TAKING RESPONSIBILITY FOR CRIME

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1:   Criminal Justice in Crisis?

Our criminal justice system at the centre of intense controversy about its strategy, efficiency and responsiveness (1-4); the Christian contribution (5); the importance of responsibility (6).

1.   Crime is a central preoccupation of contemporary politics, mass media and everyday life. It represents both an area of deeply-felt vulnerability in generally prosperous and secure societies and a profound challenge to the aspiration of government to promote a safe, decent and just social order. The ways in which government responds to criminal behaviour generate strong feelings and intense debates stemming in part from differing moral priorities. At present the criminal justice system in England and Wales is perceived to be forfeiting public confidence, particularly on account of anxieties about the supervision of dangerous offenders but also through a general impression of ineffectiveness. Behind the headlines lies a situation of instability and uncertainty following years of well-intentioned and ambitious reforms. These have left criminal justice professionals overwhelmed as they attempt to implement a copious stream of new laws and policies.

2.   Concerns about the effectiveness of the system may be classified under three headings: *strategy, efficiency* and *responsiveness*. Much of the controversy of recent months has centred on major breakdowns in *efficiency*: that is, confusion, lack of communication and negligence in implementing policies which were agreed to be necessary. The particular issues exemplify broader concerns about a system that is often slow, cumbersome and badly co-ordinated. Not only the prison and probation services but the police and the courts struggle to discharge their functions in the face of overload, inadequate resources and low morale. It seems as though the system is unable to manage the demands made upon it, and is therefore forced to reduce its goals to what it can deliver rather than what would be desirable. The result is often to encourage attitudes of impunity on the part of some offenders, and to leave victims of crime frustrated. These structural strains form the background to the topics examined below, and particular reference will be made to the plans for offender management which aim to alleviate them.

3.   Charges of inefficiency (like the description "unfit for purpose") might seem to presuppose agreement on *strategy*. However questions about means and ends cannot be separated so easily, because the means chosen, like imprisonment, have implications for what can be achieved. Many of the arguments about "mismanagement" quickly lead into serious questions about whether the objectives of criminal justice policy are clear, coherent and appropriate to the challenges it faces. This report will discuss the proper objectives of the system and how in broad terms they might be pursued.

4.   The term *responsiveness* refers both to the capacity of the system to adapt to new challenges, such as the recent increase in knife and gun crime, and its ability to engage with the concerns and demands of the public, whom it exists to serve. Much has been done to develop new patterns of working such as the reforms to the youth justice system in the late 1990s and the creation of the Serious and Organised Crime

Agency (SOCA) in 2005, but inevitably it is the areas of weakness that attract most comment. In responding to the public, consultation and accountability operate through a number of channels, including Parliament, the criminal justice inspectorates and local partnerships, but there are widespread feelings of being let down by the system and not being listened to, which help fuel popular attitudes of punitiveness. Those who administer the system must respond to public concern while being honest about the difficulties and dilemmas of dealing with crime. No other public service has to deal with "clients" who are by definition – at least initially – working against its aims.

5.   The Christian churches have a distinctive part to play in this situation, both in action and reflection. Many Christians work professionally within the criminal justice system, making a positive contribution to its ethos and operation as police, probation and prison officers, magistrates and judges, administrators and civil servants, and in many other roles. Some Christians have experienced the system as offenders. Many more have family members or close friends who have been or are offenders. Christian organisations and volunteers are also heavily involved in work with offenders (but less frequently with victims), both in prisons and in the community. This activity is inspired by the wealth of insight and experience that the Christian tradition offers on matters of crime, justice and redemption from evil. Christian theology and ethics have shaped the development of our criminal justice system, largely for good, and continue to do so.

6.   The title of this report reflects a theme which runs through many aspects of criminal justice policy. The present Government has laid stress on the importance of responsibilities in society as a counterpart to rights. It must be a condition of reducing re-offending that individual offenders should take responsibility for their actions, both in the past and in the future. However, much that is done to offenders within the criminal justice system – particularly in prison – makes it less, rather than more, likely that they will assume responsibility, and insofar as this happens it may be said that society and its agencies are failing in their responsibilities. Again, the Government has commended the model of active citizenship and is seeking to bring members of local communities and the voluntary sector into partnership with criminal justice professionals in reducing offending and anti-social behaviour. This raises further questions about sharing responsibility for countering crime.

2:   Crime and the Public

The problem of determining accurately levels of crime and trends over time (7-10); the relation between public attitudes to crime and the influence of mass media (11-14).

Measuring crime

7.   Surveys suggest that most members of the public believe that in recent years crime has increased dramatically. Fierce arguments rage about trends in crime statistics and their significance. These arguments are not merely political, in the sense of attributing praise or blame to government; there are substantial problems in discovering what is "really" happening. The official criminal statistics for England and Wales recorded the number of offences notified by the police. Property offences make up over 70% (theft and handling stolen goods, criminal damage and burglary), with offences against the person the next largest category (about 15%). Robbery and sexual offences are relatively low, though they now tend to be grouped with other "violent offences". The figures are crucially affected by the rate of recording of incidents by the police and (especially) the rate of reporting by the public, which vary considerably according to the circumstances and consequences of each incident. There is therefore a huge amount of "hidden" crime, though most of it appears to be comparatively minor.

8.   Of these recorded offences, only a small proportion is dealt with by the courts. The average clear-up rate for offences in England and Wales is about 25%, (but in the region of 90% for homicide, 60% for violent offences and 12% for burglary). When offenders are detected, decisions may be made not to prosecute, or to caution, or to divert a young offender from the criminal justice system. When conviction rates are taken into account, it has been estimated that only about 2-3% of the offences that take place result in a conviction in the courts. It is clear that improving the rate of detection should be a major priority, both for its own sake and to increase the risk of offending leading to punishment and remedial action. However, this shows the dilution of the impact of sentencing upon "real" as opposed to recorded offending.

9.   The recorded statistics are problematic both in giving a snapshot of crime and in charting trends over time, partly because definitions of offences and recording requirements change. Since 1982 the Home Office has regularly undertaken a national survey of households, the (now annual) British Crime Survey, in an attempt to discover the pattern of crime actually experienced. This produces a fuller picture than the official statistics, but also has its problems. A major weakness is that it covers crimes against households but not those against commercial properties. It reveals that many more crimes occur than the official statistics record, but that most of them are much less serious in terms of injury, damage and financial loss than those reported. Together the official statistics and the BCS point to a steady rise in overall crime between the 1960s and early 1990s, with substantial falls thereafter in property offences and some violent offences. Short-term changes are difficult to trace reliably, but the figures support neither an apocalyptic view of rampant increases nor a complacent conclusion that crime is being brought under control. It remains unacceptably high; its impact on people and society is grievous and destructive.

ALL CRIME - British Crime Survey data
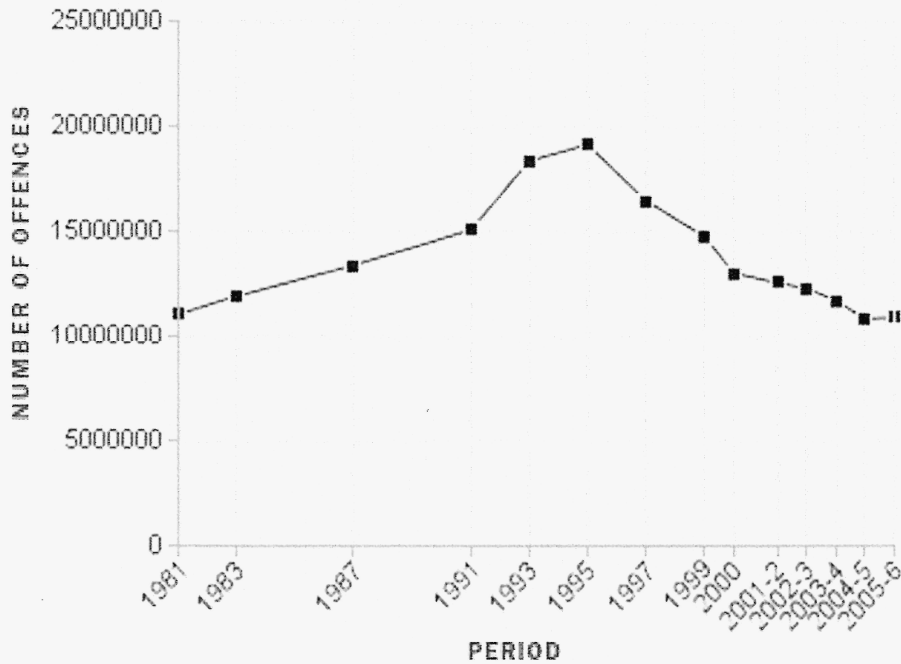
Source: The British Crime Survey (BCS)
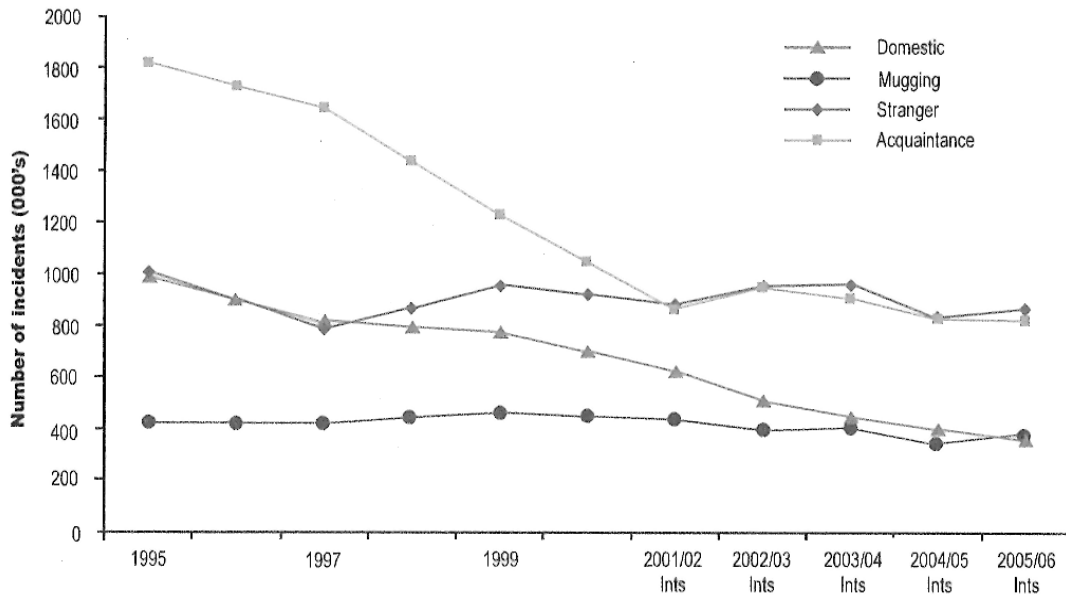
10.   The broad averages produced by national statistics need to be set alongside local crime surveys. These bring out the extent to which crime is concentrated in small areas of urban deprivation and how particular forms of crime are suffered disproportionately by specific social groups. For example, young people are often

stereotyped as perpetrators of violence, but they are more likely than other age groups to be victims. According to the BCS in 2004-5, 12.6% of males aged 16-24 suffered a serious assault compared with the average for all adults of 3.4%. Some forms of crime, like sexual assaults on women, are under-represented in standard surveys and are better traced by self-reporting techniques. There are also difficulties in recording multiple victimisation and offences against marginal groups such as homeless and mentally ill people. The pattern of victimisation, like the pattern of offending, is affected by social inequalities.

Public attitudes to crime

11. The relation between the reality of crime and perceptions of it – and especially fear of it – is complex. It is sometimes said that people tend to overestimate their personal vulnerability to crime. The stereotypical victim of violence is older and female, but statistically – as we have noted – is more likely to be younger and male. Yet true as this may be, expectations are shaped by social experience, and the impact of crime varies with personal circumstances. Older people and women may understandably feel more vulnerable to street violence from a sense of relative powerlessness, whatever the objective probabilities. Furthermore, attitudes to crime appear to be shaped by mass media representations, which play a large role in the politics of crime and punishment.

12. Fictional television portrayals of crime can be highly misleading. Research shows that they feature much higher levels of homicide and violent crime than in real life, and much lower levels of property crime. However, the property crimes shown tend to be more dramatic and violent than in reality: most property crimes involve relatively little loss or damage and – notwithstanding their emotional impact – no physical threat or harm to the victim. "White-collar" crime rarely makes an appearance, as it is relatively invisible and intangible despite its costliness. Murder tends to be calculated rather than spontaneous, and rape is usually perpetrated by psychopathic strangers rather than people known to the victim. Clear-up rates are also much higher in fiction than in reality. These portrayals offer a somewhat skewed impression of crime and offenders which may affect public attitudes to policy.

13. Factual reporting of crime is affected by news values, accentuating dramatic individual events at the expense of broader analysis, and reporters are dependent upon the police and other institutions for much of their information, which affects the dominant frameworks of interpretation. The pattern of reporting tends to entrench a stereotyped view of the "war on crime" carried on through policing, punishment and prisons. Probation enters the picture mainly through stories about ineffectiveness in preventing re-offending or protecting the public, and most people are poorly informed about the operation of non-custodial sentences. At intervals, intensive media activity generates what sociologists term "moral panic", in which a single case becomes the focus for expressing fear about crime and demanding "tough" action by the authorities. Prominent examples were the abduction and murder of James Bulger (by two older children) in 1993, and of Sara Payne in 2000, and the controversy over the sentencing of the child abductor and paedophile Craig Sweeney in 2006.

14. The effect of the mass media upon public attitudes is much debated. It remains true that people evaluate media presentations in the context of their everyday

experience, including experience of crime. Nevertheless, reporting and representation of crime help to maintain generalisations which are exaggerated and misleading. The tendency to speak of "crime" in the aggregate conceals many significant variations. Concentration upon violent offences like robbery, aggravated burglary, rape, serious assaults and sensational high-profile murders can suggest that all offenders are dangerous, ruthless and "incorrigible" – to use a term favoured in the late nineteenth and early twentieth century when it was assumed that there was an innate difference between "criminal types" and normal people. This polarisation re-appeared in the Home Office Reform Plan of July 2006 which made a sharp distinction between "ordinary, law-abiding people" (and even "ordinary, law-abiding families") and those who, in the Home Secretary's words, "seek to undermine and destroy our way of life" – here not terrorists, but offenders in general. Yet a large proportion of offenders are weak and sad characters, broken by their experience of life. The inference that the only effective way of dealing with such people is to exclude, incarcerate and incapacitate (i.e. "disable") them is a huge mistake and a disastrous wrong turn for criminal justice policy.

3:   Risk and the Politics of Fear

Social and political factors which drive criminal justice policy towards an excessive desire for security and control: the place in today's society of risk management (15-18); pressure on government to appear "tough" on offenders regardless of the effects (19-26).

Risk, protection and prevention

15.   The desire to exclude is underpinned by a number of social and cultural developments often discussed under the heading of "risk". Modern technology has produced massive increases in private security arrangements whose aim is to remove the opportunities for committing crime (mainly property crime, but also offences against the person in public spaces by mean of surveillance). Parodoxically, in modern societies where many historic threats to security and well-being have been eliminated or minimised, there is heightened awareness and increased anxiety about the risks that remain. Crime features high among these, and this encourages a shift from "administering justice" to "public protection" as the "core business" of the criminal justice system – a statement which appeared in the Home Office Reform Plan.

16.   It is of course true that crime control and public protection have always featured among the goals of criminal justice policy, both in policing and sentencing, Nevertheless, classical criminology and penology, often backed by Christian beliefs about human freedom and dignity, treated the offender primarily as a rational agent who could be influenced by the prospect of punishment or helped and encouraged to change his – mostly "his" – attitudes and behaviour. An excessive concentration on the protective function threatens both justice and the principle that the offender or potential offender remains a citizen and is not deprived of all civil rights. The current argument over the restoration to prisoners of the right to vote is a litmus test of the application of this principle.

17.   Recent years have seen the development of an "actuarial" approach to offending which draws on the extensive information available to construct profiles of risk and protection factors – that is, characteristics of offenders which either increase or reduce the probability of their re-offending. These have entered into probation practice in its efforts to promote desistance (i.e. refraining) from crime, and have shaped the construction of OASys (the Offender Assessment System) which will be a key tool of the new National Offender Management Service (the choice of title for this product of the merger of the prison and probation services is significant). Such information is of great use in refining methods of modifying offending behaviour, but there is a danger of using it to classify offenders and to determine their treatment, not by what they themselves have done or might do, but on the basis of the behaviour of larger populations which is not an accurate predictor of the behaviour of the individual.

18.   More broadly, the emphasis on risk management may spill over into demands for risk control, with the risk to the public of re-offending being assessed hyper-cautiously and given priority over all other considerations. The 1991 Criminal Justice Act introduced public protection into the criteria for sentencing, and the 2003 Act

introduced mandatory life sentences for serious offenders and indeterminate sentences for the purpose of public protection. This is a substantial modification of the principle of sentencing according to desert (which was also stated in the 1991 Act) and raises fundamental questions about the justification of punishment, both generally and in particular cases. Put simply, to what extent are offenders to be subject to sanctions on the basis of what they have done, and how far on what they might do in the future?

The political dynamics of criminal justice policy

19.   Considerations of risk need to be set in the current political context, in which the Government feels under pressure to protect the public against people judged to be dangerous – not only violent offenders but mentally ill people and, more recently, terrorists. There is in each of these areas a case for shifting the balance between liberty and security, in order to remedy inadequacies in the law and to take account of new kinds of threat, but also considerable peril of undermining basic human rights such as the presumption of innocence and the deprivation of liberty by due process. The insidious tendency to introduce new forms of restriction and detention on the plea of public safety must be carefully monitored and evaluated, and where necessary opposed. In many cases it is arguable that what is needed is not more repressive laws and policies but more efficient operation of those that already exist, particularly in sharing of information and collaboration between public agencies.

20.   The other major pressure on government is the need to be seen to be 'tough'. This begs many questions about what is effective in preventing offending. It forms part of a way of thinking and speaking that portrays criminal justice as a battle against an enemy and employs aggressive or even violent metaphors (e.g. 'gripping' offenders, as in the 2006 Home Office Reform Plan). Undoubtedly there is an adversarial and coercive aspect to criminal justice – epitomised by the traditional symbol of the sword of judgment, to which St Paul refers in Romans 13. However, purely coercive and exclusionary solutions are unacceptable and impractical, since almost all offenders must sooner or later live in the community. Although it will not always be attainable, the ultimate aim of dealing with offenders should be to "reconcile" them with the society to which they belong and from which they have become alienated. Toughness and even severity may be required in the course of tackling crime, but they must be combined with such qualities as wisdom, imagination, generosity and perseverance if it is to be overcome rather than merely suppressed.

21.   The rhetoric of warfare and toughness may also produce distortions in public perception which feed back into the expectations of politicians. The widespread belief that sentencing is over-lenient, often based on skewed reporting of untypical cases, runs contrary both to statistics on the increased incidence and length of custodial sentences in recent years, and to the judgments of members of the public themselves when invited to take part in hypothetical sentencing exercises. Moreover, when asked more precise questions or invited to take part in more deliberative processes, as in the opinion research undertaken in 2001 for the *Rethinking Crime and Punishment* project, the public often reveal more nuanced and less punitive attitudes to the causes of crime and appropriate responses – for example, in prioritising care for juvenile offenders and treatment for drug addicts over punishment.

22.   There is a tension in modern criminal justice policy verging on incoherence. On one side, government administers a system which attempts to base itself on empirical evidence and the professional judgment of those working within it. On the other, politicians react emotively in response to what is thought to be the state of public opinion. In some respects, this is a healthy tension, since the criminal justice system must command public confidence, and as recent events show, there is a need for accountability in cases of manifest failure. However, at many points it results in a confinement of policy based on fear: the public, egged on by the media, fears criminals, politicians fear the public reaction to policies regarded as insufficiently "tough", and collude in maintaining the level of fear as a means of retaining power. The shrewder among them execute the balancing act by combining tough rhetoric with enlightened actions, but the overall effect in the last 15 years has been to drive up the level of imprisonment and to distort public understanding of community sentences.

23.   Another danger of current policy, given the culture of aversion to risk, is over-confidence in "offender management". The Government's current strategy to reduce re-offending sometimes conveys the impression that given appropriate organisation and sufficient resources (both unsafe assumptions!) the behaviour of offenders can be changed and controlled in a predictable manner. This overestimates both our knowledge of human behaviour and the available techniques of risk assessment and management. Research and experience indicate that certain strategies are more likely than others to succeed in preventing re-offending, but offender management is not an exact science, and to over-sell its prospects to a sceptical public runs the risk of discrediting constructive work with offenders.

24.   Despite these pressures, it is welcome that the strategy to reduce re-offending aims to address not only crime but the causes of crime. An important report from the Social Exclusion Unit, *Reducing re-offending by ex-prisoners* (2002) showed how offending is made more likely by negative life experiences and personal problems which have a social basis.   Without denying the importance of individual attitudes and behaviour, the Government has officially recognised the contribution of social exclusion of various kinds to the commission of crime, and the need to deal with those factors in helping offenders to make a new life. We are nearer than ever before to "joined-up thinking" about reducing offending – though there is still a long way to go.

25.   Another novel feature of the current scene is the prominence now given to victims' needs and rights – though often more in precept than practice. This reflects a reaction against the tendency of an adversarial system of justice to sideline victims of crime, but it also reflects broader cultural trends as result of which voices previously ignored or suppressed are being heard. This brings salutary challenges both to the criminal justice system and to Christian faith. However, a careful response is called for, because the appeal to the interests of victims is sometimes used to legitimate unjust or inhumane action against offenders.

26.   Finally, the "law and order" agenda has been marked in the last ten years by a concentrated drive against anti-social behaviour. This has arisen from concern about the disruptive effects on communities of acts of vandalism, nuisance and minor disorder, the inability of court procedures to deal with these speedily and effectively, and the danger of unchallenged anti-social behaviour leading to criminal activity. A

succession of Acts and strategies between 1998 and the present have instituted a range of sanctions and interventions – ASBOs being the best known and most controversial – designed to combine challenge and support for those engaging in such behaviour. Although ASBOs were not originally designed for young people, much of the focus for these measures has shifted to young people, partly because the youth justice system gives space for experiment and inter-agency co-operation but also because of public anxiety about the behaviour of young people which is not always well-grounded.

4: Theological Foundations and Principles of Justice

The connection between Christian theology and the classic justifications of punishment (27-31); a more adequate Christian understanding of justice as "setting right", with implications for both offenders and victims (32-38); the principle of incapacitation (39-41); multiple aims of sentencing (42-46).

Christianity and the threefold view of punishment

27.   Christian teaching views criminal justice against the background not just of individual biblical texts but of the whole story of God with humanity. The early chapters of Genesis pit human perversity and destructiveness against the grace and judgment of God. However, the punitive and apparently despairing act of the Flood is shown not to be the last word, but the rainbow of mercy testifies to the patience and saving purpose of the Creator. God perseveres with an unresponsive and ungrateful people, but keeps faith and acts to redeem and restore through a unique act of "taking responsibility" in Jesus. The incarnation, cross and resurrection of Christ are the fulfilment of the gracious outreach and merciful judgment of God. The faith which flows from this turning-point must resist all attempts to foreclose human possibilities and to deal with wrongdoing merely by distancing and exclusion. In a manner analogous to God's action, a decent society must attempt both to hold offenders to account and to remain in creative engagement with them to promote renunciation of wrongdoing and a new way of life.

28.   In classical theories of punishment, the objectives to be fulfilled were defined as *retribution, deterrence and rehabilitation*. Although these goals were shared between Christian and secular thinkers, their Christian roots are apparent. Belief in *retribution* stems from the conviction that God is judge of all, and will hold everyone to account for their wrongdoing; Romans 13:4 speaks of the governing authorities as both declaring God's judgment and executing God's wrath upon wrongdoers. It rests on the assumption – which some theorists find obscure – that punishment is deserved on account of breach of the law, and it implies that punishment should be proportionate to the seriousness of the offence.

29.   For these reasons, the retributive principle is not necessarily vindictive or excessively severe: it can serve to limit the extent of punishment and to preclude punishing the innocent. However, it faces the necessity of ranking offences in terms of seriousness and identifying appropriate types and levels of punishment. It does not of itself allow or require particular punishments except in relation to historically-conditioned tendencies to harshness or leniency. Different times and places have witnessed considerable variations in the type and severity of penalties imposed: in the modern era death, transportation or physical mutilation has been superseded by penalties designed to control or modify behaviour. When retribution becomes the major aim of action against offenders, it risks locking them into negativity and failure.

30.   *Deterrence* is a biblical notion, explicitly cited in Romans 13:3-4 as a restraint upon human self-seeking and disorder. Anyone who has lived in a lawless society will testify to the necessity for it. Yet the deterrent effect of punishment as such should not be overestimated. Most people are deterred from crime not primarily by the level of punishment but by lack of motivation or opportunity or potential loss of

status. Among offenders, deterrence is crucially limited by the sense of having little to lose, irrationality (many crimes are committed on impulse rather than calculation) and above all by the low risk of detection (research suggests that this is a major factor). It is also doubtful that marginal changes in the level of punishment act efficiently to deter: potential offenders are unlikely to have the detailed knowledge of sentencing to be influenced, and to the extent that they have, fairly draconian increases would be necessary to have much effect. Individual deterrence (the experience of punishment dissuading a person from re-offending) is also haphazard, depending on the circumstances. Given all this, deterrence is a broad fact of life rather than a finely-tuned policy tool, and legislative or sentencing decisions in which it predominates may produce injustice by making particular offenders a means to an end ("to encourage the others", as Voltaire said satirically of the shooting of Admiral Byng).

31.   *Rehabilitation* also has a firm Christian basis, in the duty to forgive and show mercy, and belief in the possibility of redemption through the grace of God. No-one is totally defined by their sins and failures, and the image of God in all human beings relates to potentiality as well as actuality. In practical terms this means providing opportunities to make good. Since the eighteenth century, rehabilitation has been shaped by both religious and secular understandings of human nature. Prisons in the nineteenth century were conceived as "penitentiaries", with the Christian religion providing the motivation for a change of life, in concert with some combination of silence, solitude and hard labour. The twentieth century saw a shift to methods of psychotherapy and support in the community, as the police court missionaries evolved into the Probation Service. Nevertheless the explicit Christian contribution through the gospel of forgiveness, the call to repentance and the promise of newness of life remains powerful, and is finding new avenues for action both in prisons and in the community.

From punishment to restoration

32.   Framing criminal justice in terms of punishment has at least two major disadvantages: first, it concentrates on offenders to the exclusion of victims and the wider society, and second, it blurs the distinction between the punitive and non-punitive aspects of dealing with offenders. It is preferable to concede the inevitably retributive character of punishment while insisting that doing justice in the fullest sense goes beyond the administration of punishment to embrace other objectives of a positive and forward-looking nature. This has strong roots in the Old Testament, where the function of the king as the guardian of the divine ordering of society and the executor of the divine law is centrally concerned with setting wrongs right. Punishing the guilty is part of the task of defending the poor, the needy and the oppressed against injustice, robbery and violence, classically expressed in Psalm 72. In the process of "setting right" both the law and the victims of its violations are vindicated – a connection which is weakened by a sharp distinction between public and private wrong, dealt with by criminal and civil law respectively. Old Testament law also expresses the connection through provisions for compensation and reparation offered to victims by offenders – a more "relational" approach than the abstract notion of an offence against the law or the Sovereign as representative of society.

33.   This broader approach to criminal justice, looking both back and forward, is clearly consonant with the Christian understanding of salvation. Although atonement theology has sometimes been cast in narrowly forensic terms, at its best it has expressed the biblical insight that God's justice has the purpose of "setting right" – engaging with the destructive character and impact of sin while opening up a new future of forgiveness and redemption. No human system can embody the fusion of justice and mercy that is found in the Gospel of Christ, but Christians must look for ways of dealing with crime that hold out hope for both offenders and victims. The Gospel constantly reminds us that the distinction between criminals and law-abiding people is perilously insecure, and that the task of setting right requires sympathetic interaction with others and the unselfish sharing of burdens. Too often society looks for short cuts in dealing with crime and criminals. The Church has a duty to question such short cuts, and to join with others in looking for a better way.

34.   The other side of the coin is the duty of the criminal justice system towards victims. Until recently Christian theology and practice have been systematically neglectful of this, partly as a result of doctrines of salvation which place at the centre the relationship of the redeemed sinner to God. The pattern of redemption through repentance, forgiveness and renewal may have obscured the truth that human beings are not only sinners but sinned against, and that Christ identified with human beings as victims as well as transgressors. Furthermore, concentration on unconditionally-offered forgiveness has often led to the imposition upon victims of unreasonable expectations of forgiving at the expense of the offender's obligation to admit responsibility and make restitution. Christians have become acutely aware of this in the field of sexual and domestic abuse, but it has a much wider application.

35.   Christians have historically been committed to working with offenders as an expression of the Gospel. They have been less inclined to work in an equally serious and organised way with victims. The reasons for this can be conjectured, but among them may be the relative difficulty until recently of gaining access to victims, discomfort in dealing with anger, resentment and other strongly negative emotions, and – uncomfortable though it may be to acknowledge – a preference for situations where the moral high ground may be more easily maintained, and where as a result relationships of condescension and dependence are more readily established.

36.   Of course this is not the whole story of Christian motivation, and the experience of working with offenders has salutary effects in overturning patronising attitudes. It remains true that a structural division exists between offender-focused and victim-focused organisations, with Christians gravitating towards the former. There is a widespread perception among victim groups that churches are well-meaning but lacking in understanding, and are biased towards the needs and interests of offenders. A defensible reason for this perception is the refusal of Christians to accept that compassion for victims and compassion for offenders are inversely related, and their readiness to champion unpopular groups, but there is a challenge to be met at the level of action rather than words.

37.   Care needs to be taken in drawing too simple a distinction between offenders and victims. In terms of breaches of the law, some people are both offenders and victims – particularly in fights. It is also true that many offenders are victims in a broader sense, as a result of violence, abuse or neglect and forms of social

deprivation. This is not to excuse their offending, but to recognise that to put matters right will require a great deal more than individual effort. It is sometimes said that offenders being punished are "paying their debt to society". It may often be true that from the broader perspective society owes a debt to an offender, and ought to discharge it. This will be considered further under the heading of responsibility. However, it is a consequence of the shift in sentencing rationale from justice to protection that the question what the offender really deserves is in danger of being lost from sight, or the answer is presupposed.

38.   An alternative way of responding to crime is given in the paradigm of *restorative justice*. This is a name applied to a large family of approaches, but common to them all is the emphasis given, first to making both offenders and victims responsible agents rather than passive spectators in dealing with crime and its effects, and second to repairing harm and solving problems through processes of mediation, rather than simply punishing. Historically it has roots both in radical Christian communities (notably the Quakers and Mennonites) and in the communal practices of native peoples in Canada and New Zealand. It has been incorporated into the criminal justice systems of a number of countries and has been adopted as a guiding principle by many Christian groups. It has influenced the youth justice system of the UK, and has been commended by the Government, but its impact upon mainstream practice, let alone public awareness, is still fairly limited.

Incapacitation

39.   A further aim of sentencing has come into prominence in recent years as a result of the concern with public protection discussed in paras 12-16: *incapacitation* (which, as we have observed, means "disabling"). It belongs to the category of instrumental functions, and can be seen to stem from greater intolerance of risk. First, it has arisen as a justification of imprisonment. At least, it is said, incarceration gives the long-suffering public a break and prevents the commission of further offences for a period. It is a mark of the failure of prisons as rehabilitative institutions that this is now regarded by some as a major argument for imprisoning large numbers of people. Insofar as most offenders will, and should be, released, the incapacitating effect of imprisonment is limited, though it remains valid as a reason for imprisoning violent or serious offenders. In general, it is a defeatist prescription, reflecting excessive pessimism about the potential for offenders to desist from crime. A Christian estimate of humanity should question it insistently in view of the high costs – personal and financial – of imprisonment. Unfortunately, the weakness of non-custodial alternatives in dealing with persistent offenders means that sentencers sometimes feel driven to imprison despite the disadvantages.

40.   The second aspect of incapacitation is the expectation that the behaviour of offenders and ex-offenders in the community will be closely monitored and controlled. Despite the disturbing headline cases, considerable progress has been made in monitoring and supervising dangerous offenders on release from prison. Multi-Agency Public Protection Arrangements (MAPPA) grew out of co-operation in the 1990s between police, probation and other agencies and were put on a statutory footing in 2000. These require joint working to assess and manage the risks posed by sexual and violent offenders, and the obligation to review and monitor the arrangements. While most offenders are managed by a single agency, other agencies

may be involved according to the level of risk and problems of management, so that each may discharge its duties effectively. The "critical few" are referred to a Panel for co-operation at senior level. With well over 50,000 offenders covered by this system, it is inevitable that serious failures will be reported in a spirit of recrimination, but success in preventing re-offending is a non-event and will not be reported.

41.   Incapacitation cannot be dismissed or dispensed with as an aim of policy. Insofar as offenders fail to desist from crime, forms of restraint of varying degrees of intrusiveness must be considered as options. However, its limitations and dangers should be recognised. Total control of behaviour is not possible, even in a prison, and the attempt to achieve it in the community would be pernicious. The demand for effective crime control may lead to greater use of surveillance and restrictions on liberty. However, Christian belief demands that as far as possible the prevention of re-offending should engage with the offender as a responsible person, employing the positive methods of incentive and trust alongside, and in preference to, the negative sanctions of threat and incapacitation. Clear and firm boundaries need to be set in countering criminal behaviour, but within those boundaries the aim should be to develop responsible agency.

The aims of sentencing

42.   In the light of the preceding considerations, it is useful to consider the former senior civil servant David Faulkner's threefold categorisation of the functions of sentencing as *retributive, instrumental* and *reparative* (*Rethinking Sentencing*, GS 1536, 2004, available at cofe.anglican.org/info/papers/rethinkscreen.pdf, p.7) These involve distinct sets of aims and criteria. The first highlights what some have described as the "symbolic", "expressive" or "communicative" aspect of punishment, formally condemning unlawful behaviour through the application of a sanction. The second relates to practical outcomes, in terms of preventing re-offending and protecting the public, through deterrence, rehabilitation or control. The third involves repairing the damage of crime in some way, whether through compensation to the victim or some kind of restorative procedure with an emotional as well as a practical effect.

43.   The categorisation is helpful in moving beyond the standard trio (paras. 29-31). However, the categories are not watertight: rehabilitation could be counted part of the reparative function, and there is surely a communicative aspect to reparation, which balances the negativity of retribution. The combination of retribution and restoration is characteristic of the biblical tradition, in which punishment is understood to have a *disciplinary* function, as a corrective action in the unfolding relationship between God and the covenant people. It was this insight that informed nineteenth century analogies between punishment in the family and in the State, presuming a continuing relationship between society and offenders which needed to be repaired.

44.   A modern equivalent is the theory of "reintegrative shaming" developed by the criminologist John Braithwaite, according to which punishment should combine repudiation of the offender's behaviour with support designed to facilitate reintegration into society (as distinct from "stigmatizing shaming", which simply excludes). In practice, it is difficult to combine shaming and reintegration without

strong social bonds, the absence or deficiency of which is a major cause of crime in the first place. It has sometimes been commented that our society has dramatic and well-developed rituals of degradation, but nothing comparable to mark restoration.

45.   The response of the criminal justice system to offending is inevitably a complex business. The effects upon crime of the sentencing and supervision of offenders must not be over-rated relative to other measures, but within that system maximal coherence and effectiveness should be pursued. The plurality of purposes in sentencing means that simple solutions are almost certainly inadequate, but the difficulties of achieving each objective, and the tensions between them, must be confronted as honestly and realistically as possible. Our conclusion is that retribution, reduction of offending, rehabilitation and restoration should be regarded as legitimate and essential objectives with deep Christian roots. Incapacitation is more problematic because it signals the erosion of the tradition of just deserts and raises profound difficulties about how punishment, and particularly imprisonment, may rightly be limited or terminated. It has been estimated that by 2010 one-third of the prison population will be serving indeterminate sentences of one kind or another, so this question is practically urgent.

46.   Section 142 of the wide-ranging Criminal Justice Act 2003 broke new ground by stipulating five statutory purposes to which sentencers must have regard: "the punishment of offenders; the reduction of crime (including its reduction by deterrence); the reform and rehabilitation of offenders; the protection of the public; the making of reparation by offenders to persons affected by their offences". This accords quite closely with the conclusions above, but everything turns on the mutual relation and practical implementation of those purposes. The Act set up the Sentencing Guidelines Council to flesh out the principles in respect of particular offences. This exercise, still in progress, has demonstrated the difficulty of reconciling consistent and comprehensive criteria with proper judicial discretion. Recent history supports the implication of our analysis that the purpose of reform and rehabilitation, and to some extent that of reparation, needs to be defended from being swamped by punishment, deterrence and protection.

5: Crime, Responsibility and Relationships

The theme of responsibility as a central feature both of human relationships and Christian belief (47-52); responsibility as a norm in work with offenders (53-56); responsibility and restorative justice for victims (57-62).

47.   A leading theme to emerge from considering criminal justice policy is that of *responsibility*. The legal system uses this primarily in the sense of holding offenders to account for their past actions, but there several other dimensions to the use of the concept. The maxim that "rights imply responsibilities" implies a more dynamic and forward-looking use of the term, that of taking responsibility for particular actions, situations or people. Two sets of distinctions may be made: first, between "passive responsibility", being *held* responsible for something, and "active responsibility", the act of *assuming* it, and second, between responsibility for the *past* and responsibility for the *future*. This gives us four possible combinations: past/passive, past/active, future/passive and future/active. It is important to recognise these distinct usages: punishment tends to emphasise the past/passive aspect of responsibility, though as a communicative act it hopes to turn the offender's mind to responsibility for the future. Rehabilitation and restoration appeal particularly to the future/active aspect, but also have to attend to the past as that which needs to be resolved, and to the future/passive in terms of accountability for the outcome.

48.   Another significant usage is *responsibility to*, as distinct from *responsibility for*. This is a more directly personal and relational notion, which carries implications of mutuality, trust and accountability in the context of shared goals, which would define *responsibility for*. There is considerable evidence that good relationships are a protective and remedial factor in relation to offending. Much attention has been given by criminologists to the high rate of offending by adolescent males. It is plausible that the existence of dysfunctional family relationships, or the absence of stable relationships with family or authority figures, creates a vacuum which can be filled by the deviant or criminal peer group as a source of identity and affirmation. Conversely the general downturn in offending in the early twenties is partly attributable to a number of stabilising factors, among them the acquisition of a partner or wife and children, creating a sense of *responsibility to*. It is also a matter of experience that many young male offenders benefit from developing a positive relationship with a male authority figure, often apparently compensating for an absent, weak or abusive father.

49.   The ability to act responsibly, to take and bear responsibility, is not static, but reflects the capacity of the individual at a particular time. In healthy maturation, the capacity for responsibility grows steadily, but it may increase or diminish as a result of particular experiences. Jesus affirmed – and in the case of Peter, forgave – people by entrusting them with responsibility: this was itself a mark of divine grace and healing. As with respect, the growth of active responsibility is crucially affected by the quality of relationships which people experience. The combination of support and challenge in a context of acceptance and trust provides the conditions in which the capacity to take responsibility for oneself, one's actions and other's needs can develop. The parable of the talents recognises different capacities for responsible action, but does not allow limited capacity to excuse refusal to respond.

50.   The language of responsibility has strong theological resonances, arising from the covenantal imagery of the Bible. "Responsibility" is one possible characterisation of what it means for human beings to be created in the image of God, just as the repudiation and diversion of responsibility is central to the story of the Fall and characteristic of many examples of sin. Similarly, theologies of atonement wrestle with the relation between past and future, active and passive, dimensions of responsibility, as they interpret the manner in which the human failure and refusal to act responsibly is met by God's acceptance of responsibility in the condemnation, suffering and death of Jesus. Yet the assumption of responsibility for dealing with sin does not negate future responsibility but re-establishes and empowers it. The process of "interchange" between Christ and humanity in St Paul's writings can be re-described in terms of responsibility: "He died for all (*taking and bearing responsibility for the past and future, in responsibility to God and the human race*) that those who live should live no longer for themselves (*accepting responsibility for their past*) but for him who died for them and was raised again (*taking and bearing responsibility for the future, in responsibility to Christ*)" (2 Corinthians 5:15).

51.   Our responsibility to God in Christ gives both a motivation and a pattern for Christian engagement with criminal justice. Human justice is not the last word, but it is carried on in the light of God's merciful judgment in Christ and in anticipation of the final outworking of that judgment. The Christian vocation is to bear witness to the character of divine judgment and justice in Christ and to take responsibility for sharing in its outworking among the condemned, the oppressed and the broken-hearted. Part of this witness will consist in challenging and enabling the rest of society to take responsibility for the welfare of offenders, the unjustly accused (who are often forgotten in our binary thinking), victims, and the institutions, processes and officers of criminal justice themselves.

52.   The call to take responsibility for the future is inseparable from taking and sharing risks. Human life is hazardous and unpredictable, and therefore subject to risk. The same is true of Christian discipleship: "For those want to save their life will lose it, and those who lose their life for my sake, and for the sake of the gospel, will save it." (Mark 8:38). Some theologians would affirm that in creating the universe and bringing it to redemption and consummation, God embraces risk (though not in the same sense as finite agents do). However that may be, God promises to guide, sustain and deliver his faithful ones as they embrace risk in obedience to his purposes. It is ironic that a culture which espouses risk-taking for the purpose of creating personal wealth is often reluctant to apply those values to the creation of "social capital". The churches are bound to witness, by teaching and example, to the necessity of taking risks and exhibiting trust in order to repair the personal and social ravages of crime.

"Am I my brother's keeper?"

53.   The above analysis of responsibility may help us to deal constructively with some vexed questions in the ethics of criminal justice. A recurrent theme is the tension between individual and social responsibility for crime. At one extreme, punitive conservatives assert that the offender, and no-one else, is responsible for his actions, and therefore the offender, and no-one else, is responsible for making good.

In view of the circumstances of offending and the life experience of offenders, this is a wholly unrealistic judgment. At the other, "enlightened" liberals are inclined to blame social deprivation for offending, and to view the demand for individual responsibility as unreasonable (as in the reworking of the story of the Good Samaritan in which the social worker who found the man lying on the Jericho road said, "The people who did this badly need help!")

54. A view of human interdependence informed by Christian faith and social realism attributes different types of responsibility to the individual and to society. The individual must be held morally, and legally, responsible for his past behaviour with due regard to mitigating factors of a personal or social kind (which may be considerable) and should be encouraged and challenged to take responsibility for it honestly and realistically. On the other hand, society must take seriously the deprivations which may have contributed to the offending. However, it does this not by an inquest into the inaccessible past of the offender (though serious negligence or malpractice by social agencies may justify an inquiry) but by accepting shared responsibility for his future. This entails supporting the process of rehabilitation by doing what can be done to offset deprivation and to provide suitable opportunities for the offender to take responsibility for his future. In his study *Making Good: How Ex-Convicts Reform and Rebuild their Lives* (2001) the criminologist Shadd Maruna found a positive correlation between the exercise of "active responsibility" by ex-offenders in Liverpool and success in turning from crime.

55. The promotion of responsibility has to contend with the tendency of the criminal justice system itself to deprive offenders of responsibility. The environment of custody removes many of the responsibilities which accompany life at liberty, and many regimes in their concern for security and control intensify the deprivation. Former prison governor Stephen Pryor has shown how much of this is unnecessary and may be improved by a more imaginative and collaborative approach (*Rethinking Sentencing*, ch. 3). Many prisoners collude with this tendency, finding conformity more comfortable than confronting responsibility in both its past and future aspects. It is salutary that many offending behaviour programmes now take place in prison, along with drug and alcohol treatment and other remedial measures which may alleviate the personal problems which can impede the acceptance of responsibility. However, nurturing responsibility in people whose lives have been overshadowed by trauma, disruption or lack of care is a difficult and fragile undertaking.

56. The Probation Service has also been forced to wrestle with the meaning of responsibility in its supervision of offenders. Its original aim of "awakening the conscience" of the offender presupposed at least a capacity for responsible agency. This gave way to a psychologically-based model of treatment, usually administered in one-to-one supervision but sometimes in groupwork. In the second half of the twentieth century, the treatment model was discredited and the Service's social work ethos was increasingly overshadowed by the duty to implement the sentence of the court and the expectation of effective enforcement of its requirements. While this reduced the independence of the Service, it concentrated attention on criteria of effectiveness, leading to the search for evidence-based programmes and more rigorous evaluation. Renewed attention is now being paid to offender responsibility and the conditions for promoting it through community punishments and supervision. One of the seven "pathways to resettlement" is "attitudes, thinking and behaviour."

Victims and restorative justice

57.   What of the responsibility of the criminal justice system to victims? Despite a great deal of political rhetoric, practical measures so far have been modest. A *Victims' Charter* was first published by the Home Office in 1990, but offered little by way of guaranteed measures. A second edition in 1996 set 27 standards of service covering provision of information to victims, taking victims' views into account, treating them with respect and sensitivity in the courts, and providing support. The major innovation in this Charter was the introduction of Victim Statements (later known as Victim Personal Statements) in which victims were invited to inform the court of the physical, financial, psychological, social or emotional effects of the offence upon them or their family. These statements could then be considered in prosecuting, bail and sentencing decisions. It was made clear that for the purpose of sentencing it was the consequences of the offence, and not the opinions of the victim or their family as to the appropriate sentence, that should be taken into account. This preserved the principle that victims should not directly participate in sentencing, which should be an impartial and dispassionate exercise. There are now pilot scheme for the statements to be delivered orally in court.

58.   It seems that the main purpose of the statements is expressive, allowing victims to explain the impact of the offence in their own way. It is less clear what effect this is intended to have upon sentencing decisions. Some have argued that the statements are misconceived in principle because the content may be exaggerated or irrelevant and is not tested by questioning. It might be thought that no victim statement could legitimately add to the prosecution's presentation of the impact of a crime. Whether or not this is so, the procedure appears to have had limited impact upon sentencing decisions, and has perhaps raised victims' expectations unrealistically, leading to dissatisfaction and frustration with the system.

59.   The appeal to victims' interests is politically powerful, and has repeatedly led to the claim that the criminal justice system must be 'rebalanced' in favour of victims. In a number of areas this has plausibility: for example, the protection of witnesses against intimidation, or the support of rape complainants in order to offset the effects of trauma and apprehension about an adversarial trial process. However, the general complaint that too many guilty defendants are acquitted because the system is unbalanced overlooks the fact that the balance in a trial is (as victims often complain) between the offender and the State rather than the offender and the victim. Proposals to weaken or remove procedural safeguards for those accused of an offence should be treated with vigilance. The conviction of the innocent would bring no real benefit to victims, and the main causes of the ineffectiveness of the system in convicting the guilty lie elsewhere.

60.   A study by Heather Strang, *Repair or Revenge: Victims and Restorative Justice* (2002) summarises what is known about what victims want, as follows: first, a less formal process where their views count; second, more information about the processing and outcome of their cases; third, the opportunity to participate actively in their cases, not merely as a source of evidence; fourth, to be treated respectfully and fairly; fifth, to receive material restoration; and sixth, to receive emotional restoration and an apology. These requirements may be regarded as enabling victims to take responsibility for moving beyond the state of victimhood, but it is not easy to see how

they could be fully accommodated within an adversarial system. It has been said that courts and criminal justice professionals "steal other people's conflicts". Some proponents of victims' interests therefore turn to the restorative justice model to allow them to take greater responsibility for seeking resolution of their issues.

61.   Restorative procedures may be organised in a variety of ways to reflect different aims and sets of participants: victim-offender mediation (direct and indirect), victim-offender groups, victim-offender conferencing, family conferencing and reparation boards are possible examples. (These are explained by Tim Newell in *Rethinking Sentencing*, ch. 2) There are potential advantages for victims in a more informal system where the interests of offenders and victims are not simply set against one another. The opportunity of participation and the possibility of creative communication, redress and apology are attractive. Surveys by Strang of victim responses showed higher levels of satisfaction with conferencing than court procedures, but conferencing could be a bad experience, depending on the competence and sensitivity of the preparation and conduct of the process.

62.   There are also difficulties of principle and practice with the involvement of victims in restorative procedures. The most serious relate to the danger of "using" victims to advance a process which is in reality offender-centred. Attention needs to be given to the previous history of the victim and offender, and the nature of the offence, in deciding what is appropriate, and the victim must be protected from being "revictimised" as a result of an imbalance of power in the process. Despite these dangers, restorative procedures have been shown on many occasions to bring benefits to both victims and offenders. When they work well, they can move the offender to accept his responsibility to the victim for redress. Although they are unlikely to displace conventional court procedures, they provide a route beyond many of the dead ends of the current system and may enrich and improve it in ways yet to be discovered. At the very least a reparative element could be introduced into all sentencing, as Section 142 of the Criminal Justice Act 2003 would seem to encourage.

6: Crime, Disorder and Respect

The breakdown of shared values and informal social control (63-64); current political use of the concept of "respect" and its deficiencies (65-66); local strategies for preventing crime and anti-social behaviour (67-74).

The threat to civility and the search for respect

63.   The criminologist Sir Anthony Bottoms has advanced a typology of modes of compliance with the law; normative compliance, habit or routine, instrumental reasoning and constraint-based compliance. Any social order depends on a combination of these types of compliance, but *normative* compliance is the most secure and morally significant since it involves unforced agreement on values and principles, and interacts strongly with the other three. *Habitual* compliance relies upon the maintenance of traditional patterns of behaviour, which tend to be undermined by economic, social and cultural processes of modernisation. *Instrumental* compliance rests upon pragmatic calculations of advantage and is therefore vulnerable to changes in circumstances, while *constrained* compliance becomes necessary in the event of the failure of the other three, but is most effective when supported by them. Therefore the criminal justice system, which operates to produce constraint-based compliance, is not the first line of defence against crime but a reaction to the failure of more basic everyday defences representing what has been termed "the civilising process".

64.   In recent years there have been disturbing signs of breakdown in normative and habitual compliance both with the law and with broader social norms, reflecting what might be called "de-civilising processes". The erosion of common standards of honesty and courtesy, the coarsening of public life and popular culture, the growth of disorderly and demeaning behaviour, fuelled by consumption of alcohol and drugs, and the prominence of gratuitous and vicious acts of violence, seem to indicate the loss of traditional inhibitions and the weakening of informal social control. These social and cultural trends run deep and can hardly be unconnected with the weakened influence of Christianity in Britain. In 2005 the Government, which years earlier had declared war on anti-social behaviour, responded to the widespread sense of threat to the civility of everyday life with the announcement of a "Respect agenda" and later produced a Respect Action Plan, seeking by a raft of measures to reassert social control. However, while "respect" may be demanded from others, it is not so easily gained.

65.   Respect has been defined, in a study of prison life, as "an attitude of consideration; to pay proper attention to and not to violate; regard for the inherent dignity of the human person". It therefore belongs to the category of normative, rather than instrumental or constrained, behaviour, though it may be acquired by habitual experience. Many of the Government's measures sought to achieve compliant behaviour through mechanisms of constraint and control, but this is very different from inculcating respect as an attitude (though in appropriate circumstances it could be a necessary stage on the way towards it). In his 2005 Temple Address, the Archbishop of Canterbury traced the connection between seeking respect from others and finding self-respect, rooting both in an attitude of openness to others in a spirit of

truthfulness and trust. Respect cannot be demanded anxiously or aggressively, but is given and received in relationships that manifest attentiveness and integrity.

66.   This understanding puts a profound question mark against any agenda aiming to generate respect and civility without some degree of reciprocity and sensitivity to the reasons why some individuals and groups feel excluded, unjustly treated and uncared for. Concentration on a supposed "underclass" in certain areas, however unacceptable and damaging their behaviour, evades the challenge to the whole of society, especially its most powerful and prominent members, to rediscover and express respect. The Government's latest consultation on strengthening powers to tackle anti-social behaviour (November 2006) recognises the need to complement "challenging" measures with support in tackling problems such as poor parenting or misuse of drugs and alcohol. However, in its customary polarisation between the law-abiding majority and the deviant minority, it fails to perceive the connection between disrespectful and anti-social behaviour on the streets and equivalent behaviour in politics, business, the media and many areas of "respectable" society which is not punished but rewarded. It may be noted that the injunction to "show respect (or reverence) to those to whom it is due" follows the exposition of legitimate authority in governing and punishing – and taxing! – at the end of Romans 13:1-7.

Shared local responsibility for crime prevention

67.   Since the 1960s anxiety about the level of crime and the weakening of social order has concentrated attention on strategies of crime prevention. Four types of prevention may be distinguished: *developmental*, which intervenes with the aim of inhibiting the growth of criminal potential in individuals; *community*, which seeks to influence offending in residential communities through families, peer groups, organisations and social conditions; *situational*, which plans to change the environment in order to reduce opportunities for offending and increase the risk of detection; and *criminal justice* interventions. In recent years the Government has given support to all four types of strategy in its concern to counter anti-social behaviour and low-level crime, with an emphasis upon community prevention.

68.   A new era began with the passage of the 1998 Crime and Disorder Act, which among other things obliged local authorities, probation, police, health and education authorities and social services to set up Crime and Disorder Partnerships to monitor crime and disorder in their area and to develop a strategy to reduce them. This marked the official recognition that crime prevention should be organised locally, with multi-agency co-operation and public consultation, but it has proved challenging to devise effective, evidence-based policies. Subsequent legislation has extended the system and broadened the organisations participating.

69.   Research in the last twenty years has greatly increased knowledge of risk factors for individual offending and anti-social behaviour. There are certain aspects of personality that increase the risk of offending behaviour, notably impulsiveness (inability to assess realistically the costs and benefits of offending and to anticipate the future) and low empathy. Family risk factors include criminal or anti-social parents, large family size, poor child-rearing methods, abuse or neglect, and family conflict and breakdown. Attendance at secondary schools with high delinquency rates (correlated with low trust between teachers and students, low commitment by students

and inconsistently enforced rules) may be a factor, as is low intelligence and educational attainment.

70.   It is not easy to sort out the relative importance of these factors as they co-exist and interact. They can be tackled by a variety of interventions. Personality problems are commonly dealt with through cognitive-behavioural therapy which seeks to modify patterns both of thinking and habitual response to situations. Parental training is popular with both government and the media, and well-designed programmes show some success in reducing offending. Other programmes may be applied to whole schools to strengthen bonding to both family and school and to tackle bullying, which is another risk factor for those who commit it. Local Crime and Disorder Partnerships tend to be rather bureaucratic in operation, despite attempts to make them responsive to public concerns through "calls to action" in the 2006 Police and Justice Act.

71.   The police service faces formidable challenges in preventing and detecting crime as a result of the growth in offending and the demands of its other duties (such as maintenance of order, provision of security and emergency services). Despite increases in staffing and resources, it is still over-stretched and appears to be hampered by excessively bureaucratic procedures. Despite the desire of the public for more visible policing, it is not clear that there is a particular form of deployment that succeeds in reducing crime. Although "zero-tolerance" and targeted policing strategies have worked in some countries, experience shows that aggressive law enforcement can be counter-productive. It is accepted that the police should have a high profile in multi-agency community safety partnerships, but these need to be managed carefully to ensure improved co-ordination.

72.   The governance and organisation of the police continue to be debated, as the tripartite relation between local forces, police authorities and the Home Office comes under criticism for its inability to generate coherent policies. Structural reforms are under consideration at both the highest and the lowest levels. At present some police forces are too small to deal with certain types of crime and to meet some operational requirements, and at the very least co-operation is needed across force boundaries. Although Charles Clarke's plan for extensive mergers has been shelved, the need for greater co-ordination and consolidation will return in some form. At the other end of the scale, local police forces are seeking to organise themselves in neighbourhoods so as to communicate and collaborate effectively with the public. This requires structures of representation and processes of consultation which balance democratic accountability with other legitimate objectives, so they can be responsive to local needs without being captured by sectional forces.

73.   A good example of local partnership is the Government's strategy to encourage collaboration between the police, public service agencies and local communities to tackle the causes and consequences of gun crime, and particularly the so-called "gun culture" in which young people feel it right to carry guns to boost their image or for self-protection. The aim is to build a network of campaigners against gun crime through which experience can be shared. Central to their suggestions for action is working with young people to counter the gang culture, to promote non-violent conflict resolution and shared responsibility for safety in the community. Already a number of church groups, especially from black majority congregations, are

involved in these initiatives. In the long run this strategy is likely to be more effective in changing behaviour than deterrent sentences for carrying firearms (though there is a place for the latter). It can be seen as a means of increasing "social capital", that is, of strengthening the social networks that facilitate co-ordinated action and generate a sense of reciprocity and trustworthiness.

74.   The overall verdict on the anti-social behaviour strategy is mixed. It has been designed to remedy real and acute problems, and in many cases measures appear to have relieved situations that were causing distress and to have helped the people involved by curbing unacceptable behaviour. This is turn has given confidence to local residents who have previously been intimidated. However, there are anxieties about the summary nature of the procedures, the tendency to tackle behavioural symptoms rather than underlying problems, and the rate of breaching of orders which (contrary to purpose) draws young people and adults into the criminal justice system and into custody. There are now some signs that the strategy is moving in a more positive and collaborative direction, giving higher priority to education and support relative to punishment and control, not least as a result of feedback from the public.

7:   Escaping from Prison

Arguments for greater use of imprisonment (75-81); the value of community penalties, with a brief note on drug misuse (82-85); the continuing disadvantages and suffering experienced by women, children and young people, mentally disordered people and members of black and minority ethnic groups within the criminal justice system (86-95); a brief note on prisons and decency (96).

Imprisonment and community sentences

75.   As these words are being written, the prison population has reached and exceeded its maximum capacity of 80,000 – compared with 42,000 in January 1993. Increasing numbers of prisoners are being held in police cells, the Home Office is considering commissioning a disused special hospital and a ship for prison accommodation, and sentencers are being warned to avoid custodial sentences if at all possible. After many years in which government policy has officially encouraged the use of prison only as a last resort, we are back to the familiar crisis of overcrowding, but at a higher level than ever before. How can this be?

76.   One possible explanation is that the level of offending has increased and that prison capacity must therefore be adjusted upward to reflect this. However, statistics suggest that the number of convictions has fallen and the rise is due primarily to increased severity of sentencing. Offences which would previously have been dealt with by a non-custodial penalty are attracting a prison sentence, and the average length of sentences for equivalent offences is increasing. There are several likely explanations for this. First, as mentioned in para. 18, legislative changes since 1991 have introduced mandatory and indeterminate sentences for the protection of the public.   Second, the climate of politics and public opinion has conveyed an expectation of increased severity which sentencers feel they have to take into account. Third, there is a lack of confidence among sentencers and members of the public in community sentences. Fourth, the emphasis in recent years on strict enforcement of court requirements and the introduction of orders carrying a criminal sanction means that an increased number of people are serving sentences for various forms of non-compliance.

77.   There are two sharply opposed views on what should be done. The first believes that "prison works", as a retributive, deterrent and incapacitative measure, and that more prisons should be built. It is argued that while the UK does indeed imprison a higher proportion of its population than other Western European countries (around 148 per 100,000), its crime rate is relatively high, so the level of imprisonment relative to the level of offending puts the UK in the middle range of the league (13 imprisoned per 1,000 offences). It is also pointed out that the fall in crime since the mid-1990s has coincided with the steady increase in the use of custody to which penal reformers object. An extreme version of this thesis holds that we should be imprisoning vastly more people in order to remove persistent offenders from society: David Fraser suggests a figure of 225,000 and Charles Murray 300,000.

77.   There are several objections to this argument. First, the ratio between the increase in imprisonment and the posited effect in reducing offending appears to be unacceptably large. Research for the Halliday Report on sentencing (2001) suggested

that an increase of 15% in the prison population would be required to reduce crime by 1%. The experience of the US since the 1970s is that a massive increase in incarceration (fivefold since 1972) has produced diminishing returns in reducing offending and has disproportionately affected poor people and African-Americans. Second, a substantial increase in the numbers sent to prison would lead either to the eventual release of more damaged people into the community with reduced prospects of rehabilitation, or to the inflation of sentences for persistent offenders to a level where they became manifestly unjust. Third, the majority of offences are committed by young men whose offending peaks at the age of 19, and by the age of 25 most offenders have desisted, however they may have been dealt with. Incapacitative sentences could therefore prove unnecessary and expensive. Nevertheless, it should be noted that non-violent persistent offenders remain one of the most intractable challenges to criminal justice policy.

79.   The opposite view would hold the demand for higher imprisonment, even in more modest proportions than those proposed by Fraser and Murray, to be objectionable because it would cause increased suffering to offenders, and probably scapegoat certain social groups, with doubtful probability of succeeding in its objectives. Arguments about assessing crime prevention through relative rates of reconviction are complex, because many other factors than sentencing affect offending rates, and sentencing by definition affects only that small proportion of offenders who are detected and convicted. That said, the standard measure of reconviction within two years tends to average somewhere between 55% and 65% for custodial sentences (up to 80% for young offenders) while rates for community sentences tend to fall in the same region but are sometimes considerably lower. At the very least, it cannot be said that on this measure community penalties are markedly less effective.

80.   This view would also challenge the language of "alternatives to custody", which suggests that imprisonment is the default option. The widespread assumption that only prison is "proper" punishment is a prejudice, and conflicts with the expressed view of many offenders who find it more demanding to be give more freedom and responsibility in the community. In the words of Professor Ian Brownlee, "Given what we know about punishment in the community, such as its lower costs, its general tendency to be less dehumanising than custody and to drive fewer of those who endure it to self-harm and suicide, the lack of any demonstrable superiority on the part of institutional sentencing in reducing recidivism should mean that it is the use of *custody* not community sentencing that has to be justified and defended." (*Community Punishment*, 1998, p. 180)

81.   The Coulsfield Inquiry into Alternatives to Prison (*Crime, Courts and Confidence*, 2004) recommended that custody should be used for serious offences or dangerous offenders (implying both retributive and incapacitative criteria), but that otherwise non-custodial options should be sought wherever possible. It agreed with the Halliday Report that short prison sentences had little deterrent or rehabilitative value, but disagreed that persistent offenders should be sentenced more heavily, and with the proposal for "custody plus" (a short prison sentence followed by community supervision) which has not been introduced owing to lack of probation resources. It also recommended the reintroduction of a unit fine system (related to offenders'

means) as the first rung on the ladder of penalties. The gradual attrition in the use of fines is another factor in the escalation of penalties.

82.   However, community sentences are not a panacea. They are descended from the probation order, an early form of supervision, and the Community Service Order introduced in the 1970s. The Criminal Justice Act 2003 replaced the variety of orders then in existence with a generic Community Order to which any combination of twelve requirements may be attached, including compensation, reparation, parenting assistance, supervision, community rehabilitation, curfew, drug treatment and testing, and unpaid work. As might be expected, the effectiveness of community sentences depends on the quality of particular programmes and their staff, and the selection of appropriate offenders. Coulsfield suggested that to gain the confidence of sentencers and the public, community penalties need to be delivered locally, targeted effectively, monitored in terms of outcomes rather than inputs, and overseen with better communication between the courts and probation. The report also commended programmes which require unpaid work in the community, seek to remedy the educational deficits of offenders, involve structured time-keeping and commitment and deliver some interventions (e.g. drug treatment) in the mainstream rather than a criminal justice setting.

83.   A large and complex body of research has accumulated around the effectiveness of structured programmes for offenders, many of which were originally developed in Canada. There is a reasonable consensus on the following points: programmes should be targeted on high- to medium-risk offenders who might otherwise offend, rather than low-risk offenders who might not benefit; they should focus on "criminogenic need", i.e. factors which have contributed to their offending; they should promote engagement by appropriate learning style and delivery; and they should be clearly structured and directed, with effective management and trained staff, and effective processes of feedback and evaluation. One point in dispute is the predominance of broadly cognitive-behavioural methods, which are thought by many to be less helpful to some offenders, particularly women and members of black and minority ethnic communities. This is a particular case of the need to design programmes which are psychologically, culturally and practically appropriate to the participants.

84.   Drug misuse is a crucial element in the commission of offences and a major obstacle to rehabilitation of offenders. Drug and alcohol misuse sometimes lead to criminal acts, and the drugs trade is linked with organised crime, prostitution and violence, but the most pervasive problem is the high proportion of acquisitive crimes (perhaps 60%) committed to fund a drug habit. Consequently, drug treatment has become a major element in programmes to offending behaviour programmes, in prisons and in the community. Unfortunately, the efficacy of programmes is uneven, and there are problems in achieving completion. Drug Treatment and Testing Orders are available to the courts, but though effective when completed, they suffer from a disappointing rate of defaulting. There is concern that too little drug treatment is available outside the criminal justice system, making diversion of users too difficult.

85.   There is a strong case for reversing the escalation of punishments, and especially for avoiding the filling of prisons which threatens disastrous consequences for their safety and rehabilitative work. However, the process which has produced the

present crisis will not be undone without honest rethinking and courageous leadership. The political gap between punitive populism and evidence-based policy must be reduced, partly by trusting the better rather than the worse tendencies in public opinion. Sentencers must be convinced, with good evidence, that community penalties are a viable option for less serious offences. Steps should be taken to avoid unintended imprisonment as a result of non-compliance with requirements. If the prison population could be reduced, it would be possible to abandon complex schemes of early release so that sentences served corresponded more closely to sentences imposed, removing one source of public mistrust towards sentencing.

Failing the vulnerable and victims of injustice

86. Christian faith holds that one test of a society's values is the care it extends to its most vulnerable members – another aspect of responsibility. By this test, the criminal justice system, and custodial institutions in particular, are failing seriously. Although the "pains of imprisonment" fall upon all prisoners, certain groups are affected disproportionately because of their particular needs or minority characteristics. Perhaps the most disturbing aspect of these problems is that the facts are widely known and for the most part the necessary remedies broadly agreed – but not much happens.

87. Most offenders are male. This means that *women* enter a system of justice and punishment which has been devised primarily for men. Both women's patterns of offending and their personal needs are significantly different from men's. The number of women in prison has more than doubled in the last twelve years, through an increase both in the remand population and in the severity of sentencing for equivalent offences. The majority of those convicted have committed non-violent offences, many of them drug-related (either acquisitive crime to fund a habit or possession, supply or trafficking). 40% are foreign nationals serving long deterrent sentences for acting as drug couriers – a situation which ought to be remedied either by more lenient sentencing or repatriation. Many have suffered violence and sexual abuse, and over 60% suffer from one or more diagnosed mental disorder. Up to 70% require clinical detoxification. The impact of imprisonment upon women produces considerable distress, leading to widespread self-harm and suicide attempts.

88. Women's minority status leads to institutional and logistical problems. Because there are many fewer women's prisons than men's, they are held at longer distances from home with damaging effects upon their relations with dependent children and families. They frequently do not have access to education and work, and receive inadequate help with resettlement, particularly in finding accommodation – 60% are single – and continuing drug treatment. Many reports in the last ten years have concluded that since short sentences are disruptive without providing effective help, the use of custody should be reduced, and that conventional women's prisons should be replaced by regional centres with treatment and rehabilitation facilities. There is also a need for appropriate community sentences tackling practical needs such as education, parenting and social skills, rather than offending behaviour programmes.

89. It has often been remarked that policy towards *children and young people* in trouble veers between welfare- and punishment-based approaches. Through the

Youth Justice Board the present Government has sought to develop a way of dealing with young people distinct from the adult system. It is based on multi-agency working and employs restorative and reparative processes, but it remains part of the criminal justice system. In the case of offenders under 16, many people believe that the more informal, welfare-based Scottish system of children's hearings to decide on measures of care and supervision would be preferable to the use of the courts (though referral orders for first time offenders are similar in many respects). The anxiety that, despite good intentions, the system has been drawing too many young people into custody was confirmed by the resignation on 26th January of Professor Rod Morgan, Chairman of the YJB, on precisely these grounds.

90.   The Youth Justice Board has oversight of under-16s in young offender institutions (YOIs), secure training centres (STCs) and local authority secure units. However, it is clear that conditions are far from satisfactory. 28 children have died in custodial institutions since 1990, most by committing suicide, and the inquest procedures in such cases have proved highly deficient and unsatisfactory to the children's families. An independent inquiry by Lord Carlile of Berriew found in March 2006 a high incidence of injuries to children in custody resulting from the inappropriate use of physical restraint, solitary confinement and strip-searching, with evidence of ill-treatment which in other settings would be counted as abuse. Although many of these children present acute problems on account of their disturbed and volatile behaviour, there are serious questions to be asked about the relation between punishment and care for them, especially in the younger age group. It cannot be right to have so many children in custody and to resort so readily to violence against them.

91.   About 70% of prisoners are estimated to be suffering from at least one diagnosable *mental disorder*, and as many as 10% may be seriously ill. Their committal to prison often reflects the failings of community mental health services, and as would be expected, prison is the worst conceivable environment for care and treatment. Diagnosis of mental health needs on reception is hampered by lack of staff training and awareness, and the difficulties of responding to diagnosis are exacerbated by overcrowding. Mentally disordered prisoners tend to have a higher rate of disciplinary breaches, are more frequently segregated or placed in strip cells, and may be moved between establishments despite their need for specialist care. In recent years responsibility for prison healthcare has been assumed by the NHS and in-reach mental health teams have been introduced into prisons. Their impact has been varied: in the London prisons it is reported that they are over-burdened with low-level care, while in other places their presence is said to have had a transforming effect on staff coping with prisoners' mental health problems. The effects of these changes on the quality of care are still working out.

92.   A major practical question is how to divert seriously mentally ill people from the criminal justice system appropriately and effectively. Diversion may happen at the point of arrest, at the magistrates' court, following remand in custody, at sentencing or following a custodial sentence, but procedures and resources are patchy. Early diversion is clearly preferable, both in terms of ease of access to the prisoner by mental health professionals and in pre-empting deterioration and complications in prison. In the early 1990s, pilot schemes put community psychiatric nurses in police stations and psychiatrists in the cells at magistrates' courts to identify candidates for

diversion, but these appear to have foundered and in the current NHS funding crisis it seems unlikely that Primary Care Trusts will see them as a priority. Transfers from prison to hospital under Section 37 of the Mental Health Act remain obstinately low. At one level there is lack of clarity about the relation between mental illness and criminal behaviour; at another, the needs of the mentally ill are simply not given sufficient priority within a grossly overloaded system. In this respect, criminal justice is regrettably a microcosm of society as a whole.

93. *Members of black and minority ethnic* (BME) *groups* are more likely to be victims of crime than other groups. They are 5 to 8 times more likely to be stopped by the police. They are more likely to be dealt with by arrest than a summons and by prosecution rather than a caution, and they are more likely to be remanded in custody rather than on bail. BME juveniles are less likely to have their case referred to a multi-agency panel as a diversion from court. BME defendants have a higher rate of committal to the Crown Court. There they are more likely to plead not guilty, and more likely to be acquitted, but if convicted they are likely to receive a heavier sentence on account of the discount for a guilty plea. On sentencing, studies of magistrates' courts show little variation between ethnic groups, but a sophisticated piece of research by Roger Hood in 1989 suggested that black defendants in five Crown Courts in the West Midlands were more likely to be sentenced to custody than whites. It is also well known that BME members are heavily over-represented in the prison population, and under-represented in the criminal justice services.

94. The interpretation of these statistics is not straightforward, because ethnic identity may be correlated with other factors associated with offending, rather than being an independent variable. However, their consistency and magnitude give grave cause for concern. Experience also suggests the presence of discrimination across the sector, not least in the culture of racial abuse, harassment and bullying in prisons, among both prisoners and staff. The comprehensive and shocking report by Mr Justice Keith, published in June 2006 following his public inquiry into the killing of Zahid Mubarek at Feltham Young Offenders Institution in 2000, may prove a watershed comparable with the Stephen Lawrence Report in relation to the police service. There have also been questions about the quality of supervision of BME offenders by the Probation Service – not helped by the widespread view that standard offending behaviour programmes are not effective in meeting their needs.

95. BME members are often multiply disadvantaged, since they also suffer cultural misunderstanding, stereotyping and discrimination from mental health services. While the exact relation between direct and indirect discrimination and other factors possibly related to offending may be elusive, the combination of statistics and experienced dissatisfaction with the operation of the criminal justice system among BME communities suggests that the system needs to go through the same process of self-appraisal and remedial action as other major institutions have. Given the complexity of the system and its difficulties in operating accountably, that will be no small challenge.

96. Despite the pressures they face, prisons continue to aspire to the "decency agenda" promoted by the Prison Service in the late 1990s. A fascinating study by Alison Liebling, *Prisons and their Moral Performance* (2004) identifies the role of key values in improving prison life and increasing positive attitudes among prisoners.

In a survey of five prisons (4 public sector and 1 private), it was found that certain qualities in relationships between staff and prisoners – respect, humanity, relationships, trust and support – and in the operation of regimes – fairness, order, safety, well-being, personal development, family contact and decency – made a substantial difference to prisoners' assessment of the quality of prison life. Such findings encourage the belief that it is possible to "make a difference" even in highly unpromising situations. It is welcome that, following the defeat in October 2006 of the Government's unpopular proposal to amalgamate the five criminal justice inspectorates, an independent Prisons Inspectorate has been preserved, with the duty to monitor and enforce the aspiration to decency.

8:   Offender Management

The merger of the prison and probation services in the National Offender Management Service (97-100); the implications of tendering for delivery of services by voluntary and faith-based groups (101-104).

The brave new world of NOMS

97.   In 2004, the Government adopted, with minimal consultation, the proposals of the Carter Report to merge the prison and probation services in a National Offender Management Service (NOMS). This involved a massive shake-up of provision for supervising offenders in the community whose practical implications are now being confronted. NOMS is designed to provide 'end-to-end' management of offenders, thereby overcoming the historic lack of communication and collaboration between prisons, probation and other agencies. Commissioning is to be separated from provision, through the mechanism of 'contestability' whereby bids for providing services will be invited from the statutory, private and voluntary sectors. The practical result of this is that work with offenders in the community will no longer be the exclusive domain of the Probation Service, though it will clearly remain a major provider (at present, as an interim measure, it is required to allocate 5% of its budget to the voluntary sector).

98.   In principle, the idea of end-to-end management is good, and the model has been piloted in the North West region. Each offender will be allocated a single Offender Manager who will be responsible for overseeing the formulation and implementation of a sentence plan from custody into the community. The Offender Assessment System (OASys) will be used to estimate the risk of re-offending and the threat of harm to the public, and identifying key needs. The manager will work collaboratively to devise an appropriate mix of services and programmes for the individual, and an Offender Supervisor will be responsible, with an appropriate team, for delivery. Information will be shared through a dedicated IT system known as C-NOMIS: this is clearly a crucial requirement in the light of communication problems in the present system. It may be asked how this magnificent plan relates to over-stretched probation services at present following a less ambitious set of requirements. In what conceivable world will this high quality of service be deliverable?

99.   Services will be provided to cover the seven "pathways to resettlement": accommodation; education, training and employment (ETE); mental and physical health; drugs and alcohol; finance, debt and benefits; children and families; attitudes, thinking and behaviour. Some highly creative thinking has been done, and schemes have been piloted, to plan multi-agency working on those pathways, and to give offenders more effective access to existing services. Commissioning of services will be undertaken by regional offender managers and will be regulated by service level agreements with prison area managers and probation areas.

100.   However, questions remain about the ability of this system to generate appropriate services. In recent years the Probation Service has been demoralised by continuous change and undermined by unsympathetic criticism, but is expected to continue to play the major role in offender management. There are also divergent views about the change in working culture that will result. David Faulkner has

suggested that contestability may be used competitively, to save costs, impose standardisation and uniformity, and threaten punishment for failure, or it might be used co-operatively, to encourage innovation, creativity and adaptability. Only time will tell which trend will prevail.

Faith in offender management

101. One of the most promising features of NOMS from the standpoint of the churches is the opportunity for the voluntary sector to play a part in offender management. Indeed, the role of church- and faith-based organisations has been officially recognised and encouraged by the Government. Three alliances have been set up to support the work of NOMS: the Corporate Alliance, which promotes collaboration with businesses on the training and employment of offenders; the Civic Alliance, working with local authorities and others to encourage local services to be involved in resettlement, and the Faith and Voluntary Sector Alliance, which brings together those who have awareness of specialist needs and are able to do work which may be beyond the reach of the statutory services.

102. It is clear that voluntary organisations and faith groups are heavily involved in supporting families of prisoners, working with drug and alcohol dependency, financial advice and so on. What is less apparent is how such organisations will fit into the NOMS matrix, with its high demands in terms of expertise and ability to engage with the contestability process. The problem of financial and administrative capacity in small, local voluntary organisations has been recognised by the Government, which is promoting – with modest funding – both capacity-building in particular organisations and the formation of consortia in which the larger organisations can share resources with the smaller. How exactly this will work out on the ground remains to be seen.

103. There are practical problems for faith-based organisations wishing to engage with NOMS – dilemmas very familiar in other parts of the voluntary and community sector. One is the short-term nature of funding, which diverts small organisations into the heavy demands of fund-raising and produces great difficulties in planning for the future. Many organisations, both Christian and secular, are currently beside themselves with anxiety and frustration in the face of extended delays in funding for work with NOMS. Another is the problem of maintaining independence and flexibility when conscripted into the statutory purposes and processes of government. Will Christian organisations whose motivation and priorities are defined by the freedom of God's grace be co-opted into the agenda of control? There is the possibility of concluding a Faustian bargain: that in return for the influence and funding attached to participating in NOMS, church- and faith-based groups may find their distinctive values and vocation being eroded to conform to the system within which they work

104. There is also the danger that having been courted by government for their particular contribution, faith groups may be blamed for the failures of offender management. It is perhaps not over-cynical to suspect that one reason for the Government's keenness to enlist faith and voluntary groups in this work is to spread the responsibility – and therefore the blame when things go wrong (as they inevitably will from time to time). It is all too easy to envisage how, in a punitive and insecure political climate, the prisons component of NOMS might dominate and drain its work

in the community. It is also easy to imagine how the demand for public protection might overshadow and throttle the work of rehabilitation – but that has always been part of the challenge to Christians working with offenders. NOMS is a huge enterprise, with correspondingly great potential for positive achievement or disaster.

9:   Christian Responses and Resources

Examples of Christian involvement in criminal justice concerns (105-116)

105.   The Christian churches' historic involvement in the criminal justice system continues and grows. Three types of participation in its work may be distinguished. First, many Christians are professionally employed in different parts of the system, and express their faith through the values and skills they bring to bear in their daily work. They deserve the prayers and support of their fellow Christians in a demanding vocation.   Second, many Christians work in a voluntary capacity in secular organisations, from Prison Visitors to Youth Offending Teams. Like the first group, they bear witness through their actions and relationships. Third, a large number of Christian organisations work in prisons and in the community to communicate the Gospel both explicitly and implicitly through practical service.   About 7,000 volunteers and 460 organisations are active in prisons and the corresponding numbers in the community are considerable. A few examples are given here to indicate the range and quality of what is undertaken. A fuller account may be found in Stuart Dew's chapter "The churches and criminal justice" in *Rethinking Sentencing*.

106.   In 2003 the Churches' Criminal Justice Forum and the Prison Advice and Care Trust (see below, paras. 107 and 115), funded by the *Rethinking Crime and Punishment* project, jointly published a comprehensive guide for church members on opportunities for voluntary service in the criminal justice system, entitled *What Can I Do?* This was greatly appreciated and widely used, and in 2005 an updated edition was produced with support and funding from the Home Office. The new edition is available for downloading from the CCJF website:
www.ccjf.org/whatcanido/download.html and hard copies can be ordered from Prison Advice and Care Trust.

107.   *Prison Fellowship of England and Wales* offers support to prisoners, ex-offenders and prisoners' families through more than 140 local groups of volunteers. Many of the 139 prisons in England and Wales are supported by a PF group who help with chapel services and discussion groups and pray regularly. PF volunteers visit prisoners, write letters and offer practical help, and give long-term support to prisoners' families and ex-offenders.   Trained staff run the Sycamore Tree programme, which is a course for offenders inspired by the story of Zacchaeus in Luke 19:1-10 and based on restorative justice principles, whose objective is to develop empathy with victims. The Angel Tree programme provides Christmas presents for prisoners' children. Further details at www.prisonfellowship.org.uk/

108.   *Prison Advice and Care Trust* (PACT) was formed in 2001 by the merger of the Bourne Trust, a Roman Catholic organisation helping prisoners and their families, and Prisoners' Wives and Families Society (PWFS). Through a combination of staff and volunteers it works with male and female prisoners with mental health problems, and supports prisoners' families with aim of assisting resettlement on release. Its services include child-friendly centres for visiting families just outside prisons, children's services and resettlement projects, and in some prisons "first night" services to reduce the risk of suicide and self-harm among newly-received prisoners. In some areas it offers family support in the community. Further details at
www.prisonadvice.org.uk/

109.   Since 1999 *Kainos Community* has run two "faith-based units" in prisons, at The Verne in Dorset and Swaleside on the Isle of Sheppey, and was due to open a third unit in September 2006 at HMP Stocken. Originating in South American prisons, these are therapeutic and rehabilitative communities located in prison wings which give prisoners the opportunity to address their offending behaviour in a supportive Christian environment through course work, community living, team building, social interaction with volunteers and individual assessment. Although the ethos of the units is firmly Christian, prisoners are free to hold and discuss their own beliefs. A rigorous evaluation in 2001 concluded that the units had "modest but desirable" effects on prisoners' attitudes and beliefs over time, and adhered to the spirit and the letter of equal opportunities policy. Such units have potential to provide a place of safety and positive relationships in the dehumanising environment of prisons, subverting the dominant culture of suspicion and intimidation. Fuller coverage is provided in *My Brother's Keeper: Faith-Based Units in Prisons* by Jonathan Burnside, with Nancy Louks, Joanna Adler and Gerry Rose (2005). Further details at www.kainoscommunity.org/

110.   Another faith-based unit, *InnerChange Freedom Initiative* at Dartmoor, was closed in the summer of 2006 following a review by the Prison Service. The decision was controversial, because it was alleged that the programme had fallen foul of secular prejudice against religious-based work with offenders and a desire for multi-faith rather than Christian programmes. Despite some unclarity in the report of the Review Panel, it appeared that the main criticisms were directed at the design, documentation and implementation of the programme and that in principle it would not have been impossible for it as a Christian initiative to satisfy the "What Works" criteria for effective regime interventions. The success of the Kainos units should provide reassurance that the Prison Service is not unfavourably disposed towards such projects, though it is clear that they always depend on local support.

111.   *Restore* (formerly *Pacer 50plus*) is a national support network for older serving and former prisoners, founded by an ex-prisoner, Stuart Ware. The number of older prisoners is growing, and their needs are often not recognised or met. Fewer community sentences are available for older people; they are likely to receive fewer visitors; they do not have to work in prison after the age of 60 and may become inactive; they have accelerating health problems and greater healthcare needs; they are subject to negative attitudes and bullying; they are more likely to suffer from alcoholism on release. Restore is a self-help organisation which puts its members in touch with others who understand and draws attention to the needs of ageing prisoners and ex-prisoners. Stuart Ware is contactable at stuartware@btinternet.com.

112.   A major development in faith-based work with offenders in recent years has been the growth of *Community Chaplaincy*. This model was pioneered in Canada and links rehabilitative work in prison with what goes on after release - "through the gate" working. Typically, assessment of prisoners' resettlement and spiritual needs is made before they are discharged, and appropriate support in dealing with problems such as accommodation, employment and drug misuse is provided by a network of trained volunteers and mentors in the community. Each project is based on a local prison and involves complex partnerships between churches, statutory and voluntary agencies. Some chaplaincies (e.g. Feltham and Leeds) are strongly multi-faith, reflecting the communities in which they work. They vary in their balance between volunteers and

employed workers, and are diverse in their outlook and organisation. About 13 CCs are in operation and a similar number are in preparation. Moves are under consideration to form a national association to provide support and guidance to local projects, and a co-ordinator has been appointed for two years by NOMS and CLINKS to facilitate the extension and development of Community Chaplaincy. Further details at www.ccjf.org/whatcanido/community_chaplaincy.html

113.   *Caring for Ex-Offenders* grew out of the Revd Paul Cowley's work with Alpha in Prisons as ex-prisoners who had come to faith encountered problems settling back in the community. It has many similarities to Community Chaplaincy: it makes an assessment of need and risk in prison and uses trained volunteers to meet the prisoner on discharge and provide practical help. Further regular support is provided by trained mentors. CFEO's distinctive element is its emphasis on the role of the local church in helping ex-offenders to rebuild their lives. It also works with specialist agencies to help with accommodation and employment and is making use of the model of the seven NOMS "pathways to resettlement" (para. 98). Further details at caringforexoffenders.org/

114.   *Circles of Support and Accountability* is a faith-based initiative which unites the concerns of offender management and restorative justice. It is a scheme for managing sex offenders which was pioneered by Quakers in the Thames Valley area and is now spreading across the country with government approval. The 'Circle' is a group of 4-6 volunteers who adopt a sex offender as their 'core member' and commit themselves to a demanding combination of friendship and monitoring to prevent a relapse into offending behaviour. This is an intensive and risky enterprise, supported by the Probation Service and other agencies, but it provides a costly and responsible counter-cultural response to a feared and despised group of people. It reflects Jesus' attitude to sinners and shows encouraging success rates.   Further details at www.quaker.org.uk/Templates/Internal.asp?NodeID=92382

115.   *Street Pastors* is an interdenominational response to problems of public order in urban areas, through which trained volunteers go on to the streets to listen, talk and care for people. It was pioneered in London in 2003 by the Revd Les Isaac and now operates in several London boroughs and town and cities around the country. Each project is set up by the Ascension Trust and run by a local coordinator with support from local churches and community groups, and in partnership with the police, the local authority and other statutory agencies. It has seen some encouraging results, including falls in crime in areas where teams have been working. Further details at www.streetpastors.org.uk/

116.   The *Churches' Criminal Justice Forum* (CCJF) was set up in 2002 as an ecumenical venture arising from shared work on a report on *Women in Prison*. It is a network of Churches Together in Britain and Ireland, and its purpose is to uphold Christian values in the field of criminal justice, to promote awareness of criminal justice issues in the churches and to encourage Christians to become involved. At present it issues a regular newsletter with a circulation of about 500 and holds a twice-yearly network meeting. It promotes community chaplaincy, restorative justice and penal reform and makes representations to government on behalf of the churches It produced the "What Can I Do?" guide and is currently seeking to build relationships with black majority churches. Further details at www.ccjf.org.uk

10:   Conclusion

117.   Christians cannot escape from the world of police and prisons and return to a state of innocence, but we can endeavour to align our society's response to crime more closely with, rather than against, the grain of God's creative and redeeming work. This entails that reliance on coercion must be tempered with the offering of mercy and hope and positive motives for "making good". In the present situation it means challenging a wasteful and self-defeating use of prison in favour of measures which hold criminals to account but give opportunity for lasting change. In the longer term, it should mean questioning over-reliance on the criminal justice system to solve problems of anti-social behaviour and working to restore and increase "social capital" through fostering a culture of responsibility, trust and genuine respect. Government is torn between the itch to legislate, lecture and control, and the realisation that in the end crime can only be countered effectively by genuine partnership between government, civil institutions and local communities to mend the social fabric. Churches are well placed to press for such partnership and to contribute to the healing and releasing work which may flow from it.

118.   Engagement with crime and criminal justice brings Christians face to face with ugly, disturbing and heartbreaking aspects of human life. Their moral complexity confounds our desire for tidy solutions and clarity about responsibility, and their intractability challenges easy belief in the goodness of the world and the providence of God. Yet out of these continually unsettling experiences may come a fresh vision of God as greater than our perplexities and defeats, and of Christ as the one who accompanies humanity through the wilderness of meaninglessness and the fires of suffering. For Christians, to encounter the brokenness of victims and offenders with sensitivity and integrity is to be made aware of our own brokenness and need, and of the Son of man as the giver of life and hope. The Incarnate One is our guide in journeying with people whose lives are blighted by disorder and pain; the Crucified One sustains us when conflict and failure seem irresolvable; and the Risen One calls us to "be steadfast, immovable, always abounding in the work of the Lord, knowing that in the Lord your labour is not in vain" (1 Cor. 15:58).

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