of evidence and procedure, and of sentencing. It is something that I believe finds favour with Sir Robin, and I very much look forward to reading his report in due course.

## CRIME REDUCTION

We all worry about crime and its effect on our families, our communities, our homes. Reducing it is an absolute priority for the Government. Burglary and car crime are going down but violent crime has risen, particularly in our big cities. Through partnership and concensus, we can achieve a reduction in crime on all levels. That is our aim.

We want to prevent people getting into a life of crime in the first place and this also involves attacking the causes of crime and the factors that disempower and exclude communities – from the Sure Start programme for disadvantaged children through to the implementation of the Children's Fund, for which the Home Office Minister, John Denham, is responsible.

And let me say too that crime reduction is an issue for and about the whole community. It must involve central and local government, agencies and the community, through regeneration, in creating jobs, in housing, policing, and the effective operation of Youth Offending Teams and Crime and Disorder Reduction Partnerships.



What the criminal justice system can achieve on its own is evidently more limited. But we can say that at the moment, it is not achieving what we want. Our figures suggest that around half of all crimes are committed by a hard-core of just 100,000 criminals. Most of them are in and out of court – over half of those sentenced to either custodial or community sentences are back in court being sentenced again within two years. Sentencing is not doing much to discourage them.

## SENTENCING - HALLIDAY

So for a start, sentencing needs to deter. It needs to turn petty offenders – especially young ones – away from crime. That has been the goal of our reforms to the youth justice system, and we can extend the principle.

An important development in this area of work is the publication of John Halliday's review of sentencing, conducted for the Home Office. Halliday suggests reform of non-custodial sentences so that the court can select from a 'menu' of options to meet the purposes of sentencing, and this is something we need to investigate

At present, youth courts have a wide range of orders they can impose – parenting orders, reparation orders, action plan orders, detention and training orders – but these need to work more clearly together with other community sentences as a menu of options for responding to different offences.

At the same time as deterring and diverting in this way, sentencing must also punish. Society has a right to retribution against those whose criminal behaviour harms us individually and collectively.

This is particularly important in dealing with the persistent offenders responsible for so much crime. Sentencing should send a clear message that the more you offend, the greater the punishment you can expect, with longer and more demanding

sentences. In this respect I welcome Halliday's recommendation that judges should take persistent offenders' previous convictions into account in sentencing.

This does not mean that prison is the only way of sending a message to such offenders. Indeed Halliday draws particular attention to the failings of short custodial sentences of less than 12 months. I believe he does us a great service in doing so. Short custodial sentences provide little or no opportunity to change the behaviour and problems which put offenders there in the first place. And they can have a long term adverse effect on family cohesion, on employment and on training prospects – all of which are key to the rehabilitation of offenders.

Halliday's proposed remedy is what he calls "custody plus", where supervision in the community would continue to end of sentence, with an option for administrative recall to prison in the event of any breach. We would need to consider whether the custodial part of the sentence should have a maximum of 3 or 6 months.

Meanwhile, for sentences of over 12 months, Halliday recommends that after serving half the sentence in custody, the remainder be served under strict supervision in the community right up until the end of the sentence. That would be tougher than the current arrangements, where conditions only bite up until the three-quarters point.

This is important in terms of protecting the public. But is also crucial because both custody and community punishment should be an experience that puts individuals back on the straight and narrow. It should help prevent re-offending by using the whole period of an offender's sentence to tackle the underlying reasons that can influence criminality in the first place - drug or alcohol problems, mental illness and depression, or chronic lack of education and qualifications.

## VICTIMS

One critical aspect of the performance of the criminal justice system is its response to victims and witnesses. Much greater attention has been paid in recent years to the position of victims and witnesses, but over 40 per cent of witnesses who attend court still end up not giving evidence, and while waiting times for witnesses have reduced, they are still too long.

We have been looking at our treatment of victims more fundamentally. The criminal justice system cannot command public confidence without the active help and support of the victims and witnesses of crime. In the past the system has taken help and support from victims and witnesses for granted. It has often treated them poorly.

This Government is for the first time developing policies to change the way the system treats these key individuals. This year will see the introduction of Victim Personal statements. so victims, including bereaved relatives in homicide cases, can give a statement in their own words saying how the crime has affected their lives.

The Crown Prosecution Service will in future be taking on a pivotal role concerning victims from the point at which it assumes responsibility for a case when a person has been charged by the police. The people making up the CPS are determined to improve the experience by victims of the criminal justice system. A greater involvement by the CPS with victims will help it to become more outward facing; and improve its visibility. This is not the main purpose of the changes that are being proposed, but I think that they will be very useful consequences.

The effect of recommendations made in both the Glidewell and Stephen Lawrence reports is that in future the CPS will provide information direct to victims about decisions to drop or alter charges substantially. The recommendations place the

responsibility for communicating with victims where it truly ought to lie: with the decision-maker. It was not fair to the police to ask them to convey the gist of a decision; and there was in any event no guarantee that they would get the nuances behind the decision entirely right.

This is a key policy change for the CPS. It intends to provide as much information as possible about the reasoning behind its decisions, recognising that there are several sensitive and important issues surrounding the amount of information that can be given in individual cases.

It cannot be right for a victim of a crime to be left in the dark about the reasons behind the decision to drop or fundamentally alter the basis of a case. Too often the victim has felt excluded from a process which began because of a wrong done to him or her. The criminal justice system is not an end in itself, and if it so marginalises victims that they have no real understanding or sense of participation in the system they are bound to lose confidence in it.

But providing information on decisions is only one aspect of a much more responsive criminal justice system of the future. Victims, witnesses and suspects should be able to obtain from the Internet general legal information, and specific information on their cases. They would also be able to track the progress of their cases in the courts. There is a great deal of scope for using information technology, and particularly the Internet, to improve the standard and depth of our communications. And there is no reason why general and specific legal information should not be available to all, including victims and witnesses.

A step towards this objective has already been made with the launch of CJS Online, the first phase in the delivery of a consolidated CJS presence on the Internet. A central aim of the website is to ensure that we maximise the opportunities for all citizens to access the information they need. A person using CJS Online will be able to find the information that he or she needs without needing to know how the

CJS is structured. Future plans will ensure that users are not constrained from accessing the CJS Online website due to disability or the need to have access to the latest technology.

## CROWN PROSECUTION SERVICE

I have already begun to say a little about the Crown Prosecution Service, but I should like to spend a few moments talking about the changes that are taking place in the CPS. It is common knowledge that the Crown Prosecution Service has not had good coverage overall in the years since some 15 years ago it was formed. It is without doubt an organisation that is, and always has been, under pressure and over stretched.

Its staff have taken many knocks and not been given enough praise for the professionalism and commitment with which they have fulfilled their important responsibilities. The Government recognizes the pivotal role that the CPS occupies in the criminal justice system and has responded in the first instance with the Glidewell review to map the way forward and now by a substantial increase in resources of 23% in real terms for this year.

The CPS is an organisation that is undergoing radical change. The report of Sir Iain Glidewell contained 75 detailed recommendations, the great majority of which have led to changes which not only affect the CPS but other important parts of the criminal justice system. To take an example - without affecting their independent roles, the CPS and police in many areas are now successfully working together in criminal justice units, reducing the administrative bureaucracy and delays, whilst developing productive working relationships. This, in turn, allows CPS Trial Units, staffed by experienced CPS prosecutors to focus on Crown Court and more complex cases.

The CPS has enhanced its standing by developing a cadre of CPS Higher Court Advocates who have been prosecuting cases in the Crown Court. There are now about 180. They have attracted a favourable reaction from the judiciary both for their advocacy and thoroughness of case preparation.

For the future, the CPS has recognised the need to develop CPS skills to deal with the growth in international, serious and organised crime. Substantial resources are going into the police effort to fight this top level of crime. It will be important that the CPS, as the next step in the criminal justice process, does not become a bottleneck for this category of crime. The CPS is developing a cadre of prosecutors expert in dealing with serious, international and organised crime. Training will be delivered this year to key CPS prosecutors on international law issues. This will help raise the skills of prosecutors across the Service.

Similarly with cyber-crime. As technology develops and criminals become more sophisticated, there will be more investigations relating to cyber crime and we will be seeing more prosecutions concerning cyber crime. You will know that a national police unit has been established to tackle cyber crime. Responding to this, the CPS will be developing and delivering training that will equip specialist prosecutors to undertake these complex prosecutions.

The CPS is taking a lead in establishing liaison posts within the main European capitals to facilitate more effective cross-border crime fighting. A CPS lawyer has recently been appointed to a liaison post in Paris, and a Procurator Fiscal to a post in Rome. A CPS CCP has been appointed as the first UK representative to the developing Eurojust mechanism in Brussels. Their role will be to facilitate liaison between prosecutors in this jurisdiction with prosecutors in those other jurisdictions

One reform, which has already had significance for the Crown Prosecution Service, is the establishment of an independent Inspectorate. The Glidewell report recommended the introduction of an independent element to the existing

Inspectorate by way of a part-time independent chairman. We concluded, however, that we should like to go much further and established an Inspectorate entirely independent of the CPS.

Together with appointing lay members to the CPS Inspectorate, we introduced a lay element in another respect by securing input from members of the local community. Their role is to identify and advise the Inspectorate on local issues of importance.

## FORENSIC SCIENCE

Finally, we have failed in the past to properly give forensic science the attention that it deserves. If we believe, as I am sure all of us in this room do believe, that the only just outcome of a trial is one in which the guilty are convicted and the innocent are acquitted, then the forensic science service has a crucial part to play.

I am glad to say that this is a problem which is now being addressed. The government announced the provision of additional resources to increase the size of the DNA database from 650,000 profiles to at least 3 million by 2004. Other new applications have been developed which will allow the police to improve their effectiveness including the new national fingerprinting identification system which was rolled-out in April 2001. In the quest for truth which must be the object of the investigative and trial process, the role of forensic science can be determinative. We must continue to build up our scientific resources.

## CONCLUSION

There is a great challenge ahead for the Criminal Justice System – to win the confidence of everyone, directly or indirectly affected by it, so that they are convinced that it produces just outcomes, that the wrongs done to victims of crime are fairly and properly vindicated by the courts. If we are to achieve that, we must be prepared to discard old ways of proceeding which are no longer fulfilling their

original purpose, and be prepared to think creatively to achieve solutions which meet our real needs.

We are not on the verge of incremental change; we are on the verge of massive change. That is appropriate for a society in a new millennium. I hope and believe though that it is change that will produce new respect for and real confidence in the criminal justice system for the future. All of us in this room have a part to play in that and will affect in some measure great or small the way in which the criminal justice system is viewed in the future. That is our unfinished business, and a challenge for us all.