

# Justice and the Community

*Proposals on Crime, Policing and the  
Criminal Justice System*

Policy Paper 51





# ***Contents***

<b>Summary</b>	<b>6</b>
<b>Introduction</b>	<b>9</b>
<b>The Causes of Crime &amp; Levels of Crime</b>	<b>10</b>
2.1 Criminality in Young People	10
2.2 Communities and High Crime Areas	11
2.3 Drug and Alcohol Abuse	13
2.4 Opportunities for Crime	14
2.5 The Criminal Justice Context	14
2.6 Tackling the Causes of Crime	14
<b>Crime Prevention &amp; Community Safety</b>	<b>16</b>
3.1 The 'What Works' Approach	16
3.2 Short-Termism	17
3.3 Successful Crime Reduction / Community Safety	18
3.4 Making Crime Reduction Partnerships Accountable	18
3.5 Delivering Strategies	19
3.6 Designing and Implementing Strategies	20
3.7 Role of the Police	20
3.8 Measuring Success	20
3.9 Funding	21
3.10 Fear of Crime	21
3.11 Young People	21

## **Policing and the Community 26**

<b>4.1 Police Organisation</b>	<b>26</b>
<b>4.2 Policing Methods and Resources</b>	<b>28</b>
<b>4.3 Police Recruitment and Retention</b>	<b>29</b>
<b>4.4 The Police Reform Bill</b>	<b>29</b>
<b>4.5 Tackling Cross Border Crime</b>	<b>30</b>

## **The Courts 33**

<b>5.1 The Criminal Law</b>	<b>33</b>
<b>5.2 Scope of Criminal Offences</b>	<b>33</b>
<b>5.3 Rules of Evidence</b>	<b>34</b>
<b>5.4 Structure of Criminal Court System</b>	<b>34</b>
<b>5.5 Administration of the Courts</b>	<b>35</b>
<b>5.6 Court Procedure</b>	<b>36</b>
<b>5.7 Appeals</b>	<b>36</b>
<b>5.8 Jury Trials</b>	<b>37</b>
<b>5.9 Decision-Making in Court</b>	<b>37</b>
<b>5.10 The Composition of Juries</b>	<b>37</b>
<b>5.11 Lay Magistrates</b>	<b>38</b>
<b>5.12 Victims and Witnesses</b>	<b>39</b>

## **Sentencing and Prisons 40**

<b>6.1 Imposing the Right Sentence</b>	<b>40</b>
<b>6.2 Mandatory Sentencing</b>	<b>42</b>
<b>6.3 Remand</b>	<b>42</b>
<b>6.4 Sentences under 12 months</b>	<b>42</b>
<b>6.5 Sentences over 12 months</b>	<b>43</b>
<b>6.6 Indefinite Sentences and Severe Personality Disorders</b>	<b>43</b>
<b>6.7 Intermittent Sentences</b>	<b>44</b>
<b>6.8 Community Sentences</b>	<b>44</b>
<b>6.9 Restorative Justice</b>	<b>45</b>
<b>6.10 Mentally Disturbed Offenders</b>	<b>46</b>
<b>6.11 Offenders with Educational and Training Needs</b>	<b>47</b>
<b>6.12 Prison System</b>	<b>48</b>



# Summary

Liberal Democrats believe that the main guiding principles in the areas of crime, policing and the criminal justice system should be:

- Addressing the underlying social causes of crime through a coherent set of policies embracing community regeneration, education, youth work, housing, drug and alcohol strategies, health and childcare.
- Empowering local communities to reduce crime in their own areas, including through locally accountable and responsive policing, local authority crime prevention, and lay participation in juries, magistrates' courts and restorative justice programmes.
- Basing the penal system on the key objectives of rehabilitation and reintegration of offenders into the community, imposing custodial sentences only as a last resort.

Liberal Democrats will tackle the underlying causes of crime by:

- Implementing the package of reforms to drug use policy agreed at the Manchester 2002 Conference in order to undermine the criminal market in cannabis and heroin, and free police time and resources to tackle major drug traffickers.
- Investing in the education system at all levels to ensure there are adequate resources to tackle underachievement.
- Using our proposed community-led 'Quality of Life Index' to drive improvements in the local environment and public services.

Liberal Democrats will promote cohesive local communities which are less vulnerable to the growth of crime by:

- Reforming and strengthening local government, including giving local authorities a power of general competence.
- Developing community or parish level councils wherever local people want them.
- Ensuring that community action is led from the bottom up, with local and central government agencies consulting, supporting and involving local people and voluntary groups.

Liberal Democrats will strengthen crime prevention by:

- Reforming existing Crime Reduction Partnerships into democratically accountable Crime Reduction Boards, with stronger powers over the local Crime Reduction Strategy.
- Running and funding crime prevention initiatives over longer periods.
- Focusing effort on keeping young people away from crime, by providing constructive youth activities, and involving young people and their families in

- tacking offending behaviour through initiatives such as Washington-style Youth Courts, Acceptable Behaviour Contracts and Parental Control Agreements.
- Regulating the use of CCTV and focusing it solely on crime prevention and detection through the introduction a statutory code governing its use.

Liberal Democrats will make policing more responsive and effective by:

- Introducing a system of named local police officers.
- Creating a new category of part-time retained police officer to allow experienced officers to continue to contribute to community policing after they cease to be full-time police officers.
- Supporting the freedom of local authorities to recruit community wardens without arrest or detention powers.
- Allowing police services to recruit Community Support Officers, but without the detention powers currently proposed by the Government.
- Opposing proposals in the Police Reform Bill to give the Home Secretary new powers to intervene in police services.
- Strengthening the role of Special Constables, including by introducing some payments for their services.
- Establishing a new Standing Conference on Policing to consult with all interested parties on policing issues.
- Cutting down unnecessary form filling by police officers, including through better use of ICT and civilian staff where appropriate.

Liberal Democrats will address the growing problem of cross-border crime in areas such as drug trafficking, people trafficking and terrorism while protecting civil liberties by:

- Supporting the development of EU common action in police and judicial co-operation, subject to the principle of subsidiarity.
- Subjecting the European Police Agency Europol to the democratic scrutiny of the European parliament and the legal jurisdiction of the European Court of Justice.
- Supporting in principle the introduction of a common European Arrest Warrant for very serious offences, but not accelerating implementation of the warrant in the UK as currently planned by the Government, to allow the European Commission to bring forward proposals for common minimum standards of protection for defendants.

Liberal Democrats will increase the effectiveness of and public respect for the criminal justice system by:

- Protecting rights of defendants to choose jury trial.
- Ending the use of criminal penalties for minor offences better dealt with through the civil law, for example non-payment of TV licences.

- Establishing the principle that judges or justices' clerks should determine the law and lay juries or lay magistrates should determine questions of fact.
- Taking measures to make juries and the lay magistracy more representative of the community, such as reducing the scope for avoiding jury service, and allowing lay magistrates to serve for limited periods of years.
- Opposing centralisation of local magistrates' courts.
- Creating a Ministry of Justice which would replace the Lord Chancellor's Department and also take on some existing functions of the Home Office.
- Improving the treatment of victims and witnesses, including by the creation of a Victim's Fund to speed up the payment of financial compensation to victims.
- Allowing the prosecution to appeal against acquittal in very serious cases where fresh and compelling evidence of guilt emerges which could not have been presented at the original trial.

Liberal Democrats will promote rehabilitation of offenders and reduce re-offending by:

- Recognising the low success rate of custody in preventing re-offending, and therefore basing sentencing guidelines on the principle that offenders should only be used where it is justified by the gravity of the crime in the circumstances, or by the offender's failure to respond to alternative sentences.
- Developing 'custody plus' sentences as an alternative to conventional imprisonment where offenders spend half of their sentence in prison and the remaining period, under probation supervision with a power of recall to prison if necessary.
- Promoting the use of 'restorative justice' which gives the victim greater involvement in the treatment of offenders and is effective in making offenders understand the impact of their actions.
- Supporting the vital role of the Probation Service in reducing re-offending including greater resources for the use of community sentences generally.
- Improving facilities for work with offenders who are mentally ill, have drink or drugs problems and lack basic skills such as literacy.
- Helping offenders, in particular young people, avoid re-offending by increasing resources for education and training of prisoners in custody.

# *Introduction*

1.0.1 These proposals set out a distinctively Liberal Democrat approach to tackling the rising levels of crime and anti-social behaviour which undermine the quality of life and threaten basic rights of so many people today.

1.0.2 We are convinced that the answers to deep-rooted and complex problems like crime cannot be determined in Westminster and then handed down from on high. They must flow upwards from communities, and reflect the varieties of their experiences and priorities. The role of politicians is to create structures which enable local people to take control of their own destinies and build a better quality of life for themselves and their families.

1.0.3 In accordance with this approach, we set out proposals to:

- Reduce crime and re-offending.
- Enable communities to tackle their economic and social problems.

- Build a sense of community and mutual self-help which in itself is a deterrent to crime.
- Give greater community control over the mainstream police services at local and regional level, making the police more accountable.
- Allow communities to fund their own local wardens to tackle anti-social behaviour.
- Enhance public involvement in the criminal justice system by strengthening jury service and the lay magistracy.
- Make offenders face up to the consequences of their actions and their effects on their own communities through the use of restorative justice and community punishments.

# ***The Causes of Crime and Levels of Crime***

2.0.1 Liberal Democrats recognise that to reduce crime, the causes that lead to crime must be understood and addressed. Crime is, of course, ultimately related to individual responsibility. But Liberal Democrats recognise that there are factors which make crime more likely to happen in our society and therefore we seek to address those factors at the same time as promoting individual responsibility.

2.0.2 The causes of crime are not straightforward. Different types of crime are related to different social factors. There are no mechanical links where one factor automatically produces a criminal outcome. Often crime results where there is a combination of identifiable factors.

2.0.3 Conservative governments failed adequately to address the causes of crime. From Margaret Thatcher's denial of the very notion of society, to John Major's view that government needed to "*understand a little less, condemn a little more*" there was a refusal to fully address the social context of crime. And while the Labour government has been strong on rhetoric it has been weaker on action. Legislation against crime continues to emphasise criminal justice system responses to crime, in isolation from the underlying causes of crime.

2.0.4 In this section we aim to set out the main causative factors for crime, while recognising that many of the

solutions lie outside traditional Home Office policy instruments.

## **2.1 Criminality in Young People**

2.1.1 Crime is a habit that is normally acquired young. Around 70% of adults convicted of an offence over the age of 21 were first convicted under the age of 21. Public policy which successfully addresses a range of problematic issues for children is likely to be effective.

2.1.2 There is significant research into the development of criminality among young people. Consistent risk factors have been identified across different studies.

2.1.3 The Home Office Research Study 187 "*Reducing Offending: an assessment of research evidence of ways of dealing with offending behaviour*" summarises current understanding on the causes of criminality in young people:

*"There is substantial evidence about risk factors which can result in criminal behaviour. They include: poverty and poor housing; poor parenting (including neglect, abuse, harsh and inconsistent discipline, lack of supervision and marital conflict); association with delinquent peers, siblings and partners; low measures of intelligence, poor school performance and persistent truancy; high levels of impulsiveness and*

*hyperactivity; and being brought up by a criminal parent or parents”*  
(Farrington 1996)

2.1.4 The Children’s Society Report *Tough Justice* published in 2000 reported that:

*“Children in trouble frequently experience a range of problems including chaotic home lives, disrupted or unhappy schooling, unemployment, poverty and health problems related to alcohol and drug misuse. Others have been in care or have a history of mental health problems. Prison consistently fails to address the problems that contribute to young people’s offending and may even compound them”*

2.1.5 Research by Zero Tolerance and others suggests that attitudes of young people to violence against women, and tolerance of abuse, is a critical area that needs to be better addressed. Boys growing up in households where domestic violence is accepted are more likely to be abusive themselves in adulthood (and we should of course be seeking to reduce domestic violence in any case because of the immediate suffering caused).

2.1.6 Furthermore, the evidence suggests that criminality is associated with other problems faced by children such as substance abuse, poor nutrition, school failure and teenage pregnancy. Home Office research identifies that those programmes which provide a range of complementary measures are more likely to be effective than those based on single measure interventions. As the Home Office study concludes:

*“Early intervention to target not only children at risk but also their parents and their schools are most beneficial. They deliver multiple outcomes and can be far more cost-effective than initiatives whose focus is only to prevent crime.”*

## **2.2 Communities and High Crime Areas**

2.2.1 Liberal Democrats believe that a range of problems have undermined many of our communities and contributed to levels of crime and disorder.

2.2.2 Home Office Research Study 187 shows that:

*“The community distribution of crime risk is very unequal. Over a half of all recorded property crime, and over a third of all property crime victims, are likely to be found in just a fifth of the communities in England and Wales. Conversely, the least affected half of the country now experiences only 15 percent of the crime, spread between a quarter of crime victims”*

2.2.3 Analysis of high crime areas gives an indication of the causes which can lead to crime. While there is a concentration of crime in some areas this does not mean that crime in other areas can be ignored. However, by analysing high crime areas, factors which lead to crime can be better understood.

2.2.4 According to the Home Office research directorate, research shows that there are two kinds of high crime community in England and Wales:

- i. Areas of concentrated poverty, including council housing estates, characterised by a greater likelihood for poor, economically isolated and disadvantaged households to be living in close residential proximity to those with similar disadvantages. Here, low skilled and otherwise disadvantaged youth often fail to gain access to the primary labour market. Such conditions bring together vulnerable victims and potential offenders; and,
- ii. Pockets of social inequality alongside multi-ethnic communities or relatively affluent urban enclaves also have high crime rates. Such inner urban areas are subject to rapid demographic change and transience, which may itself promote high crime rates, and which also bring the better- and worse-off into closest proximity, heightening inequalities between them and providing targets and motives for crime.

2.2.5 Research shows that a distinctive feature of high crime areas are “concentration effects” i.e. the ways in which social difficulties can ratchet together and amplify each other into a spiral of deterioration. These “concentration effects” include:

- An accumulation of social problems alongside crime.
- A concentration of persistent youth crime.
- Disorder, including environmental disorder e.g. vandalism and graffiti.
- Repeated localised victimisation.

- A breakdown of ‘informal’ social controls.
- Criminal networks (where gangs and loose networks of crime exist).

2.2.6 The research shows that high crime areas are those where a combination of social problems have been allowed to develop. Often the problems are complex and deep rooted. In the worst case they can lead to a breakdown in law and order and the development of so-called ‘no-go’ areas.

2.2.7 American experience suggests that even in communities with difficult social and economic problems, community morale and the use of informal social pressure can have a huge impact on levels of criminality. Dramatic evidence of this came in a major study of the causes of crime and delinquency in a series of similar run-down neighbourhoods in Chicago. The Harvard School of Public Health interviewed nearly 9,000 residents and found that the rates of violent crime were very different, and seemed not to be linked to poverty, unemployment or police tactics. What made the difference was the willingness of the people who lived there to intervene when they see children playing truant, spraying walls or hanging around in street-corner gangs. Researchers put the key difference down to a “*shared vision, if you will, a fusion of shared willingness of residents to intervene and social trust, a sense of engagement and ownership of public space.*”

## 2.3 Drug and Alcohol Abuse

2.3.1 Increasing availability and use of illegal drugs and large scale alcohol abuse are directly related to crime in society and need special attention. In particular, there is a strong link between illegal drug abuse and acquisitive crime to pay for those drugs and a strong link between alcohol abuse and the level of violent crime in society. Though drug and alcohol abuse may themselves be related to wider social problems faced by individuals, there is a clear and direct relationship to crime.

2.3.2 Another Home Office research study in 1998 reported that arrested drug users interviewed in Brighton and Derby were spending £400 a week on average on drugs and in Southwark £350. Some interviewees were spending as much as £2000 a week on a mixture of heroin and crack. Only a small proportion of this money was raised legally. Most was raised by shoplifting, burglary, fraud, drug dealing and prostitution. The report concluded:

*“Problem drug users may raise between £650-£850m through acquisitive crime. The cost to victims will be much higher, as stolen goods are fenced at less than their market value. The figure could be between £2-£2.5 billion or even higher. The cost of problem drug use falling on public services is also high. Expenditure on specialist drug services by health authorities and social services departments is probably in the region of £6 billion per year, though it is unrealistic to attribute all this expenditure to problem drug use. The costs to*

*criminal justice could well be in excess of £5 billion per year.”*

2.3.3 The 2000 British Crime Survey reported that: *“Victims (of violent crime) judged that offenders were under the influence of alcohol in 40% of incidents. This was most likely for stranger violence (53%)”*. Alcohol is clearly an important factor in many road traffic offences, often with fatal consequences.

2.3.4 Home Office Research Study 197 (1998) revealed that there is a strong connection between drug use and unemployment, with 40% of unemployed people reporting drug use in the last year, as opposed to 25% of those with jobs. The report concluded that patterns of both drug use and deprivation are probably more complex now than in the past. Income and employment status are undoubtedly of considerable importance, but to some extent the use even of comparatively damaging opiate drugs transcends these traditional indicators.

2.3.5 Liberal Democrats in March 2002 adopted substantial new set of policies to tackle the drugs problem, entitled *Honesty, Realism, Responsibility*. Key features of this policy package include:

- A national policy of non-prosecution for possession, cultivation for own use and social supply of cannabis.
- Re-classifying cannabis, cannabinols, and cannabis derivatives as Class C drugs.
- In the longer term and subject to international agreement, putting the supply of cannabis on a fully legal, regulated basis.

- Reclassifying ecstasy from Class A to Class B.
- Ending imprisonment as a punishment for possession for own use of any drug
- The creation of a new offence of dealing as defined in the Runciman report.
- The illegal sale of drugs near schools and other sensitive locations should become an aggravating factor in sentencing the offender.
- The development and extension of pilot schemes for specialised heroin prescription and treatment clinics.
- Increased resources for treatment programmes.

2.3.6 This package of measures would release significant police resources currently devoted to cannabis offences, allow for stronger action against major traffickers, and reduce the dependence of heroin addicts on the illegal market. All of these should produce a major decrease in drug related crime. Early experience with the 'Lambeth experiment' on non-prosecution of cannabis users has shown significant gains in terms of police resource availability. We believe that the police resources thus freed up should allow an enhanced effort targeted at intercepting hard drug shipments into the UK, in close co-operation with HM Customs & Excise, Europol and other international partners.

## 2.4 Opportunities for Crime

2.4.1 Another factor which is related to the level of crime in society is, in simple terms, the range of opportunity for crime. A number of factors, from

increasing numbers of material goods in society increasing opportunities for acquisitive crime, to badly lit housing estates and poor security on houses and blocks of flats has meant more opportunity for crime in society.

## 2.5 The Criminal Justice Context

2.5.1 Some commentators believe that the level of crime in society can be directly influenced by the severity of the criminal justice system. However, it is hard to demonstrate such a direct link on the basis of research. The 2000 British Crime Survey notes:

*“That harsher criminal justice policies underlie the international experience seems hard to sustain. Thus, while some US commentators have held the floor in seeing the US record as due to a substantial increase in imprisonment rates, the experience of other countries provides a counter to this. Canada’s record on crime, for instance, mirrors that of the US, without an equivalent increase in prison numbers. And across Europe there have been variations in sentencing and imprisonment not particularly consistent with the idea that heavier sanctions underlie the reduction in property crime.”*

## 2.6 Tackling the Causes of Crime

2.6.1 The next section discusses crime prevention and community safety programmes, but even before looking at these we need to consider how the overall range of Liberal Democrat policy would begin to address some of the

deep-seated problems outlined. Policies on education, health, employment, social inclusion, local government, misuse of drugs and many other fields will be relevant; our existing policy on these subjects can be found in policy paper 43 *An Inclusive Society*, policy paper 42 *Working for Success*, policy paper 37 *Engaging Communities*, policy paper 36 *A Clean Bill of Health*, policy paper 30 *Re-inventing Local Government*, the drug reform policy paper previously mentioned, and other policy documents.

2.6.2 Above all, communities have to be able to take the lead themselves in framing and implementing their own solutions to local crime. Our emphasis on community empowerment, for example by building up a comprehensive system of community/parish level councils including in urban areas, is the key to our whole approach to crime and policing.

# ***Crime Prevention and Community Safety***

3.0.1 Liberal Democrats believe that genuine crime reduction involves tackling the root causes of crime as well as addressing the immediate problems created by criminal behaviour. We also believe that fear of crime usually bears little relationship to actual crime levels, but has a huge impact on people's quality of life. In relation to this paper, crime reduction and community safety will be treated as the same issue to avoid confusion with other community safety issues like dangerous road crossings. We are also aware that different areas will have different priorities, for example the approach to crime reduction in inner city boroughs with major drug and gun problems will vary enormously from that of rural areas with much lower crime rates.

## **3.1 The 'What Works' Approach**

3.1.1 The Government's Crime & Disorder Partnerships were set up in 1998 to establish a framework within which the key statutory agencies would work together, led by police and every local authority in England & Wales. All partnerships outline a number of priority areas in annual Crime Reduction Strategy programmes, with targets and expected outputs.

3.1.2 In November 1999, the Home Office set aside £250m over three years for the Crime Reduction Programme.

Partnerships were encouraged to bid competitively for projects that focus on the following areas. These are based on the Crime Survey and the Government's assessment of 'what works', using evidence from successful programmes in the UK and from elsewhere:

- Raising the performance of the police and crime reduction partnerships.
- Domestic burglary.
- Tackling vehicle crime.
- Disorder and anti-social behaviour.
- Young Offenders.
- Adult Offenders.
- Victims and Witnesses.

3.1.3 The funding is targeted at projects with the following priorities:

- Burglary reduction.
- Robbery.
- Vehicle crime.
- Domestic violence.
- Truancy & exclusions.
- Restorative justice.
- Tackling prostitution.
- Design against crime.

3.1.4 In practice, the take up of available funds has been a very small percentage of the total amount set aside by the Home Office. The problems encountered by local crime reduction partnerships led the Home Office to set up ten Crime Reduction Boards across

the country, based in the local Government Office for the region. They are responsible for supporting and developing partnerships and managing funding.

3.1.5 There are other areas of government policy that focus on issues that are crime-related and have an impact on community safety:

- Drugs, alcohol and mental health problems.
- Homelessness.
- Education, training and employment.
- Young people.

3.1.6 The relevant departments are considerably underspent in these areas, and there are tensions between the priorities of each individual department/organisation, and those of the Home Office. There are further tensions between non-government agencies, for example between the Greater London Authority and the Association of Police Authorities.

3.1.7 In addition to central government funding, local authorities have earmarked funds for crime reduction. It is up to individual authorities how they are used, and local agencies are invited to bid for funds. Again, deadlines are short but the criteria tend to be more flexible than the Home Office although resources are limited.

## 3.2 Short-Termism

3.2.1 An approach that is time-limited and output/target focussed militates against the development of longer-term strategies and genuine partnership working. There are also cultural hurdles

to be overcome between the various key agencies. The very low take up of Home Office funds suggests that crime reduction partnerships are only just beginning to develop as the initial three year period comes to an end. Despite attempting to put crime reduction at the heart of every local authority department through Section 17 of the Crime & Disorder Act, there are still many areas where traditional inter-departmental boundaries still persist, which has an impact not only on good practice but also on the effective use of limited mainstream resources.

3.2.2 As a result, local government funding often results in good programmes running out of funds after a year or two. Despite the Government's emphasis on 'what works', some projects that do work are unable to continue. The emphasis placed by many funders on 'match-funding' adds to the pressure to succeed and to attract funding from as many sources as possible. These, however, are finite and under considerable pressure. And instead of putting ideas into practice, practitioners have to devote valuable time to writing bids that may not succeed.

3.2.3 The current policy of three-year strategies does not allow local partnerships to learn effectively from their mistakes and their successes and develop continuity. Instead, the local authority and police teams charged with developing the strategies spend the last eighteen months of the three year period developing the audit and strategy for the next period.

3.2.4 Liberal Democrats believe that local crime reduction partnerships must be enabled to take a long-term approach

to developing strategies. Experience from places that have developed successful programmes suggest that a minimum of six years is needed to bed down the partnership, develop effective structures within and outwith local authorities and the police, secure adequate long-term funding and iron out mistakes. To support this process and make it more effective, we propose to introduce a rolling system of assessment that, combined with realistic local targets and performance management, for example through Best Value, will ensure that partnerships are given the time and support needed to develop strong crime reduction strategies.

3.2.5 Liberal Democrats believe that Drug Action Teams have a unique and crucial role in the crime reduction mix. We do not support the current proposal to place them under the overall control of Crime Reduction Partnerships. While this may be appropriate in areas where the drug problem is small, in places where it is a major issue, treatment and care is as important, if not more so, than reducing drug-related crime: we believe that an equal partnership between the Health Authority/Primary Care Trusts and the crime reduction partnership must be established/retained.

### **3.3 Successful Crime Reduction / Community Safety**

3.3.1 Crime reduction is not a discrete discipline. It is a key element in the fight to achieve social inclusion. It must involve multi-agency partnerships and long-term co-operation at every level, using strategies based on best practice and imaginative initiatives. Without multi-agency commitment and

sustainable programmes, strategies will not work.

3.3.2 Effective community safety covers a wide range of disciplines, from improving street lighting and home security through programmes to deal with drug and alcohol misuse to employing measures to tackle domestic violence and street robbery. The majority of crime is committed by under-educated, unconfident people who have slipped through every net. Many have left school early or been excluded; they have no training or skills and no chance of finding work. Crime is often the only way of life they know, and for many addiction their only escape. Their victims are not just the immediate ones, but everyone in their community. Comprehensive crime reduction is not just about reducing crime; it is about improving the quality of life.

3.3.3 Crime reduction strategies should be an integral part of the overall planning process for local government. The Liberal Democrats' Quality of Life Index (QLI) could be the key to developing sustainable crime reduction/community safety programmes involving tailored local strategies for local areas, whether borough, ward or housing estate.

### **3.4 Making Crime Reduction Partnerships Accountable**

3.4.1 Other areas of public policy are overseen and guided by organisations or boards responsible for making sure support is provided for practitioners, experience passed on and expertise made available when necessary e.g. the Youth

Justice Board. The new Crime Reduction Units in the Government Offices are a start, but they are still very new and in many cases finding it hard to adapt with the rigidity of central government thinking to the differing requirements of local partnerships. The staff are secondees from the police, probation and local authorities, responsible for the management and funding of local partnerships: there is no local representation or accountability.

3.4.2 The current Crime Reduction Partnerships vary enormously in their ability to deliver programmes. Some are primarily the police and local authority with minimal involvement from probation and other agencies. Others have a strong quadripartite set-up that includes probation and health as key partners, plus other relevant departments (education, social services, health), and voluntary agencies. Liberal Democrats support the latter approach.

3.4.3 The final decision-maker of the content of local strategies at present is the local authority Chief Executive and the most senior local police officer. Local authorities can discuss the strategy but cannot veto it. Liberal Democrats would like to see local Crime Reduction Boards set up with boundaries as far as possible co-terminous with local authorities, that are representative of local people, including members from the local authority and police authority, and to which the Chief Executive and police commander would be accountable. They would work closely with area Crime Reduction Units, whose principal role would be as adviser. These Boards would be responsible for:

- agreeing the local Crime Reduction strategy.

- monitoring the performance of the strategy.
- monitoring the use of funds, in particular funds from mainstream sectors e.g. local authority departments, to ensure that a percentage from every department is directed towards crime reduction.
- interpreting central government initiatives in a way that is relevant to the local area.
- agreeing targets and performance indicators that take into account the needs of the local area, not just the overall targets set by central government.
- endorsing funding bids.
- meeting regularly with the key members of the partnership to discuss strategies and deal with any problems.
- cutting bureaucracy.

## 3.5 Delivering Strategies

3.5.1 Crime reduction strategies should be focused on the area based on the information in the QLI and best practice. Options for delivery should range from tackling a geographical area and all its associated problems (truancy, exclusion, drug and alcohol misuse, homelessness, etc) to pinpointing resources on specific problems e.g. domestic burglary target hardening programmes on particular housing estates. This would depend on the area, the nature of the problems and the priorities agreed in the local strategy. Local area crime reduction strategy teams currently have the power to delegate delivery to local agencies, statutory and voluntary; it must be a priority for full and effective co-ordination of services to be audited before delivery starts to avoid

unnecessary competition and duplication. This should be their responsibility.

### **3.6 Designing and Implementing Strategies**

3.6.1 The current crime reduction regime concentrates on the key policy areas outlined in ‘What Works’ with the emphasis on ‘quick win’ solutions e.g ‘target hardening’ for victims of domestic burglary (locks & bolts), CCTV. There is scope for holistic measures that involve several different projects combining to form an overall programme<sup>1</sup> but they require funding from several different sources. These focus on the long-term outcome of improving whole areas and the quality of life rather than the short-term (and often short-lived) reduction in crime figures. Liberal Democrats believe that the basic design of the strategies should be based on high quality intelligence about the needs and problems of local areas. An outline overall strategy would be agreed with the local Crime Reduction Board, but there would be flexibility for local partnerships based on estates, parish councils or wards to develop tailor-made solutions.

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<sup>1</sup> An example could be an initiative that includes drug and alcohol treatment agencies working with homelessness organisations, education training and employment agencies, the police, probation, staff of housing associations and estate regeneration projects to tackle the problems of rough sleeping drug misusers on estates who bring in traffickers and frighten the life out of residents. A comprehensive solution would result in a safer, cleaner, more secure environment for residents, a reduction in fear of crime and a better future for the users .

### **3.7 Role of the Police**

3.7.1 The police are key partners in Crime Reduction Partnerships. They have an important role to play in law enforcement but are also increasingly involved in working within the community. Initiatives in the US have shown that properly resourced partnerships encouraging genuine co-operation between the main partners can, given time, have a major impact on crime and social problems. However, the current shortfall in officers places huge pressures on local police who are expected by the community to keep them safe from anti-social behaviour at the same time as having increasingly, to deal with more serious and more violent crime. Community Wardens and retained Police Officers as set out later in this paper can have a major part to play in bridging this gap.

### **3.8 Measuring Success**

3.8.1 The current emphasis on stringent targets and hard outcomes gets in the way of developing effective, long-term programmes that, while they might not immediately be seen as reducing crime in terms of pure numbers, have a long-term impact on the quality of life and level of general disorder and nuisance. Research and evidence-based practice show that unless activity is sustained, initiatives run out of steam and the old problems resurface. Liberal Democrats believe that while short-term information can be useful in helping develop successful programmes, we should adopt a longer-term approach that measures the overall outcome of a strategy.

## **3.9 Funding**

3.9.1 One of the biggest impediments to developing effective crime reduction/community safety strategies is funding. The system needs to be clearer, more transparent, and longer-term to allow for genuine development. Local authorities are currently not obliged to fund community safety despite being one of the lead statutory agencies. The current competitive bidding processes militate against establishing programmes speedily and wastes a huge amount of managers' time. We believe that central government funding should be made more accessible to non-statutory agencies; the money given to area Crime Reduction Units should be allocated to local Crime Reduction Boards, and regular advice and information should be provided not just to statutory but also to voluntary agencies. Control of allocation and accountability should be the Board's responsibility. Funding should also be made available on a longer term basis than the current 1-year or 3-year programmes.

## **3.10 Fear of Crime**

3.10.1 Reducing fear of crime is as important as reducing crime itself. Successful holistic programmes do eventually make people realise that they are not under threat, but there are quicker solutions. CCTV is a popular response, and has certainly had some successes (notably it was vital to the capture of the notorious 'nail bomber' Stephen Copeland) but many people have misgivings about it, partly on cost/effectiveness grounds and partly on civil liberties grounds. We believe that local authorities should be able to install CCTV systems in public places where

they so decide, but the system must be under overall Police control, and there must be a strict statutory code covering who may view pictures and for what purposes they may be used. We also believe that such a code should apply to CCTV employed by private companies.

3.10.2 We support community workers such as Neighbourhood Wardens and Community Champions, funded by the crime reduction partnerships and recruited from local neighbourhoods, who are an effective antidote to fear of crime and can be a useful source of information. Where police are often distrusted by communities especially ethnic minority communities, they have been successful in building trust. However, we would be concerned if they were seen by the community as substitute police officers – their roles must be clearly defined. In particular, they should not have powers of detention.

## **3.11 Young People**

3.11.1 Young people are the key to long-term, successful crime reduction for the future; they are also increasingly becoming the cause of much opportunistic crime like street robbery. One particularly worrying feature is that young victims are becoming offenders in turn. The average age of criminals is getting younger every year: education is the key to developing effective programmes to combat bullying, truancy, school exclusion, boredom and lack of progress, all of which lead to crime. Schools are central to this; many of the social problems that cause crime can be addressed through early years education, school-based crime reduction initiatives and good parenting/grandparenting programmes.

The current rigidity of the national curriculum militates against imaginative school-based programmes. Liberal Democrats support a less prescriptive Minimum Curriculum Entitlement which allows schools more flexibility about the curriculum.

3.11.2 Liberal Democrats believe that many of the 'solutions' must be long-term. While the Labour government has introduced significant reforms in the youth justice system we deplore the rhetoric of the Labour government and their Conservative shadows who collude with media demands for retribution instead of promoting positive measures in the community which will divert young people into constructive activities, and minimise the number who get involved in the formal criminal system at all. There must be improved support for young people and families in the community including the placing of the youth service on a statutory footing and the extension of constructive opportunities such as sports or arts activities for young people. There needs to be adequate provision in the community to ensure that children at risk of offending who have truanted or been excluded from school are supported, including full-time pupil referral units from which in due course reintegration into mainstream schools can be achieved.

3.11.3 Liberal Democrat-controlled Islington Council has pioneered the use of Acceptable Behaviour Contracts (ABCs) which has led to a significant reduction in anti-social behaviour on estates. Most other London authorities have now either implemented the scheme or are looking at doing so. Young people aged 10-18 sign a 'contract' with the local authority and

other agencies such as the police and housing association, specifying behaviour they will not engage in. This has proved extremely effective as a means of educating parents and children to take responsibility and ownership of the unacceptable behaviour. If the ABC is breached the young person could be the subject of an Anti-Social Behaviour Order (ASBO), and could contravene the family's tenancy rights in Council or Housing Association accommodation. Experience has shown that as soon as the question of tenancy was raised both parents and youths took the situation seriously. By being more community-scale, quicker, simpler and cheaper than an immediate application for an ASBO the scheme has been remarkably successful with to date over 100 ABCs signed and only two serious breaches. An adapted form, Parental Control Agreements (PCAs) has now been developed for those aged 6-10.

3.11.4 Two key recent reforms to the Youth Justice system, which Liberal Democrats have welcomed, are the creation of the Youth Justice Board and of Youth Offending Teams.

#### ***Youth Justice Board***

3.11.5 The principal aim of the Youth Justice Board is to prevent offending by young people, and it has a very broad remit including monitoring the operation and performance of the youth justice system, including the development of the new Youth Offending Teams and the Secure Training Centres. It is also responsible for developing and disseminating good practice. The twelve members of the Board are directly appointed by the Home Secretary. It has a substantial budget into which organisations can bid for funding for

initiatives for young people. However, Liberal Democrats do not believe that its operation is sufficiently transparent – for example, it is difficult to get explanations for why bids have failed. We also believe that the funding regime is too rigid to allow for the wide variety of programmes that are being developed, and for the effective dissemination of best practice. We would revisit the structure and remit of the Board.

3.11.6 We believe that positive activities are the key to reducing offending among young people. Research demonstrates that boredom and lack of stimulation are key contributors to offending by this age group. Programmes must be local, based on evidence of what has worked elsewhere, and must be adequately funded over long periods of time to ensure that the young person knows the programme is not going to stop for lack of money. Liberal Democrats believe that Youth Justice Board is central to developing these initiatives.

3.11.7 Accountability is very important. We would like to see its members more democratically appointed than at present, possibly through delegation by the local Crime Reduction Boards.

### ***Youth Justice System***

3.11.8 The Youth Justice Board is also responsible for the operation and performance of the youth justice system including the Youth Courts.

3.11.9 Liberal Democrats have long argued that the youth justice system in England & Wales should be reformed to ensure a greater focus on the root causes of misbehaviour and on rehabilitation, like the Children's Hearing and Panels

system in Scotland. Steps have already been taken in this direction. Young people, either through the new cautioning system, or through referral from the Youth Court, can be brought within the scope of the Youth Offending Teams.

3.11.10 Youth Offending Teams (for people between 10 and 18) are multi-agency partnerships designed to prevent offending by young people. They have a broad remit and are intended to work with the young people, their families and their schools. Many of them have found it difficult to get off the ground, partly because of the inevitable culture clash between agencies with different philosophies and partly because of very high expectations. As with much else in the Government's crime reduction agenda, not enough time was spent on working out how the YOTs could be implemented effectively and too much on high profile launches. Yet they have huge potential to develop radical, non-custodial programmes for young people, like Intensive Supervision and Surveillance programmes and Youth Advocacy projects. Liberal Democrats propose reviewing the remit and running of the YOTs, and ensuring that experience from those which are working successfully is disseminated across the country. Their funding also needs to be both substantial enough and stable enough for them to fulfil their potential

3.11.11 However, many cases involving young people are still sent through the more formal youth court system. While the most serious cases may need to be addressed through a formal court system, there is further scope for reform. Liberal Democrats do not think that the Youth Court as present constituted is

necessarily the best forum to plan the future with young people and their families.

3.11.12 We believe that the emphasis must be on non-custodial programmes, some more intensive than others, and with all agencies being involved – police, social services, youth services, education service and the voluntary sector.

3.11.13 One proposal is that a Special Youth Court, with a trained Children's Judge sitting with two Youth Court magistrates, to try cases of grave crimes such as murder, GBH/ABH and aggravated robbery by those under the age of 18. This would ensure a formal procedure for serious cases while taking into account the fact that it is children and young people who are on trial.

3.11.14 Another proposal which we as Liberal Democrats would like to explore is the radical and successful Youth Court set up in Washington DC. Young people sit in judgement on their peers under the guidance of experienced lawyers. They have proved to be successful not only in sentencing offenders appropriately, but have also had a major impact on crime levels in the city. The Time Dollar Youth Court now takes a third of teenagers arrested for the first time for non-violent offences out of the court system, and puts them before juries of other teenagers - with a dramatic effect on re-offending. Those taking part in the juries have to undergo training, but are paid in 'credits' for doing so, which they can use to buy items which will help them progress their learning and increase employability – for example computers. Those who come before the courts are paid in credits for any

community service they are given, and must also take part in juries themselves.

3.11.15 It is important that the approach of criminal justice professionals is appropriate to the different nature of youth justice. We propose a Youth Legal Panel, on the lines of the Law Society's Child Care Panel for lawyers practising in the Family Court, to ensure that all lawyers representing young people in the Youth Court have appropriate knowledge and skills.

3.11.16 There remains a need for custodial options. However, too often Young Offenders Institutions are similar to adult prisons in all but name. We would end the imprisonment of children in adult prisons and would seek to ensure that all young people under 18 who must be held in custody are held in special units which seek to address their offending behaviour and meet educational and other needs as developing adolescents. A relatively recent development has been the introduction of custody for children aged 12 to 14. This raises serious questions about the minimum age at which it is reasonable to hold children in such conditions.

3.11.17 A key issue in the debate on youth justice is the age of criminal responsibility. At ten years old, England & Wales has a low age by European standards. Scotland has recently increased its age of criminal responsibility from 8 to 12, and Liberal Democrats would support a similar increase in England and Wales. Children below that age with serious behavioural problems could still of course be dealt with under the terms of the Children Act 1989, but this would keep them out of

the formal criminal justice system as long as possible.

3.11.18 Above all, Liberal Democrats believe that the key to tackling crime among young people is to address the root causes of their behaviour, listen to

them and their concerns, and working in partnership with all agencies, develop sustainable programmes designed to divert them from crime or prevent their involvement in the first place.

# ***Policing and the Community***

4.0.1 The Police are the frontline criminal justice response to crime. They are also key players in preventing crime. A strong and effective police service is vital for public confidence in law and order.

4.0.2 Liberal Democrat policy should aim to ensure:

- The police service is accountable to the communities which it protects
- The most effective policing methods are used to prevent, detect and deal with crime while maintaining public confidence and the principle of policing by consent.
- The police effectively co-ordinate with other agencies to tackle crime.
- The structure and organisation of the police is cost effective.
- There are sufficient resources available to meet the demands on the police.
- The police service and its officers have good morale.

## **4.1 Police Organisation**

4.1.1 Under the existing system, police services are not responsible to a directly elected body, but via a tripartite system involving the Chief Officer, the Police Authority and the Home Secretary. The Chief Officer has a wide degree of discretion over operational policing matters. The Police Authority usually has seventeen members, nine nominated by the local authorities covered by the Police Authority area, three from local magistrates and five ‘independent’ members chosen from a shortlist drawn up by the Home Secretary. The Police Authority sets the budget for the force, and agrees an overall policing plan in consultation with the Chief Officer and local people. It also appoints the Chief Officer, and can compel the Chief Officer to retire. The Home Secretary confirms the appointment of Chief Officers, also has the power to retire them, and has a significant influence in the composition of Police Authorities. The Home Secretary can set objectives and performance targets for police services, order inspections by Her Majesty’s Inspectorate of Constabulary, and also makes financial grants to police authorities.

4.1.2 At the service level, the police are therefore reasonably democratically accountable, and certainly more so than for example the health service. The operational independence of the Chief

Officer is important, and in general has worked well alongside the more strategic planning role of the Police Authority. However, the powers of the Home Secretary to intervene in determining objectives and performance targets undermine the freedom of Police Authorities to set their strategy in accordance with local conditions and the priorities of local people. Liberal Democrats therefore support shifting the balance away from the Home Secretary towards the Police Authority. As elected Regional Governments develop in the English regions, these should also draw down powers from the Home Office.

4.1.3 We believe that the procedures for appointing Chief Police Officers should be made more transparent and accountable, with clear selection criteria published.

4.1.4 There is a real need to ensure adequate police accountability at the lower level. Prioritisation of higher-crime areas within large forces can leave remaining areas with very low visibility and poor response times when they do need police action. The proposals for Crime Reduction Boards in 3.4.3 will give local authorities greater say over policing priorities. We also support giving local councils the power to employ or engage community safety wardens, who can have an important role in dealing with anti-social behaviour and giving local people a greater sense of security in their own areas. We do not believe, however, that such wardens should have any powers of detention or arrest.

4.1.5 Liberal Democrats have proposed that local authorities should be able to create Community Safety Forces, which co-ordinate the work of

neighbourhood wardens and other public officials who can assist the police in dealing with low level crime and disorder. Both forces should mesh with local Crime Reduction Partnerships.

4.1.6 The Police Federation have called for a Royal Commission on Policing to respond to the many issues facing policing including demands of the service, police morale etc. This would be the first Commission for around 40 years. Liberal Democrats propose instead that a ‘Standing Conference on Policing’ which is a permanent advisory body to bring together all the relevant interested parties would be a more useful alternative rather than dealing with the many issues in a one-off commission.

4.1.7 Good police relationships with the community are essential to effective policing. Relationships with ethnic minority communities have been particularly strained recently. Liberal Democrats welcome the positive start made by the Metropolitan Police’s new race and ethnic task force, but recognise that much more needs to be done. An essential factor in building up confidence must be a truly independent and effective police complaints system. The proposals in the current Police Reform Bill should provide this. There is also a need for better liaison between the police service and local communities over local priorities and strategies, which the reforms above will deliver. We believe that democratically elected representatives are generally preferable as spokespeople for local communities than self-appointed ‘community leaders’.

## 4.2 Policing Methods and Resources

4.2.1 In recent decades, rising crime and limited resources have meant there have been competing demands on the police. Many forces have reduced more visible operations, concentrating scarce resources on ‘intelligence led’ and specialist operations to respond to serious crime. Research has shown that the most effective methods for reducing overall levels of crime include: targeting high profile repeat offenders; targeting repeat victims to reduce the incidence of further victimisation; targeting police patrols at crime ‘hot spots’. However, this has led to reduced public satisfaction in the level of visible policing and increased demand for more police officers. Cuts in the number of officers which started under the last Conservative government and which got worse under the first three years of the Labour government have understandably increased public concern. Research also shows that the targeting approach works best in the context of community policing – having officers well known in their neighbourhoods is an aid to local intelligence gathering and boosts public satisfaction.

4.2.2 Clearly it is important that police forces find the right balance in policing methods. Ideally resources would permit both approaches to be pursued in a complementary fashion. Consideration of methods cannot therefore be divorced from resources, or indeed from the organisational issues raised in 4.1 which also influence the flow of resources.

4.2.3 We propose that there should be an independent report on the resources the police need to effectively tackle

crime. This should be undertaken by the Standing Conference, although clearly final decisions on police numbers in each police authority should be decisions for that authority. Liberal Democrat proposals for reforming the basis of local taxation and lifting central government controls on local financial decision making will give Police Authorities greater freedom to choose to fund extra police from their own resources where the local taxpayers support it.

4.2.4 As part of our strategy of reinforcing links between the police and the local community, we believe that every community should have a named local police officer with whom local people can build up a relationship of trust.

4.2.5 We also believe that there is a valuable underused resource of trained police officers who have retired from full-time police work or given it up for family reasons but still have much to offer. We therefore propose to create a new category of ‘retained police officer’ who could give part-time service as a cost-effective way of boosting community policing.

4.2.6 Pensions are a major resource issue. Police pensions are paid out of revenue expenditure. As more officers retire the proportion of police funding spent on pensions is rising year after year and is currently around 15% of the total, but in a few years could be as much as 25-30% in some authorities. This pension “timebomb” has been identified for many years. The pension system also has the damaging effect of pushing experienced officers into premature retirement after thirty years service. There is a wider problem with pension arrangements across the public

sector, and the Public Services Working Group will be bringing forward proposals to tackle it.

4.2.7 Excessive bureaucracy and form filling absorb a great deal of valuable police time. Liberal Democrats support reducing this burden on officers both by greater use of ICT and by using civilian auxiliary staff.

### **4.3 Police Recruitment and Retention**

4.3.1 In the long-term, the Standing Committee could advise on the necessary complement of police officers for England and Wales as a whole. In the short term, the Government have identified a need for at least 130,000 officers in England and Wales by next March.

4.3.2 Recruitment and retention are problems even at current force levels. Some of the same problems which affect retention in other public sector professions apply, for example shortage of affordable housing. There are other issues more specific to the police. For example, the police have imposed a number of very tough and not always justifiable restrictions on who can be recruited. Restrictions on those with tattoos, spent offences, or who are EU citizens should all be reviewed. There could also be recruitment directly into ranks above Constable in specialist units, such as the fraud squad. We remain committed to Constable entry for mainstream policing, as it is vital that senior officers have the credibility with the junior ranks which this background gives them.

4.3.3 Special Constables, who have legal training and police powers, fill an important role in strengthening the local police presence in many areas.

Recruitment and retention of specials is also currently difficult. We support a modest element of payment for specials, modelled on the way that the Territorial Army is given bounties. We also believe that experienced specials who wish to become full-time police officers should have a fast-track procedure for converting.

### **4.4 The Police Reform Bill**

4.4.1 Liberal Democrats support many of the proposals in the Police Reform Bill currently before Parliament at the time of writing. However, there are a number of exceptions to this.

4.4.2 We strongly oppose the enhanced powers of the Home Secretary over Police Authorities and Chief Officers, and will continue to fight these clauses of the Bill.

4.4.3 We have serious reservations about the Community Support Officers as currently proposed. We do not believe that they should have detention powers, which should be reserved for fully trained police officers; and we oppose giving the Home Secretary ‘Henry VIII’ powers to vary their powers and responsibilities without further primary legislation. CSOs could nevertheless have a useful role, for example in covering for some routine police operations if a major emergency required sudden massive redeployment of police officers. As with community wardens and Special Constables, it may also be easier to recruit members of

ethnic minorities into this role than directly into the police service. We would therefore allow Chief Police Officers and Police Authorities to recruit CSOs, subject to consultation with local authorities. We believe strongly however that they should not be used as a way of replacing mainstream police officers on the cheap. We also believe that they should be managed in such a way that the members of the public should be able to distinguish between police officers with a power of arrest and detention and CSOs who should not have such powers.

4.4.4 We also oppose proposals in the Bill to allow the Police to accredit existing organisations involved in public safety activities, such as sports stewards, (to be known as Accredited Community Safety Organisations) whose staff could then have the powers of Community Support Officers.

## **4.5 Tackling Cross Border Crime**

4.5.1 The Treaty of Amsterdam states that the European Union's objective shall be to provide citizens with a high level of safety within an area of freedom, security and justice and calls on the Member States to develop common action, particularly in the fields of police and judicial co-operation.

4.5.2 We welcome these developments and wholeheartedly support the creation and development of an area of freedom, security and justice. As organised cross-border crime is international by its very nature, authorities charged with tackling this must wake up to the fact that they cannot fight this ever-increasing phenomenon alone - on a 'single state', national basis.

4.5.3 However we must ensure that any such measures are proportionate, in line with the principle of subsidiarity, and that there is proper democratic scrutiny. Moreover the balance of justice must be maintained so that fundamental rights of the individual and civil liberties are not undermined in the fight against crime.

4.5.4 The approach taken at EU level not only provides for the creation and development of specific bodies like Europol and Eurojust but seeks to ensure that the authorities in the Member States have a consistent and co-ordinated approach in tackling organised crime through measures to improve training and encourage exchanges of best practice.

4.5.5 In addition in the area of substantive law, proposals are in place which would seek to establish common definitions and standards relating to some areas of criminal law and procedures. Although these proposals only concern those crimes that fall within the remit of the Treaty on European Union, such as trafficking in human beings, terrorism and drugs trafficking, in the interests of upholding the principle of subsidiarity a keen eye must be kept on developments in this area. In particular, EU-level agreements could effect or distort national sentencing guidelines.

4.5.6 European Union legislation in this field is based upon the principle of "mutual recognition". An ever-developing policy of common standards and definitions is coming into play much of which will contribute to fighting international crime and ensuring a safe and just society.

4.5.7 The European Arrest Warrant agreed by the Council of Ministers at the end of 2001 is a key example of judicial co-operation and the tools that are being developed in creating an area of freedom security and justice. For 32 specified serious offences, the procedure would replace the present extradition arrangements, and would apply both to the surrender of persons before judgement and to surrender for the enforcement of a final judgement. It is based on the principle of automatic or virtually automatic recognition of judicial orders for arrest made in another Member State. In principle we support measures to facilitate extradition to other EU states for serious offences.

4.5.8 However with this system must come a parallel system of protection and safeguards for the defendant ensuring that the balance of justice is maintained and “security” measures are not rushed in to the detriment of “justice” measures. This is why Liberal Democrats in the European Parliament voted for the introduction of a European Habeas Corpus rule to come in parallel with the Arrest Warrant. Unfortunately this initiative failed. The European Commission is now working on a set of common standards of defendants’ rights. The most desirable outcome would be for these rights to be in place before final implementation of the European Arrest Warrant, which is due in 2004. Liberal Democrats would therefore not accelerate implementation of the Arrest Warrant to March 2003 in Britain as currently proposed by the Government.

4.5.9 Another concern that must be raised is the extent to which any real democratic scrutiny can be said to exist in this area. Initiatives at EU level are based on procedures that are limited to

inter-governmental co-operation between Member States. Such co-operation is often based on lengthy, cumbersome procedures where the European Parliament has a marginal influence, as it is limited to a “consultative” role with no real power in the decision-making procedure under the “Third pillar” of police and judicial co-operation.

4.5.10 This democratic deficit must be addressed. Not least because instruments that are passed relating to criminal co-operation and approximation of substantive criminal law and procedures not only seek to fight international organised crime but can have a serious impact on the fundamental rights and civil liberties of individuals affected under this legislation.

4.5.11 An example of this is Europol.<sup>2</sup> Democratic control of the activities of Europol is indirect, fragmented and insufficient, limited both on a national and European Union level. There are no specific provisions for the European Parliament to scrutinise and check on the activities of Europol. Any action the European Parliament can take is limited and re-active based on receiving information and merely being consulted on any changes to the Convention. National parliamentary scrutiny is based on a tenuous link whereby national representatives of the Management Board are answerable to the Council of Ministers and those ‘Justice’ Ministers are then answerable to their own

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<sup>2</sup> Europol started life as the Europol Drugs Policy Unit in 1993. It became fully operational in 1999 with a very specific mandate related to certain crimes, a mandate that since 2001 has been extended to cover all forms of serious crime as listed in its Annex.

parliaments in accordance with national provisions. This is unsatisfactory.

4.5.12 The activities of Europol should be subject to real democratic, budgetary and judicial scrutiny. This can only be achieved when the instruments on which the power and competence of Europol is based becomes a Community “First Pillar” instrument. Only then would the European Parliament have greater control, and the European Court of Justice legal jurisdiction and the power to provide suitable remedies.

4.5.13 Some criminal organisations and activities are global in their reach and effect. Activities such as drug production, smuggling, international fraud and people trafficking impact across continents let alone national borders. Such challenges require investigative and judicial co-operation between national authorities and international organisations.

4.5.14 Liberal Democrats support the International Criminal Police Organisation (Interpol) as a means of facilitating international cross-border police co-operation. In 2001 some 1400 people were arrested by national authorities as a result of co-operation through Interpol. 60% of Interpol’s

work relates to the illicit trafficking of drugs. As there is no international legislative code to deal with the problem of international criminality, Interpol officers concentrate on creating an atmosphere of trust and information exchange between national authorities. It is crucial that Interpol is governed and operates by a strict constitution that guarantees human rights and freedom of information. It is also important that Interpol is sensitive to the concerns of privacy guaranteed in Europe by the European Convention on Human Rights.

4.5.15 Tackling the threat posed by international terrorism made so brutally obvious on 11<sup>th</sup> September 2001 will also require urgent and sophisticated co-operation between military, judicial and financial authorities. Liberal Democrats fully support the obligations imposed on member states by the United Nations and other bodies such as the Financial Action Task Force (FATF) to work together to defeat the scourge on international terrorism. We recognise that for such action to be successful international co-operation must also focus on those circumstances that help to breed violence such as poverty, oppression and injustice.

# The Courts

5.0.1 Liberal Democrats believe it is important that the criminal justice system commands the confidence of the public and is as efficient as possible, without jeopardising fundamental principles of justice.

5.0.2 In particular, we believe in the importance of making the criminal prosecution process as clear and simple as possible, in maximising public participation through jury service and the lay magistracy, maintaining the independence of the courts from political interference, and in making a strong distinction in the way that the system treats adult and child criminality.

5.0.3 The debate on crime and the courts has inevitably been affected by the publication of the Auld Report. The report contains much that is good. Its recommendations would bring the guilty to justice and secure the acquittal of the innocent more quickly. But in seeking to limit the right to trial by jury and by downgrading the role of lay magistrates in middle-ranking cases, the report demonstrates a clear mistrust of the part that ordinary people play in the administration of justice.

## 5.1 The Criminal Law

5.1.1 The criminal law is there to indicate the behaviour which society has collectively stated that it will not tolerate, normally because it is damaging to others. For this to work, the law must be accessible to those who are expected to live by it. There are over 8,000 criminal offences established either by

the courts or by statutes, often dating back several centuries. There are anomalies and loopholes. For instance, there are two standards of what the law deems reckless behaviour. Both the Law Commission and the Auld Report have called for a criminal code, which should lay down, in a principled way, what the rules of law, evidence and procedure are to be. We support these calls. Liberal Democrats would therefore legislate for a Criminal Code.

5.1.2 Rules of law, evidence and procedure could be three sections or chapters within an overall code. The entire criminal law should be covered (unlike the Law Commission's draft code which did not cover theft).

## 5.2 Scope of Criminal Offences

5.2.1 There are a number of less serious offences where the criminal justice system is currently used inappropriately, for example to punish non-payment of TV licences or to enforce civil debts. Liberal Democrats agree with the recommendations of the Auld report that conduct which cannot properly be regarded as criminal or which can be better dealt with elsewhere should not be the subject of criminal court proceedings. Civil debt enforcement should not come before the criminal courts. We would:

- Increase the use of road traffic-style 'fixed penalties' in cases such as TV licence evasion – this

would mean an end to imprisonment for TV licence evasion.

- Support the increased use of ‘caution-plus’ by the police as a means of preventing future criminal conduct from those petty offenders without criminal records.

### **5.3 Rules of Evidence**

5.3.1 Presently, ‘hearsay’ evidence is inadmissible (it cannot be tested in cross-examination), memory-refreshing in court is only allowed under certain circumstances (for example contemporaneous police notes), and previous misconduct is generally not allowed to be given in evidence. ‘Similar fact’ evidence which shows a distinctive pattern of behaviour can be introduced if the Judge regards it to be more probative than prejudicial.

5.3.2 The Auld report recommends a re-consideration of the law on hearsay, memory-refreshing in court, previous misconduct by the accused and by others and evidence from children. This is a vague area of the report but Auld gives as his major principle that fact-finders (juries/magistrates) should be trusted to give each piece of evidence its proper weight. It is therefore obvious that Auld wishes to see currently inadmissible evidence becoming admissible. This may well include ‘relevant’ previous convictions. The government is also keen to review the rules of evidence.

5.3.3 Although it is important that child witnesses are treated with the maximum sensitivity, and we are always open to improvements in that particular area, Liberal Democrats are not in

general sympathetic to the proposed changes. Most currently inadmissible pieces of evidence such as hearsay and the previous convictions of the accused are inadmissible for good reason. It is a key principle that information put before the court is open to cross-examination, and hearsay evidence is clearly not. Although the law could undoubtedly be simplified, experience has shown that juries can over-rely on this evidence to such an extent that it is unsafe for them to hear it. We would particularly oppose any move to place the defendant’s previous convictions before the court where they are not admissible presently.

### **5.4 Structure of Criminal Court System**

5.4.1 The Auld report makes a number of detailed proposals for reforming the structure of the criminal courts, in particular creating a single court to replace the currently separate Magistrates and Crown Courts. This would have three divisions: (i) a Magistrates’ Division, (ii) a new District Division with two lay Magistrates and a Judge, and the (iii) Crown Division with a Judge and Jury. Crucially, the District Division would deal with all cases which are currently ‘either way’ cases (that is, the defendant can choose whether to have a magistrates court or jury trial).

5.4.2 Liberal Democrats believe the court system should be as transparent and simple as possible so that justice can be seen to be done. We therefore support calls in the Auld Report for a single unified criminal court, with the same rules of procedure applying throughout.

5.4.3 We believe one of the significant weaknesses of the Magistrates' Court is that there is no division between those who rule on issues of fact and issues of law. The magistrates rule on both. There is no safeguard to prevent them from relying on matters they have previously deemed inadmissible (such as a dubious 'confession') in reaching a verdict. Under such circumstances, justice is not always seen to be done. Auld's proposal that the District Judge should rule on matters of law in the absence of the lay magistrates is a step in the right direction, but his proposals do not carry the division through clearly as the District Judge remains a finder of both fact and law. We therefore propose that in lesser cases tried by lay magistrates alone the Justices' Clerk should rule on matters of law in the absence of the magistrates (Clerks would require appropriate training to discharge this role). In cases where a District Judge sits with lay magistrates the District Judge should rule on matters of law in the absence of the magistrates, and only the (minimum of three) lay magistrates should decide on matters of fact.

5.4.4 We do not believe that District Judges alone should as at present be able to decide cases in a summary trial where there is a not guilty plea. We also reject Auld's call for a new District Division: we believe that the existing Magistrates Courts can be reformed along the lines suggested without creating a whole new category of courts (See also section 5.11 on composition of magistracy).

5.4.5 With regard to Auld's recommendation that all types of Court should be co-located in a single building, while there are advantages in terms of having better facilities for victims and witnesses, we do not believe this should

become an excuse for mass closures of local Magistrates Courts where that would mean cases having to be tried in distant locations.

5.4.6 We remain supportive of the concept of specialist drugs courts, but would like to learn how they work in practice in Scotland where they have been introduced before moving to immediate implementation in England & Wales.

## **5.5 Administration of the Courts**

5.5.1 Currently, the Court Service administers the Crown Court and local Magistrates' Courts Committees administer the Magistrates' Courts. The two are divided for no good reason. There are several different strategic bodies such as the Trial Issues Group and Strategic Planning Group. The information technology provision in courts is very poor. In the Magistrates' Courts in particular, this causes great inefficiency.

5.5.2 The most important Liberal Democrat proposal for reform to the administration of justice is the creation of a Ministry of Justice, which would take over the existing functions of the Lord Chancellor's Department and relevant functions of the Home Office.

5.5.3 We support calls for a single body to administer the courts, replacing the Courts Service and the local Magistrates' Court Committees, and a single body to oversee strategic planning. We would adopt the model given in the Auld Report of a national Criminal Justice Board (which should be answerable to Parliament through the

Minister of Justice), with local boards to implement its objectives. We also recommend the establishment of Criminal Justice Area Committees in the 43 police authority areas. These would have the primary function of ensuring public oversight of the working of the criminal justice system. They would have responsibility for monitoring the operation of the prosecution service, the victim support system, the service afforded to defendants by the courts, legal services and the operation of the courts. We believe such committees would ensure greater sensitivity within the system to the needs and expectations of the public from the criminal justice system. They should also consult with the Crime Reduction Boards.

5.5.4 We particularly believe in the increased use of information technology to manage cases throughout their appearances in the Magistrates' Court and Crown Court and would welcome the creation of a Criminal Case Management Agency to secure this.

## **5.6 Court Procedure**

5.6.1 There are currently two ways to initiate a criminal prosecution: summons and informations. The Crown Court uses indictments. There are several pre-trial hearings within the Crown Court and Magistrates' Court which some argue would be better dealt with administratively as opposed to using court time to hear.

5.6.2 Liberal Democrats believe the present system for initiating criminal proceedings is confusing. We support replacing it with a single system. We believe that the Crown Prosecution Service should have a much earlier involvement in determining charges.

We are cautious about Auld's recommendations to reduce the number of pre-trial hearings by replacing them with more paperwork, as this may lead to important oversights or errors.

## **5.7 Appeals**

5.7.1 We believe that the current complex appeals process should be simplified. We adopt the Auld model of a route of appeal from the Magistrates' Court to a single judge in the Crown Court and from the Crown Court to the Court of Appeal, either against conviction or sentence. The principles that apply throughout should be those used by the Court of Appeal currently. We would not, however, interfere with the law governing appeals by way of case stated. The Divisional Court plays a valuable role in correcting errors of law from the lower courts.

5.7.2 We oppose Auld's suggestion of allowing the prosecution to appeal against 'perverse' acquittal verdicts which appear to be in defiance of the evidence and the law. To succeed, prosecutions should not only be legally sound but also in the public interest, and the right of jurors to acquit because they believe it would be against the public interest to convict is an important safeguard of that principle.

5.7.3 We believe that that there should be a very limited prosecution right of appeal against acquittals. This should only be permitted in cases involving serious offences carrying life or long terms of imprisonment and where there is new reliable and compelling evidence of guilt (e.g. new forensic evidence) which could not have been presented at the original trial and which makes the previous acquittal unsustainable. The

decision to allow a re-trial would be made by the Court of Appeal. It would also have to be in the interests of justice for there to be a re-trial. In such exceptional cases, it is an affront to the principle of justice that suspects cannot be re-tried.

## **5.8 Jury Trials**

5.8.1 Under the Auld proposals, the defendant will have no right to elect trial by jury at all in either-way cases- that decision will be taken solely by the court. Liberal Democrats believe the jury system has, down the centuries, provided protection against arbitrary and unfair law. When a jury convicts and any appeals process is exhausted, society can be as satisfied as it ever can be that the right outcome has been reached. We are therefore utterly opposed to these proposed restrictions in the right to trial by jury.

5.8.2 Auld recommended that defendants should have the right to choose trial by judge alone if they believed that a jury could not give them a fair trial. We recognise that some cases are so publicly notorious that it is difficult to find a jury uncontaminated by media coverage or popular sentiment. We would therefore introduce the right for a defendant to elect trial by judge alone in the Crown Court subject to agreement from the court. The court should, however, not be permitted to order such a trial.

5.8.3 We oppose the recent proposal in the Auld report to remove complex fraud cases from jury trial. A greater use of preparatory hearings and a simplified trial procedure would help to reduce the length and complexity of such trials. Moreover, the presence of the jury

forces the parties to present the case in an accessible manner which improves public access to the courts.

## **5.9 Decision-Making in Court**

5.9.1 Auld recommends that jury decision-making should become much more structured. There would be a 'case and issues summary' agreed by the parties and given to the jury. In some cases, the jury would be required to answer factual questions in court and, from those answers, the judge would derive the verdict.

5.9.2 Liberal Democrats do not support recommendations to allow the judge to derive a verdict from the answers juries give to factual questions. In the past, such 'special verdicts' have caused very serious problems. It is for the jury to give the verdict. We do however believe that juries could be given greater assistance in reaching their verdicts. We therefore support the use of written summaries of the facts and issues in court. The onus in any case must be on the prosecution to prove that the defendant is guilty. For this reason, we do not believe that the defendant should be required to reveal any more of his or her defence in advance than currently.

## **5.10 The Composition of Juries**

5.10.1 We believe that jury service is an important civic duty. It is also one of the most significant ways in which ordinary citizens take an effective role in our public life. It is important that juries should be genuinely drawn from society as a whole. Wider participation in jury service would educate the general public

in the workings of the criminal justice system and help to dispel widespread misapprehensions about 'soft' sentencing. We would limit the categories of people who are exempt from jury service to those who are deemed medically unfit by a doctor and those who, as currently, have been sentenced to long terms of imprisonment. We would also exempt the police, the legal profession and the judiciary. If any person is to be excused jury service because of, for example, an important work commitment, they should be required to offer an alternative period when they will be expected to serve.

5.10.2 We believe that random selection should remain as the means of calling people for jury service. We consider that measures to secure representation from certain groups on juries are undesirable in principle and unworkable in practice.

5.10.3 At present, an individual only has a 1 in 6 chance of being called for jury service in their lifetime. Because we think it is desirable that as many people as possible should be involved in this important aspect of civil society, we would also like to see research undertaken on international experience in using 'mini-juries'. This might, for example, take the form of a jury of five sitting with a district judge.

## 5.11 Lay Magistrates

5.11.1 As with jurors, so lay magistrates have a vital role in ensuring that ordinary people are linked into the criminal justice system, so that justice is seen to be done and the justice system carries public respect. We would seek to improve recruitment to the lay bench of those from currently under-represented

groups. Recent research has shown that about 40% of Magistrates are past retirement age, most are drawn from the professional and managerial classes and are more wealthy than the majority of the population. There are still too few people from the ethnic minorities sitting as magistrates. We believe that there is substantial scope for working towards a more broadly based and representative magistracy than we have at present. We recommend:

- That more magistrates in total should be appointed and that they should be, so far as possible, recruited with a view to ensuring that the magistracy as a whole is of a younger average age, a better racial mix and a broader social mix.
- That court sittings should be adjusted to allow those with caring responsibilities, those in full-time employment, professionals and others in the middle of their careers to sit as lay justices at times more convenient to them.
- That magistrates should be appointable for a limited term of years so that those who were willing to serve for a reasonable period only would not be deterred by the long-term nature of the commitment.

5.11.2 We also believe there is a good argument for paying Magistrates a modest daily rate, in much the same way as local councillors are now rewarded. This would remove the financial disincentive, which prevents many otherwise suitable candidates,

particularly the younger and less well off, from volunteering to serve.

## 5.12 Victims and Witnesses

5.12.1 We applaud the work that Victim Support and the Witness Service undertake at the Crown Courts and welcome the extension of the scheme to the Magistrates' Court. We believe that more information should be given to victims and witnesses throughout the preparation and eventual presentation of the case. We would make this the responsibility of the prosecutor and not the police. We would want to see court staff take a pro-active role in ensuring that witnesses and victims are properly informed of the progress of the case during the day of trial itself. We favour the creation of court centre websites and out-of-hours telephone lines so that victims and witnesses can obtain as much information as they need before attending court.

5.12.2 We would create a Victims' Fund for compensation to be paid directly to victims when ordered by the court, instead of having to wait until the defendant pays up. We think that it is right for the court to take into account the impact of the offence on the victim when sentencing. We believe that the prosecutor should be in a position to give such details to the court. It is also the role of the prosecutor to try and refute any unjustified allegations made by the accused in mitigation subject to the court either accepting the defence version or holding a *Newton* hearing.

### Option A:

5.12.3 While we uphold the principle that it is the State that should prosecute criminals on behalf of society as a whole, the existing system arrangements often leave victims and their families feeling excluded. It is also possible that the court may not receive full information about the effects of a crime on victims in the normal course of giving evidence, for example where there is a guilty plea or where the victim is dead. There is an anomaly in that convicted defendants may make personal pleas in mitigation, but the victim has no such opportunity. Defence counsel may also seek to attack the character of a deceased victim. We therefore support giving victims (or where the victim is dead, next of kin) the option to make a Victim Impact Statement to the court after conviction but before sentencing. This statement would be subject to cross-examination.

### Or

### Option B:

5.12.3 We do not think it is desirable to permit victims to give oral evidence to the court about the impact of the offence upon them. Such assertions would in practice be difficult to challenge through cross-examination and we do not believe that a sentence should depend upon the vengefulness or mercy of a victim, however serious the offence committed against them. An accused person should not benefit from having a charitable victim or be penalised for having one desirous of revenge. Such views have absolutely nothing to do with the criminality of the offending. Details of the effects on the victim will normally emerge through the presentation of the prosecution evidence or sentencing report in any case.

# ***Sentencing and Prisons***

6.0.1 The Liberal Democrats believe strongly in the independence of the courts and trust magistrates and the judiciary to set what would be a just sentence in each particular case. Sentencing should aim to promote the rehabilitation of the offender, protect the public from dangerous individuals, and deter others from committing crimes. An element of punishment inevitably arises from any sentence, but the overriding public interest in sentencing is to prevent the commission of further offences. Where custodial sentences are used, punishment arises from loss of liberty itself – inhumane or humiliating treatment of prisoners should form no part of a modern penal system. The recent Halliday Report has provided a welcome and recent input into the debate on sentencing. We support the overall conclusion of the report that the sentencing framework should do more to support crime reduction and reparation.

## **6.1 Imposing the Right Sentence**

6.1.1 Liberal Democrats believe that the correct sentence in any given case would be the minimum required to achieve the ends as set out above and which adequately reflects the seriousness of the offence and the defendant's criminality in committing it. All sentences must be proportionate to the offence and, in cases of multiple offences, reflect the totality of offending.

6.1.2 Custodial sentences are vital to protect the public for serious offences and for the most persistent offenders

who have failed to respond to community sentences. However Liberal Democrats believe along with Halliday that prison sentences should not be used when any reasonable alternative is available. For example, we have advocated treating non-payment of the TV licence fee as a civil rather than a criminal offence. According to the Penal Affairs Consortium, only one in four people imprisoned each year commit offences involving violence, sex, robbery or drug trafficking. The dramatic rise in the prison population over the last five to ten years, which has primarily arisen from more use of custody when sentencing, rather than more criminals being convicted, is of concern. The increase in the prison population would be more justifiable if it had resulted from more serious offenders being convicted.

6.1.3 The evidence shows that prison:

- i) is ineffective at reducing re-offending: currently around 57% of released prisoners re-offend within two years of release. Overcrowding in prisons undermines constructive activity in prisons.
- ii) involves a huge social cost due to the financial hardship and family breakdown which often results, increasing state dependency and social exclusion.
- iii) has a large financial cost, particularly relative to community sentences. It costs

around £25,000 per year for a prison place. This is about ten times the cost of the average community sentence. On average in the last five years £200m per year has been spent just on increasing the number of prison places available.

6.1.4 Home Office Research has shown that the public often underestimates the severity of sentences set by the courts, particularly for non-violent crimes, and that on average the courts are more severe than members of the public would themselves be. However, as unusual and dramatic cases lead to media coverage that the vast majority of cases do not attract, the public often believes that judges are too ‘soft’ on criminals, leading to public and political demand for ‘tougher’ sentences. There will often be anomalies in the law and particular judgements which appear questionable, but in general terms the public view is often contradicted by the evidence. We believe that there should be greater public access to the facts about the criminal justice system, for example by making it easier to obtain court transcripts. We also emphasise above the importance of having the widest public participation in the criminal justice system, through jury service and lay magistracy.

6.1.5 We therefore support Halliday’s recommendation that the court should be free to pass a non-custodial sentence even if imprisonment could be justified. We would not change the requirement for the offence to be ‘so serious that only custody can be justified’ before imprisonment could be imposed.

6.1.6 We believe that there should be greater consistency in sentencing. We

therefore support calls in the Halliday Report for a penal code enacted by Parliament along with codified guidelines as to the entry point for each offence together with what mitigates and what aggravates. Those guidelines should be published and made subject to public consultation. We believe that the proper body to produce them is the Court of Appeal as advised by the Sentencing Advisory Council. We are sympathetic to arguments from the Penal Affairs Consortium for the creation of a multi-agency Sentencing Council within the Court of Appeal. In any event, we would wish to see that body monitoring the application of the guidelines and, where a court departed from them, we would wish to see reasons given in open court.

6.1.7 We believe that a defendant’s prior record of offending should be taken into account when considering the seriousness of the offence. We do not believe, however, that there should be a presumption that a sentence will always be increased under those circumstances. It is a matter for the court’s discretion.

6.1.8 Although wary of the American plea-bargaining system, we support changes to allow the judge to give an indication of the sentence on a plea of guilty. There should be safeguards to ensure that innocent people are not unfairly induced to plead guilty.

6.1.9 We would also support graded discounts to be given on a plea of guilty; the earlier the plea, the greater the discount. However we would wish those discounts to be applied flexibly.

## **6.2 Mandatory Sentencing**

6.2.1 Following the American lead, mandatory sentencing has increasingly become a feature of sentencing in England & Wales most notably in the Crime (Sentences) Act 1997. Liberal Democrats have consistently opposed the principle of mandatory sentencing believing that it undermines judicial discretion to sentence each case based on the individual circumstances. Recent judgements have questioned whether mandatory sentencing of this kind is compatible with the Human Rights Act. We are therefore committed to repeal mandatory sentences established by the Conservatives in 1997 and implemented by the Labour Government.

6.2.2 It is argued that the mandatory life sentence for murder should be repealed for similar reasons. Liberal Democrats have been committed to repeal the automatic life sentence for murder on the grounds that, while a life sentence should of course be available, it may not always be appropriate. Many murder cases relate to specific personal cases, where there is little argument that a life sentence is required for public protection in the future. Furthermore, the Tony Martin case, whatever the merits of the individual case, raised in the public mind the question of whether there can be circumstances which make a life sentence inappropriate. Liberal Democrats believe that while a life sentence (including a sentence for all of somebody's natural life in the most exceptional cases) must be an available option for murder, the case for ending the mandatory life sentence remains strong.

## **6.3 Remand**

6.3.1 While it is important for public safety that remand is available for serious prisoners, around 60% of remand prisoners are later acquitted or given non-custodial sentences. It is often reported that conditions for remand prisoners are among the worst in the prison service. Scotland has a 110 day time limit for remand in custody, where if a case has not been heard within this time, the prisoner is released. Liberal Democrats support the extension of time limits to England & Wales.

## **6.4 Sentences Under 12 Months**

6.4.1 Many offenders spend time in and out of prison subject to short sentences of less than 12 months – in fact those serving less than 12 months account for 60% of the prison population and that percentage is rising. The evidence is that these have a limited rehabilitative effect. We particularly welcome proposals in the Halliday Report for reform of such sentences. These reforms would mean the offender spending half of their sentence in prison, up to a maximum of three months, and the remaining period, at least six months, under probation supervision. We believe that this would increase the chance of meaningful rehabilitation taking place. There would also be a power of recall to prison if necessary. Such sentences should only be applied where some form of custody would have been inevitable – we do not wish to see people who would otherwise have received non-custodial sentences receiving this type of sentence, as it could subsequently increase their likelihood of receiving a

prison sentence in the future, regardless of the type of offence.

## **6.5 Sentences Over 12 Months**

6.5.1 We also welcome the Halliday proposals for sentences of over 12 months. Under those proposals, half of the sentence will normally be served in prison and half in the community. During the second half, the offender would be subject to supervision by the probation service. The court would be required to review the sentence and approve the level of supervision to which the offender will be subject. If the requirements of supervision are breached, the offender will become liable to immediate recall to prison. This system would ease overcrowding in prison.

## **6.6 Indefinite Sentences and Severe Personality Disorders**

6.6.1 Liberal Democrats are wary of increasing demands for longer fixed sentences to be used. However, we recognise that there is a small number of serious sex or violent offenders, who continue to pose a serious threat to the public and who are not subject to the restrictions of a life sentence. Whereas life sentence offenders can only be released following risk assessment and are subject to a life licence once released, those on fixed sentences who come to the end of the period, must be released regardless of the threat to the public. There have been developments in this area, including powers under the 1998 Crime and Disorder Act for the

courts to impose extended supervision periods for sex offenders under licence (up to 10 years) and for violent offenders (up to five years).

6.6.2 Some offenders who have completed set terms of imprisonment but who are diagnosed with severe personality disorders (as opposed to mental illness) may be clearly identifiable as a continuing threat. Whereas it is very difficult for mental health professionals to predict future behaviour based on diagnosis alone, it is much more realistic to predict it on the basis of actual past behaviour. We therefore support further work to consider whether such individuals might be transferred from prison at the end of their term to secure supervision in a non-penal setting. The decision to retain someone in detention on these grounds could where possible be made by the original trial judge on medical evidence, or where not possible by a medical tribunal. Such a procedure raises strong civil liberties concerns and we would wish to see significant research, including consideration of international experience, before moving down this path. We continue to have serious reservations about detaining individuals with severe personality disorders who have never committed an offence – we are not yet convinced that their future behaviour can be adequately predicted.

6.6.3 In the case of serious offenders on life sentences who are regarded to be a continuing threat beyond the minimum tariff fixed by the Trial Judge, decisions on their continued imprisonment should be made by the Trial Judge where possible on the advice of the Parole Board, or by the Parole Board where not possible. We are concerned that some offenders who steadfastly maintain their

innocence end up serving much longer periods in prison because they refuse to admit guilt, and believe that greater sensitivity should be shown to such individuals on a case-by-case basis.

## **6.7 Intermittent Sentences**

6.7.1 Part time custodial sentences, such as weekend or evening custody, would allow for the deprivation of liberty as a punishment, but limit the damaging social consequences of a prison sentence, such as family breakdown and loss of employment and housing. There are however some practical difficulties in implementing such sentences – for example, it would be difficult to accommodate part-time prisoners within regular prisons, and there is also the risk that those who would not otherwise receive custodial sentences at all might be affected. We therefore think intermittent custody is worthy of further research but are cautious about immediate implementation. A limited pilot scheme might be the best way forward.

## **6.8 Community Sentences**

6.8.1 Liberal Democrats believe that community sentences are often more appropriate for less serious offenders. They can be more effective at reducing re-offending, can better address causes of criminality, and are more cost effective. We would promote the use of community sentences which are proven to be effective. As noted in the causes of crime section, many offenders have drug, alcohol and mental health problems which are directly related to their offending and which can often be

better addressed in the community than in custody.

6.8.2 Labour has continued to speak the rhetoric of ‘prison works’ which can only increase public demand for custodial sentences. Despite this public approach there have been some significant developments in this area, most notably the promotion of accredited effective practice community programmes under the ‘What Works’ initiative to identify programmes which produce evidence of success in reducing re-offending and rehabilitating offenders. Whereas in general terms, community sentences have had similar reconviction rates to custodial sentences, particular types of programmes and approaches have had considerably better results.

6.8.3 For community sentences to be effective there needs to be adequate resources for the probation service and for associated services in the community, such as drug and alcohol treatment. There has been serious underfunding of the probation service in recent years. There is a vacancy crisis in both metropolitan and rural areas, and many probation Services are facing severe budgetary shortfalls this year. Liberal Democrats are committed to ensuring the probation service is adequately funded and politically supported. For the courts to have confidence in community sentences, it is important that they are made aware of the services which are available in their area and the evidence of success of what works for different types of offender. Liberal Democrats support community sentences which are designed to address the specific issues relating to offending, such as requiring counselling for drink driving offences and anger management courses as part of sentences. For such

programmes to work it is vital that there is proper research into their effectiveness. It is also vital that programmes which work are given consistent funding. Sudden changes in government policy on the balance between custodial and non-custodial sentencing have in the past made it very difficult for the Prison Service, Probation Service and Youth Justice Board to plan effectively. A consistent approach based on lower numbers in prison is needed to allow resources to be invested in quality community sentence programmes.

6.8.4 Liberal Democrats have welcomed the introduction of Drug Treatment and Testing Orders which seek to tackle the drug abuse associated with an offenders' behaviour. These orders allow a court to oversee drug rehabilitation of offenders, as an alternative to custody. Liberal Democrats have proposed that this approach can be extended through the creation of specialist Drugs Courts, which have been pioneered in the United States. Drugs Courts have staff and judges who are specialised in dealing with drug related offending and rehabilitation programmes. We would like to learn from how they work in practice in Scotland where they have been introduced before moving to immediate implementation in England and Wales.

6.8.5 There is evidence that the use of electronic tagging improves public confidence in community sentences. A recent BBC/ICM poll which asked whether non-violent offenders should be tagged, or sent or kept in prison showed that two-thirds of the public preferred the use of tagging. Liberal Democrats have long argued that tagging should go

hand in hand with community supervision, rather than simply be a sentence in its own right.

6.8.6 We support Halliday's proposals for the creation of one community order to replace the current orders. We would name it the Community Rehabilitation Order. We would not seek to force the court to engage in what is essentially an academic exercise by identifying the elements of the order which are for punishment and which for rehabilitation. The aim of community orders is to be flexible and tailored to the individual and should be designed to reduce future offending. We would retain the requirement that any offence must be serious enough to warrant a community sentence before one is passed.

## **6.9 Restorative Justice**

6.9.1 Liberal Democrats support the principle of restorative justice, which seeks greater involvement of the victim in the response to crime, and seeks to make offenders more aware of the consequences of their crime. We believe that opportunities for restorative justice should be more available to victims including victim/offender mediation. Whereas restorative justice approaches are available for first-time youth offenders, much more could be done to introduce restorative justice for adult offenders.

6.9.2 A European example of the mediation approach is the Mediation Board system in Norway. The prosecuting authority can transfer a case to a Mediation Board. Both parties to a conflict where damage, loss or violation has occurred must agree to the mediation, and to the facts in the matter, before mediation can take place. Lawyers are not present and there is a

duty of secrecy regarding the identity of the people concerned. Any agreement between the parties, which will usually involve compensation or reparation, is recorded and given to the prosecuting authority who can take action if the agreement is violated. The Mediator can refuse the mediation if they consider the agreement between the parties to be unreasonable.

6.9.3 In Vermont, community reparative boards were set up in 1994 for non-violent adult and juvenile offenders. A judge can place an offender on probation with a condition that they appear before the local reparative board. The board is composed of volunteers who negotiate a reparative agreement with the offender. The process itself builds up the community by creating a vital niche for citizen participation in the justice system.

## **6.10 Mentally Disturbed Offenders**

6.10.1 Levels of mental disorder are much higher among offenders than among the general population. The most recent survey showed that seven in every ten prisoners were assessed as having some type of mental disorder. Many mentally disordered people also have acute drug and alcohol problems – the so-called dual diagnosis. Alcohol and drug dependence can mask mental illness so that even if dependency is treated, the mental disorder is not always diagnosed. Between 25 – 35% of offences committed in the UK are drug-related, with some 60% of offenders having a drug problem and around 30% of drug using offenders having a mental health problem. Alcohol plays a part in over 70% of violent offences including

domestic violence. Liberal Democrats believe that there needs to be more thorough screening and inclusive treatment services available for this group of people throughout the criminal justice system and that many of them do not now receive appropriate treatment.

6.10.2 There are now facilities for the diagnosis of offenders with drug and alcohol problems and the power to refer them on arrest to relevant treatment programmes. Arrest Referral Schemes have been introduced by some police services. Psychiatric assessment is also required on arrest when it is apparent that a person is mentally disordered, but this is not always carried out. Local forensic psychiatric facilities are patchy and sometimes of a low standard. Offenders with florid mental health symptoms are often remanded to prison rather than to hospital for psychiatric reports, where healthcare is inadequate and inappropriate and where they can be a danger to themselves and to others. We believe that remands to prison for this group of people are totally inappropriate and should cease.

6.10.3 Courts have the power to impose hospital orders on mentally disordered defendants. However, they are often unable or unwilling to do so either because there is a shortage of ‘secure’ beds in the local hospital, or because the defendant’s disorder is considered untreatable. Thus, many mentally disordered people are sent to prison where regimes are unsuitable for them and where psychiatric and therapeutic facilities are very limited.

6.10.4 On entering prison, all prisoners should be screened for both mental and physical health. Again this often does not take place. Only a small percentage

of the doctors employed by the Prison Service hold psychiatric qualifications and only 24% of the health care trained officers have mental health training. We believe that prisoners should have the same range and quality of mental health facilities that are available in the community, that prisons cannot deliver this service and that the seriously mentally ill should not be in prison.

6.10.5 The new Halliday proposals for Community Punishment Orders (we would prefer the term Community Rehabilitation Orders) are designed to include treatment for substance abuse and mental illness. We support these and the proposals for supervision during resettlement. They give an effective framework for the joint management of mentally disturbed offenders by Probation, Social and Psychiatric services. There have been some experiments along these lines, for example in Wessex. However, Liberal Democrats believe that partnerships need to be developed in every area between these services to enable them to deliver more effective community treatment to mentally disordered offenders. In order to do this professionals need:

- interdisciplinary training
- a joint and more consistent approach to risk assessment
- a protocol for information exchange
- inclusive services for offenders with both substance misuse and mental disorder
- arrangements for the joint management of 'non-treatable' offenders
- adequate funding and staffing for all the three services

6.10.6 We believe that with appropriate joint supervision many offenders with mental disorder can be safely contained in the community, both on community sentences and during resettlement after prison.

6.10.7 We welcome the proposed Halliday audit of hostels, probation and attendance centres which play an important part in the management of this group of people. However as Halliday himself has said, the successful implementation of all his proposals depends on 'adequate resources ... to meet the needs of staff and services'.

## **6.11 Offenders with Educational and Training Needs**

6.11.1 Liberal Democrats believe that improving the education and training of offenders can play an important part in reducing offending behaviour. Prisons, in our view, should ideally be used only as a place of last resort for dangerous and violent offenders. However they should be well placed to offer a comprehensive service to inmates wishing to remedy educational and training deficiencies. Prison Rule 32 states that 'all persons able to benefit from education should be encouraged to do so'. Unfortunately this fine-sounding mission statement is not translated into reality. Access to education varies hugely between types of prison and categories of offenders. Women, young offenders and those in open prisons fare the best. But the average time a prisoner spends in education is four hours per week and only 27% of the prison population has access to education on a full or part-time basis.

6.11.2 This is despite the fact that a recent Basic Skills Agency report found that 60% of the prison population had literacy and numeracy levels so low as to make them ineligible for 96% of all jobs, while a research project in Liverpool found that 49% of all local offenders had basic educational needs. A high proportion of prisoners test positive for some level of dyslexia.

6.11.3 The Chief Inspector of Prisons commented in his 1997-98 annual report that 'few prisoners have adequate induction interviews to diagnose their educational needs and to inform them about what is on offer.'

6.11.4 We believe that all prisoners should have individual assessment of their educational and training needs and that education should be targeted and appropriate to such needs. The curriculum should include a range of academic courses as well as practical ones, leading to vocational qualifications including NVQs. The take-up of educational and training courses would be higher and their status enhanced if prisoners engaging in this activity received equal pay to those who work as laid down by the European Prison Rules. Liberal Democrats are already committed to making training up to NVQ Level 2 available to all adults, and this entitlement should apply to those in prison as much as to anyone else.

6.11.5 Education and training should also play a greater part in Community Sentences. Research shows that when offenders on Community Orders address their educational and training needs, their rates of reconviction are significantly lower than those who do not.

## 6.12 Prison System

6.12.1 While the picture is not uniformly gloomy and there is some improving practice, reports from the Chief Inspector of Prisons have indicated serious failings in individual prisons and prison management. Various proposals have therefore been made to improve the prison system in England & Wales.

6.12.2 It has been argued that the prison system should be reorganised into a regional network of prisons. Lord Woolf's report recommended prisoners be organised in 'community clusters', but this has never been implemented. New criteria should be introduced for the allocation of prisoners to ensure that as many as possible are kept near their homes or are routinely placed near their homes towards the end of sentence. Such an approach fits well with the Liberal Democrat commitment to regional devolution and in the long term we would support democratic accountability of most prisons to the elected regional government tier.

6.12.3 Lord Woolf's inquiry into the 1990 riot at Strangeways recommended that a new prison rule should be established stipulating that no prison can hold more prisoners than it officially has places for. However, we believe that the measures already advocated for more non-custodial sentences and the ending of criminal sanctions for non-payment of TV licences are preferable to such an arbitrary approach to tackling overcrowding.

6.12.4 Liberal Democrats have consistently argued for improved prison regimes to better address offending behaviour, including education, valuable

work experience, training and offending behaviour programmes. We have argued that a target of 35 hours per week purposeful activity should be set, rising from the current 24 hours. Liberal Democrats have also called for the introduction of Service Level Agreements between individual prisons and the prison service on the standards expected in each prison. Following the Laming Report into the prison service the Government is currently establishing SLAs. Liberal Democrats have also argued that the system of prison wages should be reformed to promote meaningful work and education, to develop savings to be used on release and to be used to help victim support groups. This would be done in combination with an extension of commercial work in prisons. Liberal Democrats believe that the principle of resettlement should be central to the ethos of prison regimes. All but a tiny minority of prisoners are eventually released back into the community. The majority of prisoners serve sentences shorter than a year. The evidence shows that the immediate period following release is critical to whether re-offending takes place. Part of this approach requires improved resettlement assessment and assistance for short-term prisoners who are largely left to their own devices at present. We support the work of many voluntary agencies who make links with offenders when in prison, with a view to helping them find the most appropriate help on release. We also propose that Prison and Probation Services should be able jointly to commission services from voluntary organisations to carry out a range of resettlement activities.

6.12.5 The current system of prison discipline hearings may be contrary to

the Human Rights Act and should be urgently reformed.

6.12.6 The increase in the number of women prisoners has been proportionally higher than the overall increase in prison numbers. Often the social impact of imprisoning women is greater than that of men, in particular the effect on children. Liberal Democrats believe it is essential that there is not disproportionate imprisonment of women offenders.

6.12.7 Prisoners should be allowed to vote as part of preparation for resuming a normal life in the community. Prisoners should be registered to vote at their last address before imprisonment.

6.12.8 There is now a great deal of evidence that the introduction of private prisons has been very successful in this country in that it has provided more humane, civilised and innovative prison regimes at lower cost than the public sector. The debate about “prisons for profit” and opposition to private prisons on the grounds of principle is a complex one. The opposition in terms of principle is sometimes difficult to grasp bearing in mind how much money is made by lawyers from the criminal justice process. The late Lord Longford, when visiting a contracted-out prison in this country, is reputed to have written in the Visitors’ Book: *“If I was not a man of principle I would have to admit this is a very good prison!”*. Paradoxically, private prisons are subject to much closer scrutiny than prisons in the public sector as the delivery of the contract is monitored 24 hours a day by a public sector official on site, called the Controller, in addition to all the statutory scrutiny by Boards of Visitors and the Chief Inspector of Prisons which they

share with the public sector. Internal disciplinary procedures against prisoners for infringement of Prison Rules, are conducted by this public official, rather than by an employee of the private Prison Company. There are therefore more safeguards against exploitation or abuse of power than exist in the public sector.

6.12.9 Liberal Democrats are therefore prepared to support the continuing use of a mix of privately and publicly run prisons, where private prisons can demonstrate high and improving standards.

*This paper has been approved for debate by the Federal Conference by the Federal Policy Committee under the terms of Article 5.4 of the Federal Constitution. Within the policy-making procedure of the Liberal Democrats, the Federal Party determines the policy of the Party in those areas which might reasonably be expected to fall within the remit of the federal institutions in the context of a federal United Kingdom. The Party in England, the Scottish Liberal Democrats, the Welsh Liberal Democrats and the Northern Ireland Local Party determine the policy of the Party on all other issues, except that any or all of them may confer this power upon the Federal Party in any specified area or areas. If approved by Conference, this paper will form the policy of the Federal Party, except in appropriate areas where any national party policy would take precedence.*

*Many of the policy papers published by the Liberal Democrats imply modifications to existing government public expenditure priorities. We recognise that it may not be possible to achieve all these proposals in the lifetime of one Parliament. We intend to publish a costings programme, setting out our priorities across all policy areas, closer to the next general election.*

## **Working Group on Crime & Policing**

Baroness Walmsley (Chair)

Norman Baker MP

Hon. Sue Baring

Mike Dixon

Jeremy Hargreaves

Baroness Harris of Richmond

Cllr Bob Hoyle

Simon Hughes MP

Paul Jones

Baroness Sarah Ludford MEP

Jonathan Marks QC

Alastair Papps

Geoffrey Payne

Lynne Ravenscroft

Jonathan Simpson

Alan Window

*Staff:*

Christian Moon

Stephen Bradford

Gavin Lim

*Note: Membership of the Working Group should not be taken to indicate that every member necessarily agrees with every statement or every proposal in this Paper.*

Comments on the paper are welcome and should be addressed to:

Policy Unit, Liberal Democrats, 4 Cowley Street, London SW1P 3NB

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Tel: 01252 408 282 Email: [libdemimage@ldimage.demon.co.uk](mailto:libdemimage@ldimage.demon.co.uk)

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