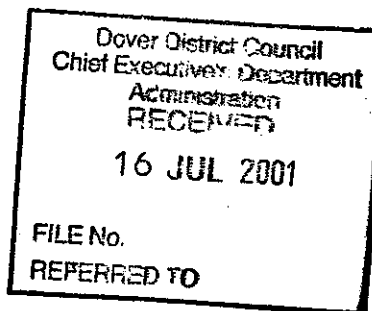




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5 July 2001

Dear Colleague

CONSULTATION ON SENTENCING REFORM

I am pleased to enclose a copy of the report of the Review of the Sentencing Framework for England and Wales, which has been published today.

The Review was announced by the former Home Secretary on 16 May last year. It was tasked with considering what principles should guide sentencing decisions and what types of disposal should be made available to the courts so as to reduce re-offending more effectively. The report was presented to Ministers on 1 May and is the result of the work led by John Halliday, to which many of you contributed.

Following the publication of the report and before the Government formulates and announces its own views, the Home Secretary wants a wide and public debate about sentencing. He would particularly welcome views on the following questions around which he would like the public consultation to take place:

The case for change

- 1) Is the case for change sufficiently strong to justify wholesale reform of the sentencing framework?
- 2) What are the particular failings of the present framework which any new sentencing framework would need to address?

The principles of sentencing

- 3) Should there be more rigorous sentences as a result of any previous convictions showing a continuing course of criminal conduct?
- 4) How might the sentencing framework be made more transparent and public confidence in sentencing increased?

Short sentences

- 5) For sentences of less than 12 months, is it the right approach to place greater emphasis on work with offenders under strict supervision in the community (with clear sanctions for breach), following a limited period in custody?

- 6) For very short sentences, would it be better to have an intensive and highly supervised range of measures in the community, which included punishment as well as reparation and rehabilitation, rather than to send someone to prison?

Prison sentences of 12 months or more

- 7) Is it the correct approach to have half a sentence served in custody and half in the community, under strict supervision right up until the end of a sentence?
- 8) Should we ensure that release of violent and dangerous offenders is not automatic at the two-thirds point, but subject to risk assessment by the Parole Board until the end of the sentence, with the possibility of extended periods of supervision in the community?
- 9) Should Parliament make clear the circumstances in which supervision of violent, dangerous and sexual offenders should be extended beyond the end of a sentence?

Intermediate sanctions

- 10) Is intermittent custody for some offenders the right concept, and, if so, in what circumstances?
- 11) Should the Prison Service estate be reformed to deal with intermittent custody or should this fall to the National Probation Service to manage through, for example, bail hostels and attendance centres?
- 12) Should Home Detention Curfew remain and in what circumstances?

Non-custodial sentences

- 13) Should there be a single 'generic' community sentence, made up of a menu of specified elements?
- 14) Should the National Probation Service be able to vary the content of a non-custodial sentence in response to an offender's progress?

Sentence Management

- 15) Would increasing the role of the courts in sentence management have a positive effect on reducing re-offending?
- 16) What would be the most cost-effective and practicable way of doing this?
- 17) Should more discretion be given to probation officers in varying the terms of a community sentence and in enforcing breaches?

The shape of the framework: guidelines

- 18) What would be the most appropriate machinery for producing and maintaining sentencing guidelines?
- 19) What should the relationship be between a guidelines body, Parliament and the judiciary?

Costs and benefits

- 20) Are there other ways to use any additional investment that would punish offenders and reduce crime and re-offending more efficiently?

Implementation

21) What, if any, are the overriding priorities which require earlier implementation?

Any other views or comments are of course welcome.


Also enclosed with this letter is an overview of the report which summarises the main findings in a more condensed manner, a copy of the press notice which was issued alongside publication, and a copy of the Home Secretary's speech announcing publication which he made this morning at the National Probation Service conference.

Replies should be sent by **31 October 2001** to:

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or by e-mail to: Public_enquiry.SFIT@homeoffice.gsi.gov.uk

Yours sincerely



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NEWS RELEASE

154/2001

5 July 2001

020 7273 4545

PUT SENSE BACK INTO SENTENCING - BLUNKETT

A fundamental overhaul of sentencing to reduce crime and prevent reoffending was signalled today by Home Secretary David Blunkett, as he called for a public debate on how to create a more transparent sentencing structure that would command public support and respect.

Mr Blunkett will seek the views of the public, political parties, and those working in the criminal justice system in a bid to gain a broad consensus for enlightened and effective reform.

The proposals the Home Secretary will be seeking views on include:

- Tougher sentences for repeat offenders, by ensuring judges and magistrates take previous offences into account when sentencing;
- Ensuring release of violent and dangerous offenders is not automatic at the two-thirds point, with the possibility of extended periods of supervision in the community;
- "Custody plus" – a new, flexible sentence combining a short prison term with a further period of supervision in the community with return to custody if supervision conditions are breached;
- A single community sentence, which could involve elements such as reparation, curfew, compulsory work and attendance at offending behaviour programmes to reduce reoffending; and
- Offenders serving the whole of their sentences – whether in custody or under supervision in the community. Under current practice, for custodial sentences of over 12 months, supervision ends three quarters through the sentence.

The consultation follows the publication today of "Making Punishments Work", the report of a year-long review commissioned by the Home Office and carried out by John Halliday in consultation with magistrates, judges, the police and the probation and prison services.



Speaking at the National Probation Service's annual conference in London today, Mr Blunkett welcomed the report and outlined the next steps. He said:

"We need to put the sense back into sentencing and build a transparent system that commands public respect.

"With these reforms I intend to put the purpose of sentencing into law. The aims are: prevention, protection, punishment, and reparation, reduction of crime and rehabilitation -- three Ps and three Rs.

"The current system is not working. About 56% of offenders who have served a community or a custodial sentence go on to offend again within two years. And it is estimated that half of all crimes are committed by a hard core of about 100,000 criminals.

"That is why today I would like us to consider more rigorous sentences for repeat offenders. And we need to use the time served by offenders -- whether in prison or on community sentences -- to intervene more constructively to break this cycle.

"Today we are publishing 'Making Punishments Work': a valuable contribution to a national debate on how as a society we tackle and punish offending behaviour.

"I intend to consult widely on the specific proposals in the review and on the principles which underpin it, with practitioners, experts and the broader public. I have also invited political parties to join with us in getting this right.

"We have a real opportunity now to reform sentencing, to bring more clarity, consistency and confidence to the criminal justice system and to reduce crime.

"We need a sentencing system built to last, one which is radical enough to have a real impact on both offending behaviour and public perception. If we could achieve a Penal Code that offered transparency, consistency and clarity, we will have done a great deal to contribute to the drive against crime.

"Halliday also makes important recommendations for new sentencing guidelines. This is a central part of the proposed reforms, and we will want to explore the options very carefully. We need to think about the ways in which Parliament and the public might have an influence on the way guidelines are drawn up.

"This is a sensitive but important question of balance between the legitimacy and consent sought through Parliament and the guidance and discretion which falls to the judiciary to interpret and use. This

debate should be conducted with great care so we can get it right for the future."

Turning to individual proposals in the report, Mr Blunkett commented:

on persistent offending:

"Sentencing should send a clear message that the more you offend, the greater the punishment you can expect, with longer and more demanding sentences. In this respect I welcome John Halliday's recommendation that judges should take persistent offenders' previous convictions into account in sentencing.

on dangerous offenders:

"Throughout any sentence protection of the public must remain a priority – and above all in dealing with the most dangerous and violent offenders. They require a regime that allows the authorities to keep them away from society if they continue to pose a threat.

"I welcome Halliday's suggestion to increase sentences for dangerous violent and sex offenders. Instead of having to be released after two-thirds of their sentence, he suggests that an offender could remain in custody for the full duration of the sentence if the Parole Board judged it necessary. In addition, the courts would have the power to impose up to a further 10 year supervision period where offenders pose a risk to the public.

"We need to know exactly where these people are when released, so that we can track their movements and their behaviour every step of the way. Ensuring this intention is translated into practice will be an important area for further consultation and action.

on "custody plus":

"Halliday draws particular attention to the failings of short custodial sentences of less than 12 months. I believe he does us a great service in doing so. Short custodial sentences provide little or no opportunity to change the behaviour and problems which put offenders there in the first place.

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

on single community sentences:

"I want to extend the principles behind the youth justice reforms to older offenders, and integrate them with the range of current community sentences. Halliday suggests reform of non-custodial sentences so the court can select from a 'menu' of options to meet the purposes of sentencing, with a strong focus on reparation and preventing reoffending.

on prison sentences of 12 months or more:

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

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

NOTES FOR EDITORS:

1. The Home Secretary announced the publication of *Making Punishments Work: Report of The Sentencing Framework Review* in a Statement to the House today.
2. Copies of the report can be found on the Home Office website at: www.homeoffice.gov.uk
3. Led by John Halliday, formerly Director of Criminal Justice Policy at the Home Office, the evidence based review makes a series of recommendations to Government. The Review began on 16 May 2000 and reported to the Home Secretary on 1 May 2001. The report is out for public consultation until 31 October 2001.
4. The terms of reference of the review were:

"In the light of the Government's objectives to protect the public by reducing crime and reoffending, and to dispense justice fairly and consistently, to consider:

 - (i) what principles should guide sentencing decisions;

- (ii) what types of disposal should be made available to the courts in order to meet the overarching objectives;
- (iii) the costs of different disposals and their relative effectiveness in reducing reoffending;
- (iv) what changes therefore need to be made to the current sentencing framework, as established by the Criminal Justice Act 1991, so as more effectively to reduce reoffending, including any transitional and consequential arrangements; and
- (v) the likely impact of any recommendations in terms of costs and the effects on the prison population.

In particular, the review should bear in mind the desirability of promoting flexibility in the use of custodial and community based approaches."

5. The Social Exclusion Unit is currently working with the Home Office and other Government departments on ways to cut rates of reoffending by ex-prisoners, in particular by boosting levels of employment and lowering homelessness.

The Unit's period of research is now drawing to a close, and it is due to report to the Prime Minister later in the year. For further information, contact Ebba Brooks at the Social Exclusion Unit on 020 7276 2083.

Speech by the Home Secretary on sentencing reform
National Probation Service inaugural conference, 5 July 2001

1. The new National Probation Service is at the heart of the criminal justice system, and of our efforts to reduce crime and prevent re-offending. It has already been through recent major reforms, and I pay tribute to all of you and your teams for your professionalism in implementing what have been pivotal and wide-reaching structural changes to the organisation and operation of the Service. I know from my time as Education and Employment Secretary, particularly my work on the Connexions service for young people, how valuable your work is proving - and how much effort goes into it.
2. But these reforms are part of a much wider overhaul of the criminal justice system. One key issue within that process that I want to talk about today is our plans for sentencing reform.
3. We need to put sense back into sentencing. Layer on layer of legislation, change after change in direction and philosophy, have left both the goals and the practice of sentencing muddled. This has led to a serious loss of public confidence in the system. And that confidence must be re-gained.
4. So we are today publishing John Halliday's review of sentencing, conducted for the Home Office. On behalf of myself and the previous Home Secretary, I would like to thank John Halliday and his team, who have worked so very hard over the past year to produce this report.
5. It will act as a catalyst for us to examine what we do, and above all why we do it, in preventing tackling and punishing offending behaviour. But it is not - and was not intended to be - a blueprint. And so, over the coming months, we will be seeking the views not just of legal practitioners but of the public to help shape a new and transparent system that truly puts sense back into sentencing. The consultation process will continue until the end of October, and I want to hear your views.
6. We should start by asking this fundamental question: what can we do to build a sentencing regime that enjoys the confidence of the public and reduces crime?
7. We all worry about crime and its effect on our families, our communities, our homes. Reducing it is an absolute priority for the Government. Burglary and car crime are going down but violent crime has risen, particularly in our big cities. Through partnership and consensus, we can achieve a reduction in crime on all levels. That is my aim.
8. So today I want to float a number of ideas, and comment on the broader issues raised by the Halliday report. But first of all, let me set out the process and timetable for reform.
9. We intend to move ahead immediately to pave the way for full-scale reform. But ours will be a stepping stone approach as the measures must fit coherently within the longer-term reform process. This includes reforms to the Criminal Justice System emerging from the report of Lord Justice Auld, which is expected shortly.

Depending on the consideration of his report and the consultation I am announcing today, we will legislate in this session on those aspects of change - including any necessary paving measures - which do not need to wait for more fundamental reform to achieve.

10. As the the measures must fit coherently within the longer-term reform process. This includes reforms to the Criminal Justice System emerging from the report of Lord Justice Auld, which is expected shortly. The government hopes to publish a draft bill for the second session of this Parliament.
11. I have already invited all political parties to join with us in this debate. We need to get this right: we need a sentencing system built to last, and one which is radical enough to have a real impact on both offending behaviour and public perception. These reforms could act as a first step towards drawing up a penal code, as promised in our manifesto.
12. At the same time we will be taking forward measures to reform the administration of the criminal justice system. I have been asked by the Prime Minister to chair a committee to include the Lord Chancellor and the Attorney General, to oversee modernisation of the criminal justice system and drive up its performance. As part of this new framework, the Home Office will appoint a senior expert, responsible to me, as the new head of Information and Communication Technology, charged with pulling together existing measures and providing an effective way forward in this crucial area.
13. But today I want to focus on the broader case for reform and the options open to us. I want to set out the objectives of sentencing policy; the major Halliday recommendations; and my early thinking on them.
14. Each one of us probably has a view of what punishment fits a particular crime -- often we feel it has not been tough enough; or at other times, that the punishment has been too tough or imprisonment has made the person's likelihood to re-offend even greater. But we need to ask first: what is sentencing supposed to do? With these reforms, for the first time, I intend to put the purpose of sentencing into law.
15. We can summarise the aims of sentencing with the three Ps and the three Rs: prevention, protection, punishment; and reparation, reducing crime, and rehabilitation.
16. Of course, these are linked together -- and linked to the rest of our strategy of fighting crime. We want to prevent people getting into a life of crime in the first place and this also involves attacking the causes of crime and the factors that disempower and exclude communities -- from the Sure Start programme for disadvantaged children through to the implementation of the Children's Fund, for which my colleague John Denham is responsible.
17. And let me say too that crime reduction is an issue for and about the whole community. It must involve central and local government, agencies and the community, through regeneration, in creating jobs, in housing, policing, and the effective operation of Youth Offending Teams and Crime and Disorder Reduction Partnerships.

18. What the sentencing regime can achieve on its own is evidently more limited. But we can say that at the moment, it is not achieving what we want. Our figures suggest that around half of all crimes are committed by a hard-core of just 100,000 criminals. Most of them are in and out of court – over half of those sentenced to either custodial or community sentences are back in court being sentenced again within two years. Sentencing is not doing much to discourage them.
19. So for a start, sentencing needs to deter. It needs to turn petty offenders – especially young ones – away from crime. If you like, such sentences need to give a modern, legal version of the old-fashioned police constable's clip round the ear to the misbehaving youth. That has been the goal of our reforms to the youth justice system, and we can extend the principle. For example, I want to look at the idea of Acceptable Behaviour Contracts for young people in order to reduce anti-social behaviour on estates and in our schools, and to prevent them drifting further into a life of crime. These would be backed up with clear consequences if the Contract is broken, such as proceeding towards an Anti-Social Behaviour Order or through criminal or other sanctions.
20. I also want to extend the principles behind the youth justice reforms to older offenders, and integrate them with the range of current community sentences. Halliday suggests reform of non-custodial sentences so that the court can select from a 'menu' of options to meet the purposes of sentencing, and this is something we need to investigate. At present, youth courts have a wide range of orders they can impose – parenting orders, reparation orders, action plan orders, detention and training orders – but these need to work more clearly together with other community sentences as a menu of options for responding to different offences.
21. At the same time as deterring and diverting in this way, sentencing must also punish. Society has a right to retribution against those whose criminal behaviour harms us individually and collectively.
22. This is particularly important in dealing with the persistent offenders responsible for so much crime. Sentencing should send a clear message that the more you offend, the greater the punishment you can expect, with longer and more demanding sentences. In this respect I welcome Halliday's recommendation that judges should take persistent offenders' previous convictions into account in sentencing.
23. This does not mean that prison is the only way of sending a message to such offenders. Indeed Halliday draws particular attention to the failings of short custodial sentences of less than 12 months. I believe he does us a great service in doing so. Short custodial sentences provide little or no opportunity to change the behaviour and problems which put offenders there in the first place. And they can have a long term adverse effect on family cohesion, on employment and on training prospects – all of which are key to the rehabilitation of offenders.
24. Halliday's proposed remedy is what he calls "custody plus", where supervision in the community would continue to end of sentence, with an option for administrative recall to prison in the event of any breach. We would need to consider whether the custodial part of the sentence should have a maximum of 3 or 6 months.

25. Meanwhile for sentences of over 12 months. Halliday recommends that after serving half the sentence in custody, the remainder be served under strict supervision in the community right up until the end of the sentence. That would be tougher than the current arrangements, where conditions only bite up until the three-quarters point.
26. This is important in terms of protecting the public. But is also crucial because both custody and community punishment should be an experience that puts individuals back on the straight and narrow. It should help prevent re-offending by using the whole period of an offender's sentence to tackle the underlying reasons that can influence criminality in the first place - drug or alcohol problems, mental illness and depression, or chronic lack of education and qualifications.
27. The challenges in this respect are clear. Nearly two thirds of prisoners lack the basic skills needed for more than ninety per cent of job opportunities. And research has shown that 29 per cent of all those arrested are heroin or crack cocaine abusers. We are already making promising progress in educating prisoners in basic skills, but we must build on this. And we must ensure that drug treatment courses reach more people if we are to reduce the number of crimes perpetrated to fuel drug addiction.
28. Throughout any sentence, however, protection of the public must remain a priority - and above all in dealing with the most dangerous and violent offenders. We must be toughest on these offenders. They require a regime that allows the authorities to keep them away from society if they continue to pose a threat.
29. I have already made clear that I want tougher sentences for the most dangerous offenders. So I welcome Halliday's suggestion to increase sentences for violent sex and dangerous offenders. Instead of having to be released after two-thirds of their sentence, he suggests that an offender could remain in custody for the full duration of the sentence if the Parole Board judged it necessary. In addition, the courts would have the power to impose up to a further 10-year supervision period where they pose a risk to the public. We need to know exactly where these people are when released, so that we can track their movements and their behaviour every step of the way. Ensuring that this intention is translated into practice will be an important area for further consultation and action.
30. All of these recommendations will inevitably have an impact on the size of the prison population. We have no intention of compromising our principles of toughness and safety of the public, especially in respect of dangerous offenders. But let me emphasise that whatever we do, I have no intention of implementing anything that pushes up the numbers of those in custody for its own sake.
31. That is why we need to make sure that these reforms prevent re-offending - and rehabilitate offenders effectively. For most offenders, once they had paid back their debt to society, the responsibility to support them back in the real world falls to the rest of us.
32. I have touched on Halliday's principal recommendations, and there is a good deal that I agree with. But let me now move on to the areas and recommendations which I believe deserve greater exploration.

33. Halliday talks about Custody Plus - but what about a 'Custody Minus' scheme? I think there may also be merit in a type of sentence which sits between a community sentence and custody plus, so that we give the courts an option before moving straight from a community to a custodial sentence. The court could impose a custodial sentence but suspend it on condition that the offender completes a demanding programme of activity in the community, including reparation to victims where appropriate. If he fails to complete this, he could be sent to prison to serve the remainder of his sentence. With this type of sentence, as with the others suggested by Halliday, what is important is that there is certainty of outcome for the offender - that he knows what the consequences are of breaking the terms of his sentence and that he knows they will be consistently and rigorously enforced.
34. In Halliday's presentation of review hearings, he envisages four functions: dealing with breaches of community sentences; hearing appeals against recall to prison; pre-release planning; and reviewing progress during community sentences or the community part of custodial sentences. While it is right that the courts should be involved in sentence management, I am concerned that this could clog up the courts unnecessarily - and they are already under enough pressure and subject to far too many delays. Review hearings are closely linked with Lord Justice Auld's review of the criminal courts, and we will need to consider then how they might work most effectively.
35. Halliday also explores the idea of partial release or intermittent custody for particular offenders. Some offenders serving custodial sentences could be released on condition that they return to prison overnight or at weekends. The prison estate is not currently well suited for this purpose, but I want to explore how we might introduce such arrangements.
36. It is important that we retain arrangements which enable the Prison Service to maintain control over offenders, at the same time as offering an opportunity for them to reintegrate themselves into the community successfully. Although Halliday envisages no further role for Home Detention Curfew in his suggested new framework, I want to explore whether and how some of its benefits can be retained.
37. Halliday also makes important recommendations for new sentencing guidelines, to be drawn up by a new body. This is a central part of the proposed reforms, and we will want to explore the options very carefully. So far, sentencing policy has been translated into the practice of the courts by guidelines, ECHR judgements, and those of the Court of Appeal. But so many of the guidelines are just that: non-mandatory, not even having to be taken into account in Magistrates Courts, never mind at higher level. We need to think about the ways in which Parliament and the public might have an influence on the way guidelines are drawn up.
38. Parliament has an important role to play. For example, we need to look at the way in which specific sentences for dangerous violent and sexual offenders are working. Permissive powers for the courts to impose extended sentences on these offenders, provided for in the 1998 Act, have not been well used. We need to consider whether Parliament should make clear the circumstances in which these sentences apply. I am particularly concerned to make sure that we have ways of managing the risks posed by offenders of this sort, some of whom, if they have been sentenced under pre-1991 legislation, are currently released without supervision.

39. In addition, we will want to take forward with the secretary of state for health measures set out in the white paper published last december on reforming mental health legislation to detain indefinitely those who pose a risk, but are adjudged not to be treatable.
40. I have touched today on a wide range of issues and measures, some of which I know full well will be contentious. In fact I am pretty sure that we will be caught in the crossfire between those who see any custodial sentences as an affront to human rights, and those who want to 'lock 'em up and throw away the key'.
41. But the public are driven crackers with frustration by such futile posturing, and I am determined to hammer out what they deserve - a reformed, common-sense sentencing system. Because public confidence is key. The law must reflect the will of people. Respect for the law, and thus the cohesion of our society, rests on general acceptance of it. And to gain consent for an enlightened approach to avoiding re-offending and to rehabilitation, we need genuine trust and confidence in the Criminal Justice System as a whole, and in sentencing policy in particular.
42. This is the very real challenge posed today and in the months ahead. I hope that we can conduct that dialogue with dignity and with respect for those with opposing views.
43. I also know that many of the measures I have talked about today will have a significant impact on the National Probation Service and on the Prison Service. This debate comes at an important time for the NPS. In a reformed criminal justice system, the Service can expect a higher national profile. I want better public recognition of the hard, often thankless job that you do, keeping the public safe from sometimes dangerous offenders. But at the same time, you must earn their confidence.
44. I want your views and your engagement with the debate. It is you who will have to deliver what is finally agreed. And I know too that it is likely to mean an expansion of your service and the resources to go with it. The sentencing review is an opportunity to redefine probation in the public mind - one that we should welcome. Community sentences must command public credibility if our reforms to sentencing as well as to the wider criminal justice system are to succeed.
45. This is an unprecedented opportunity to get sentencing right and to reduce crime. Between us, I am convinced that we can do just that.

Ends



Home Office

BUILDING A SAFE, JUST
AND TOLERANT SOCIETY

MAKING PUNISHMENTS WORK

Over 60

OVERVIEW

The Review by John Halliday has examined whether the sentencing framework for England and Wales can be changed to improve results, especially by reducing crime, at justifiable expense.

The review has looked at:

- the types of sentence that should be available to the courts, with the aim of designing more flexible sentences that work effectively whether the offender is in prison or in the community;
- the ways in which sentences are enforced;
- the systems that govern release from prison;
- the role of the courts in decision making while the sentence is in force;
- judicial discretion in sentencing and the guidelines governing its use;
- the framework of statute law;
- costs and benefits of the recommendations and the factors critical for successful implementation.

1. The case for change

1.1 The report points out that although the present framework has much in its favour, it also has limitations and is problematic. In particular, the unclear and unpredictable approach to persistent offenders, who commit a disproportionate amount of crime, and the fact that prison sentences of less than 12 months have little meaningful impact on criminal behaviour.

1.2 There are also new opportunities to improve outcomes. The most important of these are the recent advances towards reducing reoffending through work with offenders under sentence, and the prison and probation services' developing ability to work in more integrated ways to that end. There is growing

awareness of the contributions that reparation and “restorative justice” schemes can make. The framework could do more to exploit these developing opportunities, within a clearer sense of common purpose. It could increase public confidence if it was more transparent, accessible and accountable.

- 1.3** The report points out that the purposes of sentencing are not only punishment but also crime reduction and reparation. It is therefore

important to establish how much sentencing can be expected to contribute to crime reduction.

2. The principles of sentencing

2.1 The principle that severity of sentence should be “proportionate” to the seriousness of criminal conduct and that imprisonment should be reserved for cases in which no other sentence will do remains valid. However this should take clearer and more predictable account of previous convictions.

2.2 There should be a new presumption that severity of sentence will increase as a result of any recent and relevant convictions showing a continuing course of criminal conduct. To do this, it is recommended that:

- guidelines will be needed to help sentencers match sentence severity with the seriousness of offences and to show the ranges within which previous convictions may impact on sentence severity, otherwise the effect of this new presumption on sentencing practice would be unpredictable and disproportionately severe sentences could result;
- sentencing decisions should be structured so that if a prison sentence of 12 months or more were not necessary to meet the needs of punishment, sentencers would consider whether a non-custodial sentence would meet the needs of crime reduction, punishment and reparation.

2.3 Consistency in sentencing should be a continuing goal, measured by uniformity of approach rather than of outcomes. The transparency of the framework and understanding among the public of how it is supposed to work should be improved.

3. Short prison sentences

3.1 One of the most serious failures in the present system is

seen in prison sentences of under 12 months. The report points out that only half of this time is served, less with a Home Detention Curfew, and the remainder is not subject to any conditions. The Prison Service has little opportunity to tackle criminal behaviour as the time served in custody is so limited – yet these sentences are used for large numbers of persistent offenders who are likely to reoffend.

3.2 A structured framework is needed for dealing with a large number of offenders who persist in the type of criminality that does not require longer prison sentences. Introducing a sentence of 'Custody plus', this could be done by requiring those who serve short prison sentences to undertake supervised programmes after release, under conditions of licence. If breached – could result in swift return to custody. A limited period of custody could be required, say 14 days, and the period of supervision could last for 12 to 18 months and whatever would have been done in the 12 to 18 months, such as sentence, could be done in the 14 days. The report also suggests that the current system of supervision should be reviewed and that the period of supervision should be reduced to 12 months. The report also suggests that the current system of supervision should be reviewed and that the period of supervision should be reduced to 12 months. The report also suggests that the current system of supervision should be reviewed and that the period of supervision should be reduced to 12 months.

3.3 All the Government's resources should be used to support and improve the current system.

4. Prison sentences of 12 months or more

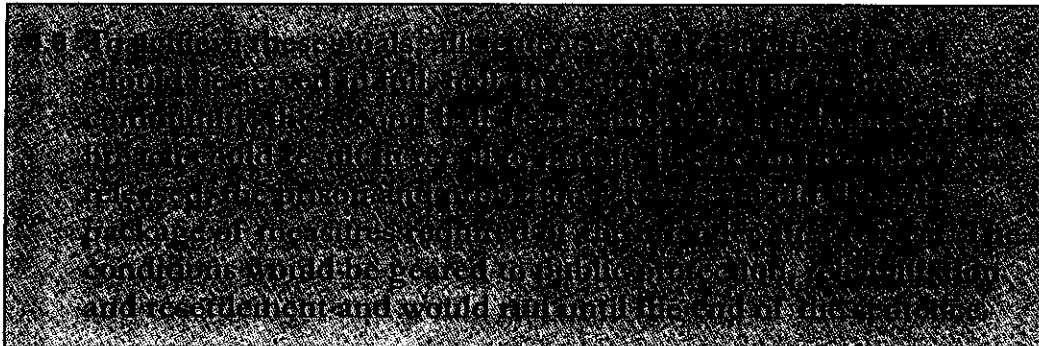
4.1 At present:

- half of an existing prison sentence of 12 months or more has to be served in custody, at which point the prisoner is released on licence (except for earlier releases under Home Detention Curfew);
- if the sentence is over 4 years, release has to be authorised by the Parole Board and can be delayed until two thirds of the way through the sentence. Prisoners released from these sentences are subject to conditions until three quarters

of the sentence has passed. At this point the offender is free of conditions, although the remaining part of the sentence can be re-activated on conviction of a further offence;

- special provisions apply to violent and sexual offenders, for whom supervision can be extended.

4.2 Under the proposals, the supervisory period would run until the end of the total sentence, making these sentences more 'real' and increasing opportunities for crime reduction through work with offenders in the second half.



4.4 The package would be subject to review by a tribunal prior to release. Discretionary release would be reserved for dangerous offenders (convicted of specified violent and sexual offences) likely to re-offend and escape and for some other high risk offenders there would be a general presumption of release during the second half of the sentence. In addition, the court could order an extended period of supervision of up to 10 years for sexual offenders and violent offenders. Instead of introducing discretionary release scheme (Home Detention Curfew) it would be possible to include curfews and electronic monitoring in probation case conditions for all custodial sentences.

5. Intermediate sanctions

5.1 Two new sentences were examined by John Halliday's report. One was "intermittent custody" to allow the offender to spend part of a custodial sentence out of prison. The other, "suspended sentence plus", would combine a community sentence with a suspended sentence of imprisonment, which could be activated if the offender failed to comply with the conditions of the non-custodial sentence.

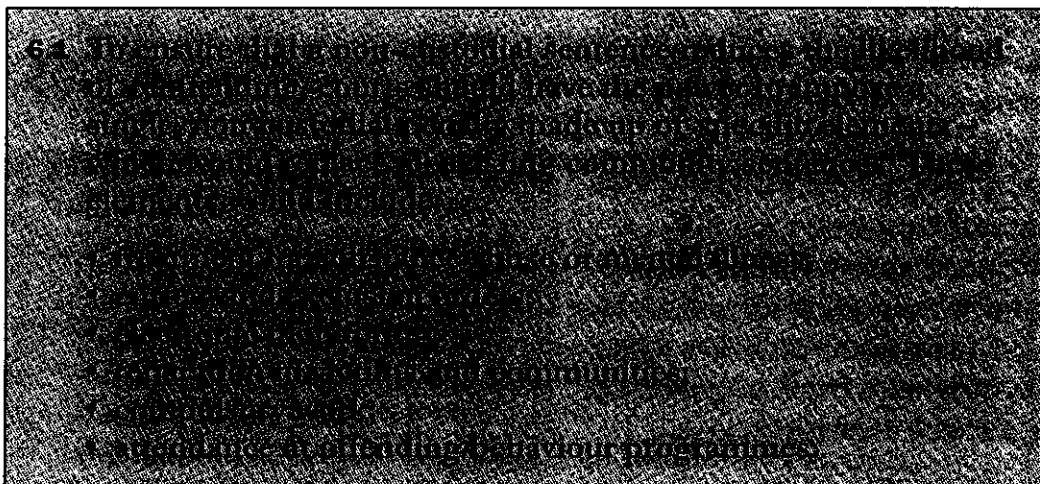
5.2 The Prison Service believes, with its existing establishments, it would be unable to manage a sentence of intermittent custody, other than through release on temporary licence schemes, which it already operates. Those schemes are important in resettlement, but are not a real alternative to a new sentence incorporating temporary release from the outset. The Prison Service should consider how the prison estate could accommodate intermittent forms of custody for certain

offenders, in prisons close to their communities. In parallel, a review of hostels, probation and attendance centres could help optimise the use of such facilities, strengthening the possibilities for “containment in the community” in a non-custodial sentence.

5.3 In looking at suspended sentences, no grounds were found for removing the current restrictions on their use. When a prison sentence has to be passed, suspending it entirely, as

long as another conviction is not received, should continue to be possible only in exceptional circumstances. For imprisonable offences, when a non-custodial sentence is passed, there would be benefit in making clear to offenders the “conditional” nature of the sentence – if the offender does not comply with agreed conditions, a custodial sentence may be passed instead. The sentencing court should be able to indicate a starting point for any such custodial sentence.

6. Non-custodial sentences



6.2 Supervision in all cases would be geared towards managing and enforcing the sentence, and supporting reformation. The court would consider the aims of punishment, reformation and prevention of re-offending in deciding on the elements of the sentence. The punitive weight should reflect the seriousness of offence(s), subject to any increased severity required for previous convictions. Under the new framework:

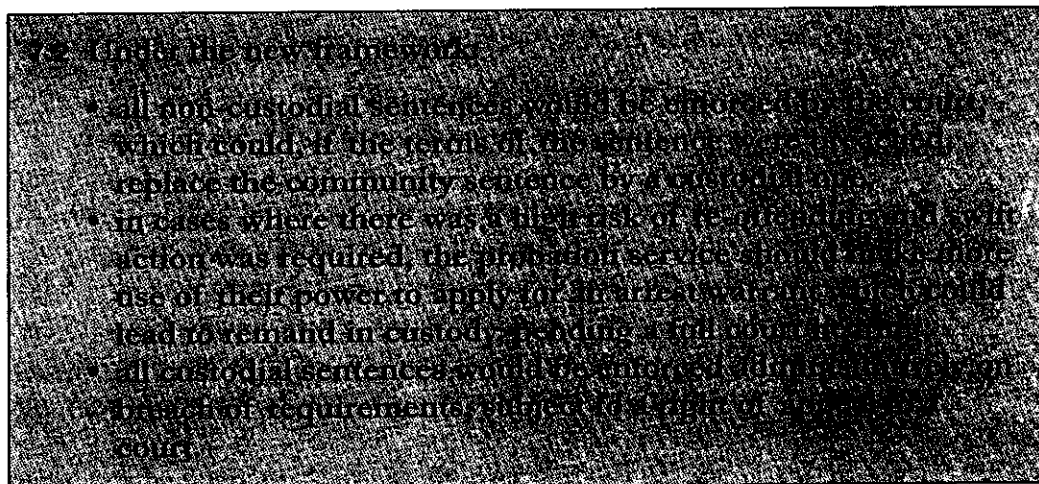
- financial penalties would be available at all levels of seriousness, both in isolation and in combination with non-custodial penalties;
- a new interim review order, strengthening the existing power to defer sentences, would be available when a court found reasons for allowing time for an offender to make commitments voluntarily, such as reparation, voluntary attendance at drug/alcohol treatment programmes, or participation in restorative justice schemes, before being sentenced.

7. Sentence Management

7.1 Sentence management issues – such as sentence calculation and enforcement – have been very difficult. Enforcement mechanisms, in particular, are complicated and not transparent. Procedures for enforcing sentences and penalties for breach of conditions vary greatly. There is

also a sharp division of roles between sentencers who confine themselves to the immediate offences and sentencing decision, and the prison and probation services who implement the sentences passed. Unless sentencers request progress reports, there is no procedure through which they can receive feedback on the outcomes and implications of

their decisions, or take account of an offender's progress or otherwise, during the sentence – other than for drug treatment and testing orders.



7.3 Courts should have a more active role in determining what is needed throughout the course of a sentence. With better information about the outcomes of their decisions, they could develop and provide a 'sentence review' capacity. This would deal with breaches of community sentences, hear appeals against recall to prison, authorise pre-release plans, and review

progress during community sentences or the community part of custodial sentences. Visible involvement of the court for the duration of the sentence would exert additional leverage over the sentenced offender, especially at the crucial stage of release from prison, but also during periods in the community, whether after release from prison, or under a community sentence. Offenders

would realise that when they were under sentence in the community, whether they stayed there or faced return to prison would depend on their own good behaviour and compliance. This would also be transparent to the public.

- set out the general principles;
- specify the newly designed sentences;
- provide for review hearings;
- prescribe enforcement procedures;
- require guidelines to be drawn up.

8. The shape of the framework: guidelines and legislation

The Act should make provision for a Penal Code, which would be continuously updated.

8.1 For a new framework, the report says that an Act of Parliament should:

8.2 The general principles should include:

- the severity of the sentence should reflect the nature of the offence and the offender's culpability;
- the seriousness of the offence should be the primary factor in determining the sentence;
- the severity of the sentence should take account of the offender's previous record and any other factors;
- a prison sentence should be imposed only if a sentence would be inadequate to achieve the purposes of punishment;
- non-custodial sentences should be imposed wherever possible and be used, when they are available, to reduce the risk of re-offending and protect the public.

8.3 New guidelines for the use of judicial discretion will be an essential part of the new framework to avoid unpredictable consequences, such as in the sentencing of persistent offenders. The guidelines would apply to all criminal courts and would:

- specify graded levels of seriousness of offence;
- provide "entry points" of sentence severity in relation to each level of seriousness;
- set out how severity of sentence should increase in relation to numbers and types of previous convictions;
- explain other possible grounds for mitigation and aggravation.

8.4 Responsibility for producing, monitoring, revising and accounting for the guidelines should be placed in an independent judicial body. This could be either:

• the Court of Appeal (Criminal Division) sitting in a new capacity, with the Sentencing Advisory Panel as an extended panel providing a resource to the Court;

• a new judicial body set up for the purpose, which would be independent of the Court of Appeal but would be a judicial leadership complemented by non-judicial academic expertise. The Sentencing Advisory Panel would be subsumed within this body;

• or the independent body with a more varied composition, not necessarily judicially dominated, and the Sentencing Advisory Panel would be abolished.

9. Costs and benefits

9.1 The effect of the framework, proposed in the report by John Halliday, on public expenditure, the size of the prison population, and the workload of the courts and probation services, will depend very much on how it is used. For instance, based on changes in length of prison sentences, increases or decreases in the custody rates, and diversion either way from under 12 months to over 12 months sentences, the proposed reforms (once established) could require:

- additional annual public expenditure of between £300m and £650m;
- the prison population could see a decrease of 1,500 or an increase of up to 9,500;
- the probation service would be working at any one time with up to 80,000 more offenders.

10. Implementation

10.1 Several conditions must be met for successful implementation. These include:

- a shared understanding of, and commitment to, the new framework among all those involved in its implementation, and in the wider public;
- an adequate infrastructure of systems and processes to enable the new arrangements to work as intended;
- adequate resources, especially programmes for offenders, to meet the needs of staff and services;
- legislation and guidelines that are clear and intelligible to all concerned.

10.2 A framework that will last needs firm foundations. Benefits would not materialise if the framework proved short-lived, and the necessary transitional costs would be wasted.

10.3 A challenging timetable will be necessary, but one that allows sufficient time for all the necessary work to be completed. A target date should be set as soon as all the necessary tasks have been identified, but should be contingent on the necessary resources being available in time. A project team will need to work closely with all interested parties in creating a comprehensive implementation plan, subject to direction from a high level steering group and full consultation with all concerned.