

REVIEW OF THE CRIMINAL JUSTICE SYSTEM IN NORTHERN IRELAND

A CONSULTATION PAPER



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Criminal Justice Review Group

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Foreword: Marjorie Mowlam, Secretary of State for Northern Ireland.

The criminal justice system has served Northern Ireland well over the last 30 years, often in the face of considerable difficulties. Those who work for the criminal justice agencies, together with practitioners, the voluntary sector and the community at large, have contributed to the achievement of high standards in a field which is of vital importance in any civilised society.

The Belfast Agreement has created an historic opportunity for a new beginning in Northern Ireland. This consultation paper launches the wide-ranging Review of Criminal Justice in Northern Ireland signalled in the Agreement. It looks to the future for the criminal justice system and is an opportunity for change, but also an opportunity to build on what has been shown to work in Northern Ireland and elsewhere. The paper covers a wide range of issues, but that does not preclude others being raised. The overriding purpose will be to enable the development of the criminal justice system in Northern Ireland in a direction that commands the support and confidence of all parts of the community.

The Review is being conducted by a group of civil servants and of experts who are independent of Government. The Government is determined that this Review should be open and inclusive. This document, produced by the Review Group, is the starting point of the consultative process. On behalf of the Government I would encourage you to participate in the important debate which this paper is intended to stimulate.



Marjorie Mowlam

1 Introduction

- 1.1 The Agreement reached in Belfast on Good Friday 1998 (Command Paper 3883) provided for a “wide-ranging review of criminal justice (other than policing and those aspects of the system relating to the emergency legislation) to be carried out by the British Government through a mechanism with an independent element, in consultation with the political parties and others”.
- 1.2 That Review began on 27 June 1998 and is being carried out by a Review Group consisting of a small team of officials, representing the Secretary of State for Northern Ireland, the Lord Chancellor and the Attorney General, assisted by a number of independent assessors who bring expertise in the criminal justice field and objectivity, and who will participate fully in the Review. The Review Group will report to the Secretary of State for Northern Ireland no later than Autumn 1999. It will operate in parallel with, but separately from, the independent Commission on Policing in Northern Ireland. A list of those involved in the Review is attached at Annex A.
- 1.3 This paper seeks views on a range of issues within the criminal justice system in Northern Ireland. Its purpose is to stimulate discussion with and between political parties, the criminal justice agencies, the wider public sector, the community and voluntary sectors, and individual members of the public. The review process will include an examination of relevant experience from elsewhere and the commissioning of research, both comparative and within Northern Ireland.
- 1.4 The Review will work within a broad interpretation of what constitutes the criminal justice system in Northern Ireland. Structurally the criminal justice system has many elements, including publicly-funded bodies, voluntary and community groups, the

TERMS OF REFERENCE

Taking account of the aims of the criminal justice system as set out in the Agreement, the Review will address the structure, management and resourcing of the publicly funded elements of the criminal justice system (other than policing and those aspects of the system relating to emergency legislation) covering such issues as:

- the arrangements for making appointments to the judiciary and magistracy, and safeguards for protecting their independence;
- the arrangements for the organisation and supervision of the prosecution process, and for safeguarding its independence;
- measures to improve the responsiveness and accountability of, and any lay participation in the criminal justice system;
- mechanisms for addressing law reform;
- the scope for structured co-operation between the criminal justice agencies on both parts of the island; and
- the structure and organisation of criminal justice functions that might be devolved to an Assembly, including the possibility of establishing a Department of Justice, while safeguarding the essential independence of many of the key functions in this area.

The Government proposes to commence the Review as soon as possible, consulting with the political parties and others, including non-governmental expert organisations. The Review will be completed by Autumn 1999.

legal profession, as well as defendants, victims and witnesses. The criminal justice system exists to deal with crime in all its elements. It is a major, but not the only component of the response to crime, which involves all of society and many spheres of Government activity.

- 1.5 The scope of this paper is wide, covering such diverse issues as: the purpose of the criminal justice system and how its success can be measured; the structure and organisation of criminal justice functions; questions of accountability and responsiveness; criminal justice and the community; the prosecution and investigative processes; appointments to the judiciary and magistracy; arrangements for law reform; and co-operation with agencies in the Republic of Ireland. But there are inevitably a wide range of important criminal justice issues not covered here. Policing in general and those aspects of the system relating to the emergency legislation are excluded from the terms of reference of the Review, because they are being dealt with by the independent Commission on Policing and by a separate UK-wide review respectively.
- 1.6 The Review will not address the operation of civil justice matters in themselves. There are, however, aspects of the administration of justice which have implications for the civil and criminal systems, such as the administration of the courts, and the appointments and training of the judiciary. Such matters will fall within the Review's remit.
- 1.7 All other aspects of the system may be considered, although, given the time and resources available to it, the Review will inevitably concentrate on broad issues of principle, management and structure rather than detailed policy matters. The paper describes current arrangements and responsibilities and offers for discussion some options for change. Other ideas would be welcome: the paper merely starts people thinking. *The Review Group would welcome views on whether additional topics and options not covered by this paper should be considered by the Review.*
- 1.8 This Review takes place after the completion of another examination of the criminal justice system in Northern Ireland. As part of the Comprehensive Spending Review of all Government Departments and programmes initiated by the Government in the summer of 1997, the Secretary of State for Northern Ireland, with the approval of the Lord Chancellor and Attorney General, instigated an additional 'cross-cutting' review of the criminal justice system in Northern Ireland. It was the first review to examine the Northern Ireland criminal justice system in the round and was focused on making that system more effective, efficient and cohesive, in particular through enhanced co-operation and co-ordination between the criminal justice agencies. The cross-cutting review was referred to in a statement by the Secretary of State for Northern Ireland on the outcome of the Comprehensive Spending Review. Annex B sets out the background to the review, its main recommendations, and progress to date.
- 1.9 Many of the recommendations contained in the cross-cutting review, for example on information technology, will be equally applicable no matter how the criminal justice system is structured. However, it is important to emphasise that nothing in the cross-cutting review should be taken as pre-empting the outcome of this exercise.

2 Guiding Principles, Values and Objectives of the Criminal Justice System

- 2.1 As a starting point, it is important to have a shared vision across the Government, the criminal justice agencies and the community of what we want from the criminal justice system and how we want it to operate. A number of organisations within the criminal justice system have mission statements, values, and strategic aims and objectives which inform their planning processes and set standards to guide their actions. It makes sense to have an agreed set of principles and values for the criminal justice system as a whole, as a basis for planning and against which proposals and ideas can be benchmarked. There are also international human rights and norms to which the criminal justice system must conform. This need will take on added significance with the passage of the current Human Rights Bill, which will incorporate the provisions of the European Convention on Human Rights into domestic law.
- 2.2 Paragraph 4 of the “Policing and Justice” section of the Agreement sets out what the talks participants believed to be the aims of the criminal justice system.

PARAGRAPH 4 OF THE “POLICING AND JUSTICE” SECTION OF THE AGREEMENT

The participants believe that the aims of the criminal justice system are to:

- deliver a fair and impartial system of justice to the community;
- be responsive to the community's concerns, and encouraging community involvement where appropriate;
- have the confidence of all parts of the community; and
- deliver justice efficiently and effectively.

- 2.3 The cross-cutting review produced a rather more detailed draft set of guiding principles and values which could provide a touchstone against which specific policies and procedures might be examined. These are reproduced below. They were seen very much as a first draft to be refined at a later stage in the light of consultation. It follows that this Review is in no way bound by their terms, but they do provide a starting point for discussion.

GUIDING PRINCIPLES: A DRAFT

The criminal justice system exists to uphold the rule of law. The criminal justice system is concerned with crime in all its elements and the process which brings offenders to account, but constitutes only a part of society's response to crime. The guiding principles of the publicly funded elements of the system are:

- to deliver a fair system of justice to the community;
- to ensure the prompt and just treatment of those suspected, accused or convicted of crime;
- to bring offenders to account;
- where prosecutions ensue, to ensure a fair trial before an independent and impartial tribunal within a reasonable time, and to convict the guilty and to acquit otherwise; and to maintain a proper appellate system;
- to work to prevent individuals from offending and sentence those proven guilty in a just and proportionate manner, while seeking to reduce the risk of further offending;
- to be responsive to the community's concerns, and to encourage community involvement where appropriate;
- to work, in conjunction with the community, to reduce crime, minimise the fear of crime and enhance community safety;
- to have regard to the proper concerns of victims of crime;
- to ensure witnesses and jurors can perform their roles free from harassment or intimidation;
- to act in all instances to enhance the effectiveness, efficiency and economy of the system; and
- to encourage the use of the civil justice system as a remedy in appropriate cases.

VALUES: A PRELIMINARY DRAFT

The common values to which the publicly funded elements within the criminal justice system adhere are:

- maintenance of the rule of law;
- protection of individual rights and freedoms under the law;
- fairness to all, regardless of gender, ethnic origin, religion, political opinion, age, disability or sexual orientation;
- maintenance of a criminal justice process that is as open, simple, transparent, inclusive, and accessible, as possible;
- respect for the independence of decision making of the police, the prosecuting authorities and the judiciary in relation to operational matters, decisions on whether to prosecute, and judicial functions respectively;
- assurance of public accountability for the performance of the system without compromising that essential independence;
- recognition of the proper independence of action of the various parts of the criminal justice system, including the judiciary;
- partnership between the criminal justice system, the community, and other external bodies; and
- behaviour that promotes public confidence in the criminal justice system.

- 2.4 The cross-cutting review recognised, however, that in themselves the principles and values are neither measurable nor sufficient for the public to hold the system to account. For that to be possible, specific objectives and key performance indicators need to be developed. This process should clearly identify the priorities of the public and of Ministers and allow them to determine how well the criminal justice system has performed. This is an additional process complementary to the setting of objectives by each organisation.
- 2.5 The process of establishing system-wide objectives is not an easy one. There is the danger of creating perverse incentives or ones which are liable to misinterpretation. For example, achieving the objective of reducing reported crime levels could reflect better prevention, or could simply reflect lower reporting as a result of lower confidence in the organisations responsible for crime prevention, detection and adjudication. Any single indicator is vulnerable when taken in isolation; so a network of indicators addressing the various requirements examined in the round might be preferable. In addition, a balance needs to be struck between the stability necessary to judge against common criteria over time and the need to reflect developing priorities.
- 2.6 An illustrative framework for objectives is put forward as a starting point for consideration. Performance measures or indicators will be central to giving effect to the final set of objectives. Measuring the extent to which these objectives are achieved should be a critical part of any accountability process and the Review will seek views on devising meaningful and reliable forms of measurement.

ILLUSTRATIVE FRAMEWORK FOR OBJECTIVES

TO REDUCE CRIME AND DISORDER

1. Seek to reduce levels of crime and major disorder;
2. Reduce numbers reoffending and frequency for persistent offenders;
3. Reduce levels of fear of crime.

TO BRING OFFENDERS JUSTLY TO ACCOUNT

4. Increase the number of notified crimes cleared and offenders brought to account;
5. Ensure the development of criminal justice processes and outcomes which are fair and just, and which are seen to be so.

TO IMPROVE THE SERVICE DELIVERED

6. Improve the speed of case completion and levels of effectiveness, efficiency and co-operation within the system;
7. Enhance the service provided to victims, witnesses and jurors;
8. Enhance public confidence in the criminal justice system.

- 2.7 The Police (Northern Ireland) Act 1998 provides that objectives for the police service be published annually. Performance against these objectives will also be measured and reported. The cross-cutting review similarly recommended that objectives for the criminal justice system should be published and that an annual report of performance against objectives should be prepared.

2.8 *Views and comments are sought on what would be the appropriate principles, values and objectives for the criminal justice system. For example:*

- *What do you want from the criminal justice system?*
- *What principles and values should guide the delivery of its services? Is it right to assume the starting point should be what the public and Government expect the system to deliver?*
- *Should the principles and values reflect more clearly the role and responsibility of the voluntary sector?*
- *Would there be merit in enshrining the principles and values in legislation?*
- *What do you think the objectives of the criminal justice system should be?*
- *How would you measure their achievement?*
- *Should the objectives and their outcomes be published annually?*

3 Organisation of the Criminal Justice System

- 3.1 This chapter considers in more detail the way in which criminal justice functions are grouped and managed in Northern Ireland at present. It sets out briefly other models for grouping criminal justice functions, and poses several questions in relation to potential future structures, particularly in the context of devolving some or all criminal justice functions to Ministers responsible to the Northern Ireland Assembly.
- 3.2 The publicly-funded elements of the criminal justice system, which are the most visible to the public, are responsible to three Government Ministers: the Secretary of State for Northern Ireland, the Lord Chancellor and the Attorney General.



- 3.3 The criminal justice system in Northern Ireland has evolved broadly in parallel with that in England and Wales, with which it shares many common features, such as the adversarial system, the separation of prosecution from investigation, and a professional and independent judiciary. It is similar in many respects to that in the Republic of Ireland, which also has its roots in the English system. The criminal law within which it operates is a mix of common law, Acts of the Irish Parliament prior to 1800, Acts of the Northern Ireland Parliament, Acts of the United Kingdom Parliament, and Orders in Council made since 1972. In general, changes to the criminal law in Northern Ireland have remained in step with those in England and Wales, although some differences arise due to the distinct circumstances in Northern Ireland.
- 3.4 The criminal justice system has undergone significant changes in the last 30 years in response to evolving circumstances in Northern Ireland and wider Government initiatives. These include the establishment of the Office of the Director of Public Prosecutions for Northern Ireland in 1972, the establishment of the Northern Ireland Court Service in 1979, and the creation of the Probation Board for Northern Ireland in 1982. The current organisation of criminal justice functions is set out at Annex C, together with the resources allocated to each area in 1998/99.

- 3.5 The Secretary of State for Northern Ireland has responsibility for the content of the criminal law in Northern Ireland and for the overall effectiveness of the criminal justice system. She also has responsibility for policing, prisons, probation, policy on victims, crime prevention, community safety, juvenile justice, criminal compensation, forensic science, State Pathology, and co-ordinating anti-drugs activity. Until 1997 the Secretary of State for Northern Ireland was responsible for considering alleged miscarriages of justice and for referring cases back to the Court of Appeal, where appropriate. On 31 March 1997 these responsibilities in Northern Ireland and England and Wales passed to the independent Criminal Cases Review Commission.

RESPONSIBILITIES OF THE SECRETARY OF STATE FOR NORTHERN IRELAND

- Criminal law and procedure, measures to enhance co-operation and co-ordination in the criminal justice system, crime prevention policy and co-ordination, policy on victims, and the provision of certain juvenile justice services.
- Security policy, including the emergency legislation in Northern Ireland, public order policy and legislation.
- Policing policy, legislation and the resource framework within which policing is delivered.
- The Northern Ireland Prison Service, responsible for prison administration, and for release policy, including the discretionary release of life sentence prisoners.
- The Probation Board for Northern Ireland, responsible for maintaining an efficient probation service in Northern Ireland.
- The Forensic Science Agency for Northern Ireland, Compensation Agency, and State Pathology.
- The provision of staff, offices and other resources for the Director of Public Prosecutions for Northern Ireland.

- 3.6 The Secretary of State is also responsible for the provision of certain facilities and services to enable sentences of the courts to be carried out, including prisons, probation and juvenile justice arrangements. The Northern Ireland Prison Service is a Next Steps Agency within the Northern Ireland Office, with a Director General responsible to the Secretary of State for efficient and effective service provision. Probation is run by an independent Board (a non-departmental public body), appointed by the Secretary of State, within a strategic framework set by her. This arrangement was recently endorsed by Ministers following a quinquennial review. Juvenile justice arrangements have been the subject of legislative change and the introduction of a new strategic approach, intended to place more emphasis on diverting children away from the criminal justice system and custody. For those few children whose offending behaviour warrants custody, there will in future be determinate sentences, half served in juvenile justice centres funded by the Northern Ireland Office, and half served in the community under supervision organised by the Probation Service.

- 3.7** The release of determinate sentence prisoners is governed by statute. They are released automatically at the half way point of sentence either on remission or, in the case of prisoners released under the Northern Ireland (Remission of Sentences Act) 1995, on unsupervised licence. There is no Parole Board in Northern Ireland nor, with the exception in certain circumstances of sex offenders, are determinate sentence prisoners subject to statutory supervision after release.
- 3.8** The release on licence of life sentence prisoners and prisoners held during the pleasure of the Secretary of State is at the discretion of the Secretary of State following consultation with the Lord Chief Justice of Northern Ireland and, if available, the trial judge. The Secretary of State is formally advised by the non-statutory Life Sentence Review Board which is made up of senior Northern Ireland Office and Northern Ireland Prison Service officials and which is advised by the Chief Probation Officer and a consultant forensic psychiatrist. Changes in life sentence review and release arrangements are currently being considered within the Northern Ireland Office.
- 3.9** The Northern Ireland (Sentences) Act 1998 arising out of the Belfast Agreement will put in place new arrangements for the release of prisoners given sentences of 5 years or more, including life, for scheduled offences committed before 10 April 1998.
- 3.10** In addition the Secretary of State is responsible for civil law reform, which is delivered by the Office of Law Reform within the Department of Finance and Personnel. As such it will fall within the ambit of Ministers responsible to the Northern Ireland Assembly once they take responsibility for the Northern Ireland Departments.
- 3.11** The Attorney General is the chief law officer of the Government, with responsibility for advising government departments and representing the Government's interest in important legal disputes. In Northern Ireland he appoints a Director and deputy Director of Public Prosecutions, and may remove them from office on the grounds of inability or misbehaviour. The Director of Public Prosecutions for Northern Ireland acts under the superintendence and direction of the Attorney General. The functions of the Director of Public Prosecutions for Northern Ireland are set out here. The RUC prosecute less serious offences in the magistrates' courts.

FUNCTIONS OF THE DIRECTOR OF PUBLIC PROSECUTIONS FOR NORTHERN IRELAND

The Director of Public Prosecutions for Northern Ireland is responsible for:

- initiating and undertaking prosecutions, including prosecutions' in all Crown Court cases, and prosecution of more serious cases in the magistrates' courts;
- acting on behalf of the Crown in bail applications;
- acting on behalf of the Crown in criminal proceedings in the County Court, in the Court of Appeal and the House of Lords.

3.12 The Lord Chancellor is a Government Minister, the Speaker of the House of Lords when it is acting in its legislative capacity, and the senior judge when the House of Lords is acting in its judicial capacity. He exercises his executive functions in Northern Ireland through the Northern Ireland Court Service, which is a separate and distinct civil service of the Crown. He is responsible for all judicial and most tribunal appointments (see chapter 7).

FUNCTIONS OF THE NORTHERN IRELAND COURT SERVICE

The main functions of the Northern Ireland Court Service are:

- facilitating the business of the Supreme Court, county courts, magistrates' courts, coroners' courts and certain tribunals;
- giving effect to judgments to which the Judgments Enforcement (Northern Ireland) Order 1981 applies (i.e. enforcing money and certain non-money judgments obtained as a result of court or other tribunal proceedings on behalf of Government Departments, public bodies and other organisations and individuals); and
- providing to the Lord Chancellor policy advice and legislative support in relation to his Ministerial responsibilities in Northern Ireland, including civil and criminal legal aid.

3.13 The existing organisation of criminal justice functions and the spread of political accountability owes much to the arrangements for governing Northern Ireland since 1972. The split in responsibilities also reinforced the essential independence of decision taking in key component parts of the system. Whilst appearing cumbersome the organisational arrangements have worked well. It is possible, however, to envisage other models for organising criminal justice functions, particularly in the context of devolving responsibility for some or all of the above functions to Ministers responsible to the Northern Ireland Assembly at some point in the future.

3.14 In many other jurisdictions most, if not all, of the criminal justice functions, together with responsibility for civil and criminal law reform, are brought together within a single justice department. Some jurisdictions split responsibility for policing from other justice functions into a department of the interior, often with other regulatory functions, such as firearms and explosives control, and gaming, betting and liquor licensing. Others maintain the separation of responsibility for the prosecution function to preserve and protect the independence of the prosecution process.

3.15 In Northern Ireland's small jurisdiction and with devolution it is possible to envisage a number of models for delivering these services and determining the relationship between them. In addition, responsibility for a number of individual functions can be aggregated in different ways. For example the delivery of prison services and supervision in the community, together with the necessary co-operation and co-ordination between the functions, can be achieved through a range of organisational structures. If structural and organisational changes were to be made, care would have to be taken to ensure that they provided for efficiency and

effectiveness, while safeguarding the essential independence of many of the key criminal justice functions. Also any consideration of organisation and structure should take account of their impact on such matters as the community focus of probation and the degree of separation of arrangements for juveniles from those for adults.

3.16 This Review will consider a range of other models for organising criminal justice functions, both elsewhere in the United Kingdom (in Scotland, in particular, in the context of devolution), in the Republic of Ireland and internationally. It will also seek views on whether aspects of the Home Office Prisons/Probation report 'Joining Forces to Protect the Public' published on 6 August 1998 might be relevant in the Northern Ireland context.

3.17 *Views on alternatives for the structure and organisation of criminal justice functions would be welcome. For example:*

- *Should a justice department be established? What should its role and responsibilities be? How should its functions be organised?*
- *Should the prosecution function be separate from any justice department?*
- *Should there be a Parole Board or any other body advising on or overseeing the release of prisoners?*
- *Should responsibility for investigating alleged miscarriages of justice continue to rest with the Criminal Cases Review Commission? Are the current arrangements working satisfactorily?*

4 Improving Accountability and Responsiveness

- 4.1 This chapter examines the measures to improve the accountability and responsiveness of the criminal justice system. The effectiveness of the criminal justice system depends upon the quality and efficiency of service it provides. As in other jurisdictions, the criminal justice system in Northern Ireland suffers from delay and at times there are questions about whether resources expended are used to best effect, both in terms of reducing crime and criminality, and in terms of the way in which those who come into contact with the system are treated, whether as victims, witnesses, jurors or defendants.
- 4.2 The system as a whole needs to be accountable to the political structures which govern it, and through those structures to society at large. Individual agencies may be directly or indirectly accountable to government, at whatever level. Others, such as the judiciary, are necessarily independent in the exercise of their functions, and that independence is jealously, and rightly, guarded. The criminal justice system also needs to be accountable for the proper use of financial resources, for which there are well established audit systems.
- 4.3 There are other important forms of accountability, whereby agencies are directly accountable to their users in the exercise of some or all of their functions. Published annual reports, complaints mechanisms, scrutiny by inspectorates, user groups and surveys, and the Citizen's Charter are all examples of mechanisms which are designed to improve accountability of agencies to the community at large, and their users in particular, and to improve the responsiveness of those agencies to both society and individuals. The Review welcomes views on how best to achieve effective accountability and will also be taking account of lessons to be learned from best practice in other jurisdictions.
- 4.4 One mechanism for achieving independent scrutiny and public accountability is through the inspectorates. In Northern Ireland the RUC and Prison Service are subject to scrutiny by HM Inspectorates on the same basis as in England and Wales and Scotland, while Probation and the Training Schools are inspected by specialists within the Social Services Inspectorate of the Department of Health and Social Services. For some functions at least, there may be a case for establishing a criminal justice inspectorate capable of doing some work itself, but also able to buy in expertise and use lay assessors as appropriate. This could facilitate a holistic approach to criminal justice, for example through thematic inspections crossing traditional professional boundaries.

EXAMPLES OF CURRENT INSPECTION ACTIVITY

- The RUC are inspected by HM Inspector of Constabulary.
- The Probation Service are inspected by the Northern Ireland Social Services Inspectorate.
- The Northern Ireland Prison Service are inspected by HM Inspectorate of Prisons.

4.5 *Views and comments on these issues would be welcome. For example:*

- *What mechanisms might agencies use to draw out the views of the community and individual citizens on the services they provide?*
- *What should the role and nature of independent scrutiny (for example by inspectorates) be? Is there a case for new and broader arrangements for inspecting the criminal justice system?*
- *What more can be done to improve accountability and, in particular, responsiveness?*

5 Criminal Justice and the Community

- 5.1 This chapter examines the development of partnership approaches to preventing and dealing with crime, the development of restorative justice in Northern Ireland, and ways to improve the ability of the criminal justice system to deal with crime and to target its resources more effectively. It notes the Government's work in England and Wales on vulnerable or intimidated witnesses, and sets out how work on that subject is being taken forward in Northern Ireland together with other measures to meet the needs of victims.
- 5.2 A central theme of this Review will be to consider how the criminal justice system can be more sharply focused on the needs of the community, and the needs of the citizen who comes into contact with it, particularly those of victims and witnesses. The Review will consider how individual citizens, the community and voluntary sectors, and the broad resources of government at all levels can be engaged in a partnership to make the community safer by reducing criminality, the incidence of crime and the fear of crime. Restorative justice, crime prevention, crime reduction, community safety and the drugs strategy are all important elements of an approach which needs to be practical, based on local needs and delivered with the active support of the local community. Such work must also be based on best practice within Northern Ireland and further afield, and based on the available research evidence of what works in reducing crime and criminality.
- 5.3 In March 1998 the Government published a paper, 'Partnership against Crime', based on a Government paper submitted to the multi-party talks (reproduced at Annex D), which affirmed the Government's commitment to a partnership approach in addressing the problems of crime and anti-social behaviour in the community. It focused on how Northern Ireland's well developed community and voluntary sectors can work effectively in partnership with the criminal justice system and other statutory agencies in helping to tackle the problems of crime and anti-social behaviour. It emphasised the Government's commitment to working in partnership with the community. The paper welcomed and encouraged innovative ideas aimed at empowering communities, in partnership with public agencies, to improve social cohesion, promote social inclusion, resolve disputes and address the problem of crime and the fear of crime. However it warned that "alternative justice could not be tolerated" and stressed that the formal processes of investigation, prosecution, adjudication and compulsory intervention or referral had to remain the preserve of appropriate statutory bodies.
- 5.4 A range of organisations and sectors are involved in crime prevention in Northern Ireland. Their activities in this area include situational crime prevention aimed at reducing opportunities for offending, diverting people 'at risk' away from offending behaviour and addressing broader policy and service provision issues which can impact on the level of criminal behaviour. Within the criminal justice system the RUC, Police Authority, Probation, and the Northern Ireland Office have various roles in this field, as do voluntary sector organisations and a plethora of community groups. Statutory agencies in the field of social provision also contribute to the development of safer communities. There is a variety of potential funding mechanisms. An example of inter-agency working and partnership is in the field of anti-drugs activity where structures have been established at the Northern Ireland level and locally to develop and implement strategies focused on education and prevention, enforcement and treatment.

5.5 It was against this background that the Community Safety Centre was established in the Autumn of 1996. Managed by a Board consisting of key statutory and voluntary sector agencies, the Centre does not engage in direct service delivery or funding in the community safety and crime prevention fields but:

- provides a basis for better co-ordination and focusing of effort;
- disseminates best practice;
- stimulates activity; and
- advises at the local level.

This is not, of course, the only model available for co-ordinating and focusing effort on crime prevention.

5.6 A strategy for reducing and dealing with crime also requires the development of effective interventions that can be deployed after offenders have been sentenced, whether in the custodial or community settings. In the community context the Probation Board is the key agency here which, in delivering programmes, operates in collaboration with the voluntary and community sectors.

5.7 It is clear that effective programmes in the field of community safety/crime prevention, and after sentence, are dependant on inter-agency and inter-sectoral working and a partnership approach. This is so at the Northern Ireland level and locally. The Review will consider what organisational and funding mechanisms might best deliver this approach. In doing so, the Review will take account of the implications of devolution.

5.8 It is a truism that prevention is better than cure, and that money spent on effective crime reduction initiatives will result in much bigger savings to society in terms of reducing the cost of crime. As a result, the Review wishes to consider what research exists to help the criminal justice system target its resources to reduce crime and criminality more effectively. As part of the Treasury-led cross-cutting spending review of the criminal justice system in England and Wales a critique of research studies was undertaken to assess from the research evidence available the comparative effectiveness and cost-effectiveness of different methods of controlling crime. The results were published in the Home Office report on 'Reducing Offending' on 21 July 1998. They focused on three areas:

- Promoting a less criminal society through reducing criminality among young people and investing in situational crime prevention to reduce the opportunities for committing crime.
- Preventing crime in the community by acting on the social conditions that sustain crime in residential communities and by implementing effective police strategies for reducing crime.
- Criminal justice interventions through changes in sentencing policy or extending the use of effective interventions with offenders and drug users.

- 5.9 Following the publication of the Government's public expenditure White Paper on 14 July 1998, the Home Secretary has announced that £250m is to be invested over the next three years in a comprehensive crime reduction strategy for England and Wales which will draw on the conclusions of 'Reducing Offending'. It will involve a programme of initiatives managed across Government, and rigorously evaluated, to tackle crime and its underlying causes.

CONCLUSIONS OF THE HOME OFFICE REVIEW OF RESEARCH

- The criminal justice system has a central role in providing the sanctions to enforce or reinforce compliance with the law, on which other crime control initiatives depend.
- The redirection of funds to the more effective interventions will have a gradual impact on crime levels; however the long term reductions could be substantial.
- Large scale piloting and rigorous evaluation are required to reach a judgment on the operational effectiveness of interventions.
- None of the initiatives will control crime on its own. An effective crime reduction strategy is one in which an integrated package of best practice is developed and delivered consistently over time.

- 5.10 This Review will also consider what research exists in Northern Ireland on effectiveness, identify any gaps, and will seek to use and build on the Home Office research, a need which was flagged up by the cross-cutting review in Northern Ireland.

- 5.11 In March 1998 the Government published a short paper, 'Restorative Justice,' based on a Government submission tabled at the multi-party Talks (also reproduced at Annex D). The paper outlined the concept of restorative justice and set out what action was being taken to develop the idea within the criminal justice system in Northern Ireland. Restorative justice focuses on repairing and restoring relationships between offenders, victims and the community at large. It is an innovative approach, though well tested in other jurisdictions. This Review provides an opportunity to develop these ideas further within the Northern Ireland context.

RESTORATIVE JUSTICE

- Is a more inclusive approach to dealing with the effects of crime.
- Concentrates on restoring and repairing relationships between the offender, victim and community.
- Depends on the offender admitting the wrong and showing some signs of wanting to put it right.
- Allows for victim-offender mediation to take place, where all parties consent, either directly or through intermediaries.
- Enables victims to say how the crime has affected them, and their needs and fears are addressed.
- Confronts the offender with the distress caused and gives him/her the opportunity to make amends.
- Gives more people a stake in dealing with crime.

- 5.12 It has been proposed for England and Wales that if a person pleads guilty before a youth court for a first offence the case should be referred to a youth panel containing a mix of youth justice practitioners. The panel members and the offender would have to draw up a contract setting out clear requirements ensuring that the young person made amends to the victim or the community at large and tackled the causes of the offending behaviour. Such a contract would be enforced by the youth court.
- 5.13 The Home Office published in June 1998 'Speaking Up for Justice', a report of an Interdepartmental Working Group on the Treatment of Vulnerable or Intimidated Witnesses in the criminal justice system. The report made a total of 78 recommendations for improving access to the criminal justice system for vulnerable or intimidated witnesses, including children. Parallel work on these issues is being taken forward separately in Scotland and Northern Ireland, in the context of the different law, procedure and practice in those jurisdictions. In Northern Ireland an inter-agency working group has been established to consider these issues and to report to the Secretary of State by the end of 1998. It is a Government priority to ensure that the interests of victims are taken into account by the criminal justice system. On 23 February 1998 it published a Code of Practice for victims and committed itself to developing an agenda for further action, which is being taken forward by the inter-agency group which produced the Code. In addition the Government is developing a strategy on violence against women in Northern Ireland. The Review will take account of the outcome of these exercises.
- 5.14 *Views and comments on these issues are sought. For example:*
- *Are there alternative models for co-ordinating and focusing effort on crime prevention?*
 - *Which organisations and groups have a role to play in developing policy on crime prevention and community safety and delivering services in these areas?*
 - *Views on the Government's approach as set out in the papers on Restorative Justice and a Partnership Against Crime would be welcome.*
 - *What further steps need to be taken so that the criminal justice system can command the full confidence of witnesses and victims?*
 - *What delivery mechanisms, structures and funding arrangements would help ensure that the most effective use is made of available funds? Is there a role in such initiatives for local government in Northern Ireland? If so, what might that role be?*
 - *Should a youth panel scheme be tried in Northern Ireland? Should it be extended to include community representation on the panel as well as practitioners?*

6 The Prosecution Process and Criminal Investigations

- 6.1 This chapter examines the prosecution and investigative process in Northern Ireland.
- 6.2 The responsibility to initiate and undertake on behalf of the Crown proceedings for indictable offences and for such summary offences or classes of summary offences as he considers should be dealt with by him, rests with the Director of Public Prosecutions for Northern Ireland. He does so under the superintendence and direction of the Attorney General, to whom he is responsible for the due performance of his functions under the Prosecution of Offences (Northern Ireland) Order 1972. The Serious Fraud Office also has statutory responsibility for certain prosecutions in Northern Ireland.
- 6.3 The Prosecution of Offences (Northern Ireland) Order 1972 also sets out the respective roles of the Director of Public Prosecutions for Northern Ireland and the Attorney General. Those arrangements ensure that the Director of Public Prosecutions for Northern Ireland, in the exercise of his functions, is independent of Government, independent of those who carry out the investigation into the alleged crime or crimes, and of those to whom the investigative authorities are responsible. The independence of the prosecution process is of critical importance.
- 6.4 The RUC have responsibility for conducting the prosecution of less serious offences, which form the majority of criminal cases coming before the magistrates' courts. In such cases they investigate, charge or summons, and prosecute. The decision to prosecute is taken by an RUC officer who is not the investigating officer, normally the sub-divisional commander (Superintendent), who may delegate this function to either the deputy sub-divisional commander (Chief Inspector) or an Inspector. Cases are prosecuted in court by an Inspector.
- 6.5 In this context, is the prosecution of less serious cases a role suited to the police or would public confidence in the system as a whole be enhanced if a single prosecuting authority other than the police were to take on responsibility for all prosecutions? This has been achieved in England and Wales through the creation of the Crown Prosecution Service. Such a change would of course ensure demonstrably independent scrutiny of all investigations before they went to court. On the other hand there would be resource implications, and the possibility that adding an additional stage to the prosecution process might increase delay, remove from the police opportunities to gain experience of the prosecution process, or otherwise diminish the effectiveness of the criminal justice system.
- 6.6 In common with many jurisdictions, the RUC (who conduct most, but not all criminal investigations) have considerable autonomy, since they are not under the operational direction of Government. While this provides important safeguards in terms of freedom from political control (and the police are always, of course, answerable to the law), other models are possible. Arguably, greater external scrutiny of the investigative process could be provided while still preserving independence from political control. One model might be to enhance the role of the prosecutor, adopting aspects of the system in Scotland where the Procurator Fiscal has special powers. In some jurisdictions, such as Holland, the prosecutor has

quite extensive powers and responsibilities before the formal prosecution process begins, for example in proposing restorative solutions, arranging cautions and warnings, and imposing minor penalties in cases where there is an admission of guilt. The role of the District Attorney in the USA will also be examined. Another model would be to enhance judicial involvement in the investigative process by providing examining magistrates, as is the practice in some other European countries. Either of these models would have far-reaching implications for the entire system of criminal justice, and for criminal justice resourcing, which would need to be explored in detail.

6.7 *Views and comments are sought. For example:*

- *Should the prosecution process be made entirely separate from the investigation process? If so, should the Director of Public Prosecutions for Northern Ireland take on responsibility for the prosecutions currently undertaken by the RUC?*
- *Is greater external supervision of the investigative process desirable, for example, by prosecutors? Are there any other systems which provide an appropriate model for consideration?*
- *Should there be development of prosecutorial fines, or prosecutorial diversion to restorative justice, or to other social work assistance?*

7 Appointments to the Judiciary and Magistracy

- 7.1 This chapter examines the arrangements for appointments to the judiciary and magistracy, the possibility of greater lay involvement in the adjudication process.
- 7.2 The structure of the civil and criminal courts in Northern Ireland is set out at Annex E. Appointments to the judiciary and magistracy are ‘excepted’ matters and are the responsibility of the Lord Chancellor. This responsibility covers some 1500 judicial and tribunal posts, and administrative support is provided by the Northern Ireland Court Service. All appointments are made on merit and without regard to gender, marital status, sexual orientation, political affiliation, religion or disability. The main posts are set out in Annex F, which summarises also eligibility, the present complement and the appointments procedure. The Lord Chancellor is currently concluding a review of present procedures and will announce his conclusions in due course.
- 7.3 The independence of the judiciary is a central tenet of the justice system in the United Kingdom and the Government believes this must remain at the heart of any future arrangements. Security of tenure protects that independence and prevents interference by the executive. However, the executive is involved in their appointment and in the context of potential future devolution of justice functions in Northern Ireland it will be important to consider carefully by whom and how appointments are made. The Review will wish to consider arrangements in other jurisdictions including, in particular, Scotland in the context of devolution. Appointments must continue to be made strictly on merit in an open and fair process with safeguards to prevent any partisan element influencing the process. Security of tenure should continue to be a key safeguard of the independence of the judiciary.
- 7.4 The Northern Ireland Judicial Studies Board has made good progress in recent years in promoting relevant training and development of the judiciary and magistracy. The Review will wish to consider the present arrangements and whether a career structure for the judiciary exists at all levels, or how this might be developed. In this context, it will wish to consider the role and responsibilities of part-time judicial appointments.
- 7.5 *Views and comments are sought on these issues. For example:*
- *What principles should underpin judicial appointments?*
 - *What safeguards should be adopted to ensure that appointments procedures are free from any opportunity for bias?*
 - *Who should have a role in the appointments process and where should responsibility for appointments lie?*

- *What future arrangements should there be for the training and development of the judiciary?*
- *Should there be a clear career structure for the judiciary at all levels? What should the role and responsibilities of part-time judicial appointments be?*

7.6 In addition, two groups of lay persons are appointed to assist the administration of criminal justice. These include:

- Justices of the Peace, who are appointed by the Lord Chancellor, on the recommendation of advisory committees, on behalf of The Queen and carry out some judicial functions, including, on occasion, in the magistrates' courts (there are currently 913);
- Juvenile Court Lay Panel Members, who are appointed by the Lord Chancellor, on the recommendation of an advisory committee, to preside with resident magistrates in juvenile and family proceedings courts (there are currently 133).

The general criteria for appointment are broadly similar to those for legally qualified appointments and are designed to attract representatives from all sections of the community.

7.7 The Review also wishes to examine the opportunities for increasing lay involvement in the adjudication process. This will involve an examination of practice in other jurisdictions, and will focus on the role lay justices might have in the courts, in particular the magistrates' courts, and on the selection and training of lay justices. There are of course a range of possibilities for increasing lay involvement, but many of these would have far-reaching implications for the entire system of criminal justice, and for criminal justice resourcing, which would need to be carefully explored in detail.

7.8 *Views and comments on these issues would be particularly welcome. For example:*

- *To what extent is lay involvement in the adjudication process appropriate? What are the options for increasing lay involvement?*
- *What should the role of Juvenile Court Lay Panel Members be?*
- *What should the role of Justices of the Peace be? How should they be appointed?*
- *Should panels of lay justices hear minor adult cases?*
- *Should lay justices sit with resident magistrates in more serious adult cases?*
- *How should lay justices be appointed, and by whom?*

8 Law Reform

- 8.1 This chapter considers the existing arrangements for law reform and considers how law reform might be addressed in future.
- 8.2 In England and Wales, Scotland and the Republic of Ireland independent Law Commissions have responsibility for keeping all of the law - including the criminal law - in their respective jurisdictions under review with a view to its systematic development and reform. In Northern Ireland there has been no independent mechanism for the review of the criminal law, and responsibility for considering reforms to the criminal law remains with the Northern Ireland Office.
- 8.3 Reform of the civil law of Northern Ireland is the responsibility of the Office of Law Reform within the Department of Finance and Personnel. There was no independent review mechanism for the civil law in Northern Ireland until 1989, when the non-statutory Law Reform Advisory Committee for Northern Ireland was created, with a remit to scrutinise the civil law of Northern Ireland, with limited exceptions, and to submit proposals to the Secretary of State for Northern Ireland for reform. The Committee is composed of part-time members drawn from the legal profession, including barristers, solicitors and academic lawyers, with one member who is not legally qualified. The Committee is chaired by a High Court judge.
- 8.4 Mechanisms for addressing law reform in Northern Ireland remain out of step with most other jurisdictions and the absence of an independent mechanism to consider all aspects of law reform, including the criminal law, is a cause for concern. One way of ensuring impetus for well-considered law reforms across the range of law would be to set up an independent Northern Ireland Law Commission, which would consult widely on proposals for reform and make recommendations to the responsible authority. It might subsume the Law Reform Advisory Committee and consider civil and criminal law. The establishment of a Law Commission need not constrain the freedom of Ministers responsible to the Northern Ireland Assembly or the Secretary of State for Northern Ireland to propose or revise legislation. There may, of course, be other options.
- 8.5 *Views and comments are sought. For example:*
- *Would an independent Law Commission be an appropriate way of taking forward the task of proposing law reform in Northern Ireland?*
 - *How might the members of such a Commission be selected, and by whom would they be appointed?*
 - *Are there other models which the Review should consider?*

9 Co-operation with Criminal Justice Agencies in the Republic of Ireland

- 9.1 The terms of reference of the Review call for “the scope for structured co-operation between the criminal justice agencies on both parts of the island” to be examined. In this context co-operation between agencies on a variety of levels has existed for many years, as a result of international and bilateral agreements, and as a result of more informal arrangements which have grown out of regular contact between agencies. It is also the case, of course, that strong links exist with agencies in Great Britain and elsewhere.
- 9.2 The relationship between the RUC and the Garda Síochána is one example of co-operation between agencies. There are others. The Office of Law Reform, for example, has developed strong links with its counterparts in other common law jurisdictions, including the Republic of Ireland. The Northern Ireland Office has also developed links with the Department of Justice, Equality and Law Reform in the Republic of Ireland in considering criminal justice policy proposals. Regular meetings also take place between the Lord Chancellor’s Department and the Northern Ireland Court Service with their counterparts in the Republic of Ireland.
- 9.3 There may, however, be scope to strengthen and thicken the links which exist, and to identify other areas where structured co-operation might benefit the criminal justice agencies in both jurisdictions. Possible areas for enhanced co-operation and/or information exchange might be law reform, judicial studies, crime prevention and reduction, anti-drugs work, and the supervision and rehabilitation of offenders in the community.
- 9.4 *Views and comments are sought. For example:*
- *What scope for structured co-operation exists?*
 - *How might it be encouraged?*
 - *Thoughts on the areas which might benefit most from such co-operation would be welcome.*

10 Conclusion

10.1 The publication of this consultation paper marks the beginning of the Review's consultative process. It seeks comments on a variety of issues affecting the criminal justice system in Northern Ireland, and opens up the issues for debate. In the Autumn of 1998 the Review Group would welcome the opportunity to discuss these issues and any other issues raised as a result of the publication of this paper, with the political parties, the criminal justice agencies, other statutory and voluntary agencies, and groups and individuals within the community.

10.2 In order to facilitate the consultative process and inform debate, it would be helpful to have written comments by 30 October 1998, but later submissions to the Review will be welcome and given full consideration. Responses should be sent to:

**Criminal Justice Review Secretariat
Interpoint Centre
York Street
BELFAST
BT15 1AQ
e-mail: cjrt@nics.gov.uk**

10.3 The Review Group may be asked to publish the responses to this paper. Those who wish their comments to remain confidential should indicate this clearly on their replies.

*Review of Criminal Justice in Northern Ireland
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MEMBERS OF THE REVIEW GROUP

GOVERNMENT OFFICIALS

Jim Daniell, Director of Criminal Justice at the Northern Ireland Office. Leader of the Review Group, which will include;

Glenn Thompson, Director of the Northern Ireland Court Service;

David Seymour, Legal Secretary to the Law Officers;

Ian Maye, Criminal Justice Policy Division, Northern Ireland Office. Secretary to the Review.

INDEPENDENT ASSESSORS

Professor Joanna Shapland is Professor of Criminal Justice at Sheffield University and also Director of the Institute for the Study of the Legal Profession. She specialises in victimology and policing.

Professor John Jackson is Professor of Public Law and Head of the Law School, Queen's University. Professor Jackson has conducted a number of empirical studies on the Northern Ireland criminal justice system.

Eugene Grant QC has been a barrister in criminal practice in Northern Ireland for a number of years. In addition, he is founder and secretary of the Criminal Bar Association (NI) and was Chairman of the General Council of the Bar of Northern Ireland for the period 1996-98.

Dr Bill Lockhart is Director of the Extern Organisation, working with people affected by crime and social need through a range of community based programmes, and is Director of the Centre for Independent Research and Analysis of Crime.

His Honour John Gower QC is a retired English Judge. He was a Circuit Judge working mainly in the Crown Court from 1972-96. He was Chairman of the Criminal Justice Liaison Committee for Kent, East Sussex and West Sussex, 1993-96.

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Cross-Cutting Comprehensive Spending Review of Criminal Justice in Northern Ireland

The cross-cutting review of criminal justice in Northern Ireland was instituted in July 1997 by the Secretary of State for Northern Ireland, with the agreement of the Lord Chancellor and the Attorney General. The review team, which was staffed by the Northern Ireland Office, reported to a steering group, chaired by the Northern Ireland Office, and comprising representatives of the Northern Ireland Court Service, the Director of Public Prosecutions for Northern Ireland, the RUC, the Department of Finance and Personnel, the Police Authority for Northern Ireland, the Probation Board for Northern Ireland, HM Treasury and the Office of Public Service (Cabinet Office). It reported to the Government in April 1998.

The cross-cutting review took as its starting point the current structural arrangements and the requirement for independence of decision-taking in relation to individual cases by the investigative, prosecutorial and judicial authorities. It addressed the need for those agencies that make up the system to examine their actions in terms of its overall requirements rather than merely from their individual perspectives.

The inter-relationship of the component parts of the criminal justice system and the desirability of ensuring a single cohesive service to the public is increasingly accepted within the statutory sector. The fact that members of the public commonly only come into contact with one or two agencies increases the need for unified standards of treatment and service for all at each interface to ensure confidence in all parts of the system. For many - victims, witnesses, jurors and accused - contact with the criminal justice process can be both daunting and distressing. Those interfaces with the organisations that make up the system are critical to securing public confidence in the system as a whole.

For a criminal justice system to operate effectively and efficiently there needs to be a shared understanding of why the system exists, how its success is measured and what is needed to oversee that measurement.

New inter-agency machinery, described below, has now been established following the review's recommendations to give effect to that sense of common purpose and to enhance accountability.

The final Report of the review was completed and submitted to the Cabinet Public Expenditure Committee on 8 April 1988 along with the other Northern Ireland Comprehensive Spending Reviews. Prior to submission, it was approved by the Review Steering Group and by the relevant Ministers from the NIO, Lord Chancellor's Department and Solicitor General. The Report divided its findings into three key areas:

- I. overarching elements to create a common approach to the criminal justice system;
- II. specific improvements to the way the system is supported;
- III. specific Government policy priorities focusing on improved service delivery.

Work has since begun on the implementation of the review under the auspices of the Criminal Justice Board and the Criminal Justice Secretariat as recommended by the review. The key recommendations are summarised below, along with an indication of progress so far.

Summary of Recommendations

OVERARCHING ELEMENTS

Principles and Objectives

A set of guiding principles and values was developed to provide a clear overall direction and purpose for the criminal justice system. It was proposed that a set of system-wide objectives should be developed to increase public accountability for the overall performance of the system. These would all be subject to public consultation before implementation. In addition, it was proposed that an annual report on the criminal justice system be published.

Inter-agency Machinery

The review recommended a range of new inter-agency machinery. A Ministerial trilateral has been established to oversee the system as a whole and meets regularly. This process is supported by a Criminal Justice Board comprising the main statutory organisations with responsibility for implementing the review, setting the overall strategy for the criminal justice system and dealing with issues of inter agency interest. The existing Criminal Justice Consultative Group is to be changed into a Criminal Justice Issues Group designed to promote good practice and be more business-oriented. These three groups are being supported by a common Criminal Justice Secretariat.

Organisational Change

The review concluded that there should be no change to Ministerial responsibilities before the inter-party talks had considered the issue. The Agreement did not, in the event make specific recommendations on the structure and arrangements for funding of criminal justice in Northern Ireland but remitted such issues to the Review of Criminal Justice in Northern Ireland. In the meantime, a co-ordinated strategic and resource planning timetable will be introduced leading ultimately to the production of a single high-level plan. This process will be co-ordinated by the Criminal Justice Board.

SUPPORTING THE CRIMINAL JUSTICE SYSTEM

Information Systems and Sharing

The Criminal Justice Board have appointed a team of consultants from the Central Computer and Telecommunications Agency to assist them in developing a strategy and business case for developing IT in order to enhance the speed and quality of information flows between the agencies, thus improving efficiency and quality of service. The consultants are supported by a Project Board involving the main statutory agencies. This work is due to be completed in October 1998, with implementation to follow.

Research and Statistics

The review concluded that criminal justice research needed to be more tightly focused on specific policy requirements and ministerial objectives. It recommended that the Criminal

Justice Board should co-ordinate the criminal justice research programme annually and ensure proper access to its products, but without interfering with the ability of individual agencies to determine and meet their own research needs.

Costs and Mapping

The review made a tentative attempt to assess costs and flows in the criminal justice system, but recognised the current shortcomings of the system which do not enable the production of accurate costs against activities. It concluded that this exercise should be further developed and updated for March 1999. It noted that systems will be adapted over time to provide better information with a long-term aim of producing costings against the system-wide objectives that are agreed.

IMPROVING SERVICE DELIVERY

Delay

At the outset of the cross-cutting review, Ministers indicated that the reduction of delay in criminal cases was one of their priorities. The review proposed 19 detailed administrative and legislative proposals to reduce delay. It also recommended that a case management scheme be put in place to take forward these proposals, to develop specific targets for reducing delay and to monitor progress. A sub-group of the Criminal Justice Board is currently taking forward this work and will report to Ministers by October 1998.

Effectiveness of Interventions

The review noted the absence of research on effective interventions in Northern Ireland and suggested that further work was needed. Specifically the following areas of research were targeted:

- rates of reoffending and the impact of interventions on those rates
- developing a picture of the criminogenic needs of different categories of offenders in Northern Ireland;
- evidence of effective early interventions (e.g. pre-school) coupled with a greater emphasis given to developing a government-wide approach to crime reduction.

The review also proposed that a regular, informal, multi-disciplinary group, involving the judiciary should be set up to disseminate the outcomes of any research conducted.

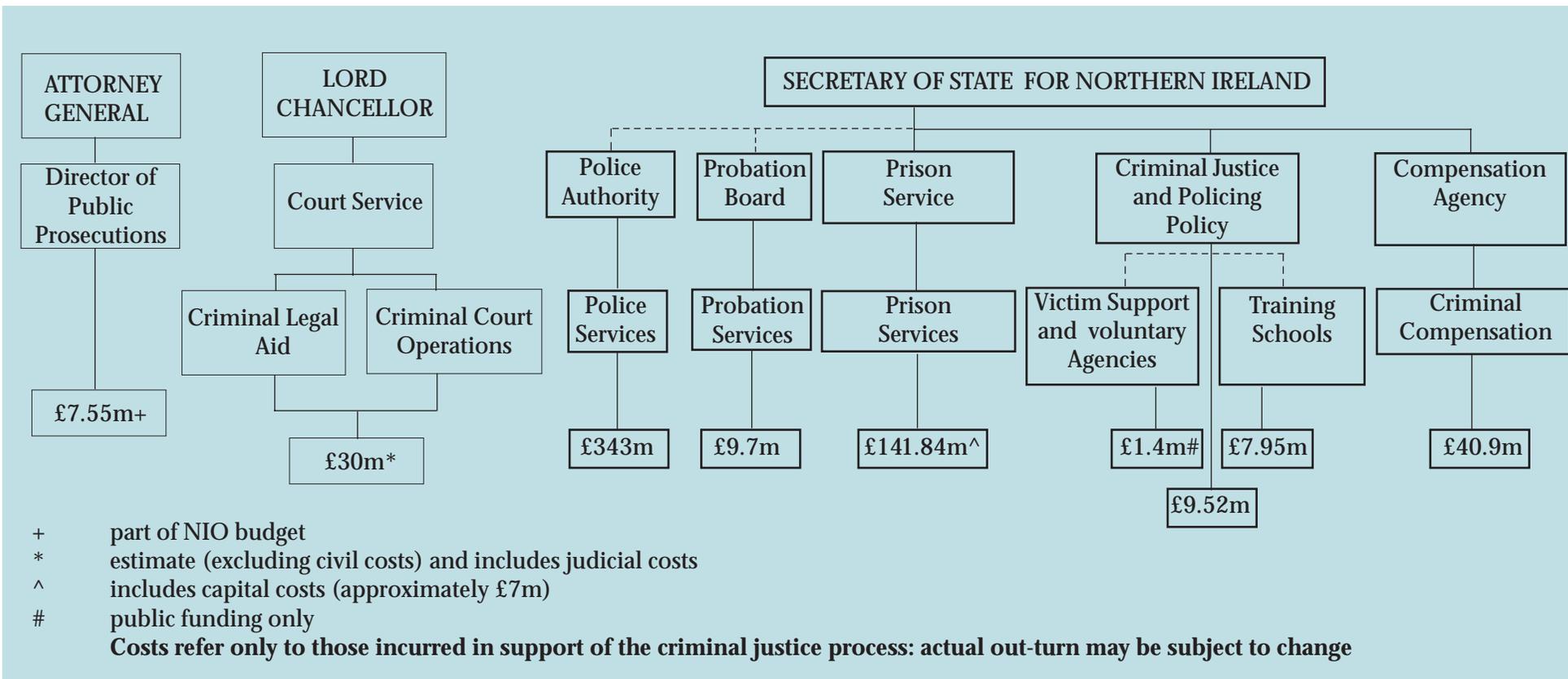
Fine Default

A number of changes (some legislative) were proposed to deal with fine defaulters to encourage earlier payment and reduce the number being imprisoned in default of payment. The Northern Ireland Court Service are to pilot a scheme to issue prompt reminder letters to fine defaulters. A number of other proposals such as the removal of remission from fine defaulters, deductions from earnings and the use of concurrent sentences are currently being considered by the Criminal Justice Secretariat.

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CRIMINAL JUSTICE SYSTEM IN NORTHERN IRELAND

Resources and accountability model showing resource allocation for 98/99



*Review of Criminal Justice in Northern Ireland
A Consultation Paper*

CRIME AND COMMUNITY - A LOCAL PARTNERSHIP APPROACH

1. The Government is committed to working in partnership with the community. To that end, this paper addresses the desire of communities and groups to develop appropriate locally based arrangements for dealing with criminal activity, anti-social behaviour and other social problems. There is the opportunity to build on the positive and constructive developments that are taking place in the areas of self-help and community participation, in partnership with the public agencies. What cannot be accepted in any form however are so-called punishment attacks, threats, expulsions, intimidation and boycotts, organised and manipulated by paramilitary groups or under any other auspices.
2. Most people from the areas concerned want to prevent criminal and anti-social behaviour **and** the unacceptable and criminal response of “punishment” beatings and other forms of coercion. This can only be achieved successfully through the co-operation of the public agencies, including the police, and the voluntary and community sectors in providing programmes and interventions for those identified as being at risk or responsible for anti-social behaviour. Much is already happening along these lines. The involvement of communities and public representatives, working with public and voluntary agencies, in the management of the response to crime and anti-social behaviour is to be encouraged, so long as this is consistent with the rule of law does not lend support to the concept of “alternative justice”.
3. Throughout the troubles the public agencies have been in the front line of service delivery to all parts of the community, often in the most difficult circumstances. Schools, the Youth Service, Social Services, the Housing Executive, Probation and the RUC are amongst the agencies in the forefront of social provision and the creation of a safer and better environment. They operate in partnership with each other, with the voluntary sector and with a well developed community sector. There has been much innovation and a great deal has been achieved thanks to the commitment of people from all of the agencies and the community. At the same time it has to be recognised that the political and security background has made it more difficult for the police to operate in certain areas as effectively with the community as they would wish.
4. In addressing these issues and delivering community based services, the Government is committed to:
 - i. upholding the rule of law;
 - ii. promoting and safeguarding human rights;
 - iii. protecting individuals against arbitrary decisions and procedures operating outside the rule of law;

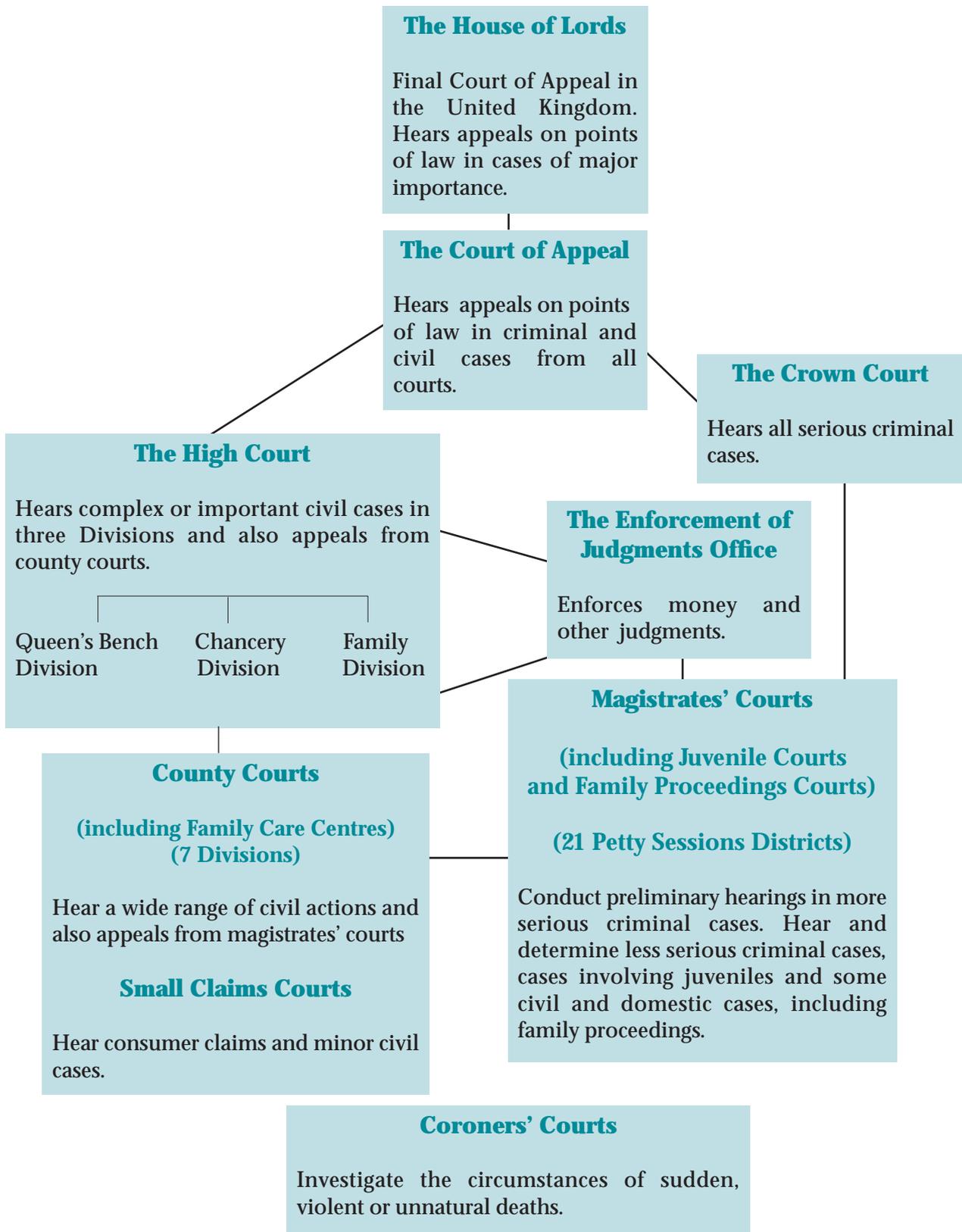
- iv. the provision of services to communities and individuals based on consultation and objective assessment of need;
 - v. partnership and consultation with and between the public, voluntary, community and private sectors.
5. The Government welcomes innovative ideas aimed at empowering communities, in partnership with the public agencies, to improve social cohesion, promote social inclusion, resolve disputes and address the problem of crime and the fear of crime. Subject to the availability of resources and to the parameters set out in paras 7 and 8 below, the public and voluntary agencies are encouraged to support communities which wish, within the law, and in partnership, to embark on initiatives to promote such concepts as community safety, crime prevention, restorative arrangements and mediation. This approach can also help in identifying related social issues such as the availability of training and support services and youth and social facilities.
6. The public organisations meet with and take account of the views of public representatives on these issues. However, decisions on the provision of services for which they are accountable and on the referral and treatment of individuals are matters for the agencies with the relevant statutory responsibilities. Thus an individual case appearing to require intervention might be drawn to the attention of Social Services as a result of a community-based initiative; but it will be for Social Services, in consultation as appropriate with other agencies, to determine whether, and if so how, to intervene.
7. In the context of preventing offending behaviour or resolving problems arising out of minor disputes or anti-social behaviour, the public agencies will encourage mediation, restorative and other schemes of the kind outlined in para 5 above - provided that they are based on the genuine consent of all parties involved. Such initiatives should not be the preserve of any particular political party or interest group, but rather should involve the community as a whole. There can be no question of assisting, or taking referrals from, any scheme based on coercion or threat, real or implied, or which is predicated on the exclusion of the police or any other public agency from carrying out its functions as prescribed by law. Moreover, the formal processes of investigation, prosecution, adjudication and compulsory intervention or referral must remain the preserve of the appropriate statutory bodies, operating within the legal framework which protects and balances the interests of individuals and the community.
8. The Government welcomes and encourages community based initiatives, rooted in a partnership approach. Any arrangements, however, must be complementary to statutory procedures, not an alternative to them.

RESTORATIVE JUSTICE

1. This paper gives a brief description of the restorative justice concept and considers its applicability in the circumstances of Northern Ireland.
2. Crime harms individual victims, their families, the community and quality of life generally. It is a Government priority to ensure that the interests of victims are properly taken into account by the criminal justice system; on 23 February this year it published a Code of Practice for victims and committed itself to developing an agenda for further action. However, while the criminal justice system is designed to secure outcomes that are fair and proportionate in relation to the crime, the victim and community may still be left with a feeling that underlying problems relating to the offence have not been satisfactorily resolved.
3. In certain circumstances, restorative justice can offer a more inclusive approach to dealing with the effects of crime. It concentrates on restoring and repairing the relationship between the offender, the victim and the community at large. It can operate in a number of contexts, both within the formal prosecution process and outside it. It depends crucially on the offender admitting the wrong and showing some signs of wanting to put it right. In restorative schemes, where all parties consent, some form of victim-offender mediation may take place. This can be done directly, in a conference, or indirectly, through intermediaries. In recognition of the fact that the effect of crime goes beyond those initially involved, there is also scope to include family members and representatives of the wider community.
4. The aim is to repair the damaged relationship which may be at the root of criminal behaviour and which will have been further damaged by that behaviour. In this process:-
 - victims are given the chance to say how the crime has affected them, and their needs and fears are addressed;
 - the offender is confronted with the distress that he has caused and has the opportunity to make amends. This may involve a range of outcomes from an apology, through counselling to improve relationships, to forms of reparation and community service. The opportunity for offenders to participate in diversionary programmes may also be available;
 - by involving victims and families, restorative justice gives more people a stake in dealing with crime. This in turn helps to build public confidence that justice is being done, and is seen to be done.
5. Schemes and practices involving a restorative element are being developed in many parts of the world, including the United Kingdom. Many are at the experimental stage, but some have been in existence for a considerable time and in one area of England at least (Thames Valley) the concept is built into police processes.
6. The Government has work in hand in Northern Ireland in a number of areas of the criminal justice system. The Government has set up a multi-agency steering group to look at ways of incorporating restorative justice into the formal justice system. Some examples of work in hand are outlined below:

- We are looking at ways of enabling the courts to make use of the power to defer sentence to allow a convicted offender to make good the damage he has caused and to turn over a new leaf.
 - Probation schemes can incorporate a restorative element. An example of this is the Watershed programme, which is a court-imposed condition of a probation order. In carefully controlled circumstances participants are brought to confront offending behaviour and to acknowledge the reality of the harm they have done- family group conferences and meetings with victims can have a role to play in this.
 - The RUC are examining proposals, similar to the Thames Valley scheme, for administering “restorative cautions” to juvenile offenders within a particular area. This would involve their being confronted with the distress caused and brought to acknowledge the effects of their offences.
7. It is of course important to recognise that there are types of crime where a restorative approach would not be appropriate. In all cases the rights of victims must be respected; if they are to be involved in restorative activity it must be on the basis of genuine consent on their part.
 8. Local communities, in partnership with appropriate statutory agencies, including the police, may want to develop locally based schemes for addressing problems associated with petty crime and anti-social behaviour, some of which might incorporate a restorative element. The Community Safety Centre, managed by a Board comprising representatives of key statutory and voluntary agencies in the criminal justice sector, has a role to play in enabling such activity. Community empowerment must however be subject to certain ground rules. These are outlined in the paper “Crime and Community - a Local Partnership Approach” and are important; no proposal can be tolerated which is based on violence or the threat of violence and appropriate statutory agencies must have an input. It is important to find means of enabling schemes to be “owned” by the whole community in which they operate, and not to become the prerogative of one particular party or grouping.
 9. There is considerable scope for building on good work already done to develop community involvement in community safety, crime prevention, diversionary schemes and restorative justice but it must be in partnership with, rather than as an alternative to, the official systems. It is necessary to find a means of mobilising local opinion against vigilantes and violence while simultaneously securing the commitment of the deliverers of statutory services, who have to operate within finite resources. This takes time, and effort. There is no single template for developing schemes; much will depend on local circumstances. Ideas are at different stages of progression in various parts of Northern Ireland.

THE COURT STRUCTURE IN NORTHERN IRELAND



*Review of Criminal Justice in Northern Ireland
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JUDICIAL APPOINTMENTS IN NORTHERN IRELAND

Office	Eligibility	Present Complement	Procedure
Lord Chief Justice	A Lord Justice of Appeal (or qualified for appointment as) or a Lord of Appeal in Ordinary having practised for not less than 10 years at the Bar in Northern Ireland.	1	Appointment by The Queen on the recommendation of the Prime Minister following advice from the Lord Chancellor.
Lord Justice of Appeal	A Judge of the High Court or any person who has practised for not less than 15 years at the Bar of Northern Ireland.	3	Appointment by The Queen on the recommendation of the Prime Minister following advice from the Lord Chancellor.
High Court Judge	Not less than 10 years' practice at the Bar of Northern Ireland.	7	Appointment by The Queen on the recommendation of the Lord Chancellor following advice from the Lord Chief Justice.
County Court Judge	Not less than 10 years practice as a barrister or solicitor or not less than 3 years as a deputy county court judge.	14	Appointment by The Queen on the recommendation of the Lord Chancellor following advice from the Lord Chief Justice on applicants who respond to an advertisement in the journal of the Law Society and in the Bar Library.
Deputy County Court Judge (part-time)	Previous holder of office of judge, or not less than 10 years' practice as a barrister or solicitor, or a resident magistrate.	44	Applicants who respond to an advertisement in the journal of the Law Society and the Bar Library and are successful at interview are appointed by the Lord Chancellor.
Resident Magistrate	Not less than 7 years' practice as a barrister or solicitor	17	Appointed by The Queen on the recommendation of the Lord Chancellor on applicants who respond to an advertisement in the journal of the Law Society and in the Bar Library and who have been successful at interview.
Deputy Resident Magistrate (part-time)	Not less than 7 years' practice as a barrister or solicitor.	23	Applicants who respond to an advertisement in the journal of the Law Society and in the Bar Library and are successful at interview are appointed by the Lord Chancellor.

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