

STATES OF JERSEY



CRIMINAL JUSTICE POLICY

**Lodged au Greffe on 20th September 2005
by the Home Affairs Committee**

STATES GREFFE

PROPOSITION

THE STATES are asked to decide whether they are of opinion –

to receive the Criminal Justice Policy, as set out in the report of the Home Affairs Committee dated 20th September 2005 and, in order to give effect to the recommendations made in the Policy –

- (a) to agree the action plans, as set out in the report, with regard to –
 - (i) criminal justice values on page 25;
 - (ii) criminal justice statistics on page 34;
 - (iii) looking after victims on page 44;
 - (iv) joint working on page 47;
 - (v) early intervention on page 56;
 - (vi) enforcement on page 69;
 - (vii) dealing with offenders on page 86;
 - (viii) rehabilitation on page 97;
- (b) to agree the policy statement in the section entitled ‘Prosecution’ on page 72;
- (c) to approve, in principle, the additional funding required to implement the Policy and to charge the Finance and Economics Committee, in consultation with the Home Affairs Committee, to assess the most appropriate source of funding.

HOME AFFAIRS COMMITTEE

REPORT

CRIMINAL JUSTICE POLICY

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Home Affairs Committee

EXECUTIVE SUMMARY

POLICY OVERVIEW

- 1.1 The formation of the Home Affairs Committee in December 1999 brought together most operational departments with executive responsibility for the delivery of criminal justice services. The Probation and After-Care Service remains a department of the Royal Court but adopts a close working relationship with the Home Affairs departments. This union highlighted the need for a policy on criminal justice. When the States of Jersey adopted P.70/2002, which outlined the organisation of the departments under ministerial reform, the responsibility for policy development was allocated to the Ministry for Home Affairs.
- 1.2 In 2002, the Home Affairs Committee commissioned an independent review of the criminal justice process in Jersey. This helped to compare our experience with other jurisdictions and provide a statistical base for policy development. The resultant 'Rutherford Report' made 10 recommendations, nine of which have been taken forward, and are referred to in the main part of the policy document.
- 1.3 As a backdrop to policy development, the Committee took the approach that criminal justice is an essential part of life. This policy acknowledges that offending behaviour occurs for a complexity of reasons, that it can be reduced, or in some cases, prevented; and it explores the alternatives available to complement the formal court system. Most importantly, it upholds the independence and integrity of the judicial system and prosecution role, and does not seek to interfere directly in the sentencing policy of the courts.
- 1.4 Given the action plans detailed in this document, the criminal justice policy will have a 5-year life between the years 2006-2010. The policy is a key component in delivering Strategic Aim Three, Objective 3.8, of the States Strategic Plan: To Enhance Quality of Life by achieving low levels of crime.

POLICY CONTEXT AND FRAMEWORK

- 1.5 The policy framework is based on 9 'pillars': values; criminal justice statistics; looking after victims; joint working; early intervention; enforcement; prosecution; dealing with offenders; and rehabilitation. These are depicted on the following page.
- 1.6 Focus groups, consisting of people who are involved in criminal justice across the spectrum, have met to share their experience on each of these 'pillars', thereby informing policy development. The Home Affairs Committee's policy on each criminal justice 'pillar' is summarised in the following statements with their respective action plans.
- 1.7 When developing any policy, it is important to examine the various factors which determine whether it can be implemented successfully and its impact on people. In order to assess the relative effect of these factors, a PESTEL analysis, which draws out the political, economic, social, technological, environmental and legal factors at play, has been carried out.

<h2>THE PILLARS OF CRIMINAL JUSTICE POLICY</h2>



POLICY STATEMENTS AND ACTION PLANS

Pillar 1 – Criminal Justice Values

- 1.8 The Home Affairs Committee will uphold the values that society considers should underpin the component parts of the criminal justice process. These values translate into the following key aim of criminal justice policy –

To enhance the quality of life in Jersey by creating a safer community; reducing the fear of crime and the level of crime, disorder, offending and re-offending; and to pursue policies which assist in the delivery of justice fairly, promptly and cost-effectively.

Action Plan

- 1.9 The Home Affairs Committee will –
- Support early intervention initiatives to address the risk factors that give rise to offending.
 - Support the rights of the accused, particularly the right to legal representation in appropriate cases.
 - Minimise the stress and inconvenience to victims and witnesses.
 - Encourage respect for the rule of law.
 - Support the Honorary Service in their parish duties.
 - Reduce the risk of bias or prejudice based on race, ethnicity, class, gender or age.
 - Rehabilitate and re-educate offenders to change their attitude and behaviour.
 - Reduce the fear of crime.
 - Help to protect the Island from the threat of terrorism.

Pillar 2 – Criminal Justice Statistics

- 1.10 Criminal justice policy development needs to be evidence-led in order to take account of trends in offending. Hitherto, departments have tended to develop information systems in order to meet their own business needs. However, criminal justice is a complex and dynamic process and the ability to access a common database would create efficiencies in document management, the removal of duplication and accuracy of statistical information. Such an integrated criminal justice system will take time to deliver; consequently, the Home Affairs Committee envisages a long term and a short-term strategy.
- 1.11 In the long term, the Committee aims to develop an integrated criminal justice information and document management system. A project of such complexity will require significant financial investment; a

Scoping Study was carried out in early 2005 and its recommendations are being considered by the Committee and the Jersey Legal Information Board.

- 1.12 The Home Affairs Department and other criminal justice agencies have had the foresight to produce criminal justice statistics annually using systems currently in place. In keeping with Recommendation 2 of the Rutherford Report, a Criminal Justice Statistics Working Group has been set up to continue this work until an integrated solution is in place.

Action Plan

- 1.13 The Home Affairs Committee will –
- Implement the recommendations of the Integrated Criminal Justice Scoping Study as appropriate and bid for any necessary resources.
 - In the meantime, continue to produce co-ordinated criminal justice statistics annually using current systems through the Criminal Justice Statistics Working Group.

Pillar 3 – Looking After Victims

- 1.14 Rates of reported and recorded crime mean that many victims and witnesses of crime never see the perpetrators brought to justice. Helping them is therefore more complex than simply assisting them through the court process. Jersey has developed a close network of agencies involved in providing support to those affected by the consequences of crime, for example, the States of Jersey Police, the Honorary Police, Victim Support, the Women’s Refuge, the Brook Agency, Citizens Advice Bureau and Crimestoppers. We also have statutory provision for the Criminal Injuries Compensation Scheme and Compensation Orders. As a result of the Crime and Community Safety Strategy, a Victims’ Charter was developed in 1996 and the Victim Support Service set up. There is now a wide variety of agencies involved, in one form or another, in victim support who are keen to work more closely together. For its part, the Home Affairs Committee is committed to ensuring that everything is done within the resources available to minimise the level of victimisation through crime prevention measures and to help people who have been the victims of crime. However, justice must remain objective and victims should not have direct input into the administration of justice. Account also needs to be taken of the needs of repeat victims and hate crime victims. Research carried out by the UK Home Office for its strategy ‘A New Deal for Victims and Witnesses’ provides a useful and relevant framework for reviewing local arrangements for victim support.

Action Plan

- 1.15 The Home Affairs Committee will –
- Establish a Victims’ Agencies Forum to bring together agencies representing the victims of crime and witnesses.
 - Update the Victims’ Charter in order to take account of significant developments since its initial publication such as human rights and data protection legislation, the Rehabilitation of Offenders Law, restorative justice techniques, media interest, the increased jurisdiction of the lower criminal and civil courts and the UK’s experience in developing the ‘New Deal’ initiative.
 - Review the funding arrangements for the Jersey Victim Support Scheme in consultation with the Jersey Victim Support Committee.
 - Carry out a Crime Victimisation Survey every 3 years in order to gauge the public’s perception of safety, the levels of unreported crime, the needs of victims, and the quality and extent of assistance given.

- Review the provisions of the Criminal Justice (Evidence and Procedure) (Jersey) Law 1997, to make it less restrictive so that victims and witnesses could present their evidence without fear of intimidation or retribution.

Pillar 4 – Joint Working

- 1.16 Joint working is now a cornerstone of States of Jersey policy as well as a vital part of the criminal justice system which assures a common understanding of criminal justice issues, helps to reconcile differences in approach, minimises duplication of service, and provides value-for-money by ensuring that resources are applied for best effect. At operational level, criminal justice agencies have worked hard to achieve this but there is a need for better joint working at the highest level.

Action Plan

- 1.17 The Home Affairs Committee will –

- Continue to strive for effective joint working, not only between the criminal justice agencies reporting to it, but also the partner agencies in the public, private and voluntary sectors.
- Establish an informal forum for criminal justice policy and planning involving the executive, the judiciary and the prosecution.

Pillar 5 – Early Intervention

- 1.18 Early intervention to prevent criminality is a key area of criminal justice policy and one which, if invested in, will have a significant impact on criminality in our Island. The States of Jersey made a significant commitment to this philosophy in 1999 when it funded both the Crime and Community Safety Strategy and the Substance Misuse Strategy. It continued the commitment this year in adopting, overwhelmingly, a report and proposition to bring these strategies together from 1st January 2005 in a new strategy, 'Building a Safer Society'.
- 1.19 Although the focus of the Bull Report was on addressing the needs of children with severe emotional and behavioural difficulties, there is a clear interface with the criminal justice process where offending behaviour is concerned. The Home Affairs Committee embraces fully the work carried out by the Children's Executive in recommending changes to the youth justice system.
- 1.20 Finally on rehabilitation, the Home Affairs Committee is committed to the philosophy of harm reduction and has carried this forward into the new Building a Safer Society Strategy. The Committee also expects to be able to consider, in 2005, a follow-up report from the Advisory Council on the Misuse of Drugs on the question of whether certain illegal substances should be downgraded and the UK's experience in having re-classified cannabis. The Committee is mindful of the stance taken by Guernsey who, at present, have decided not to reclassify cannabis, and of recent medical research in the UK which has drawn attention to the psychiatric impact of cannabis.

Action Plan

- 1.21 The Home Affairs Committee will –

- In partnership with the Health and Social Services Committee, take the lead in implementing the Building a Safer Society Strategy and monitoring its progress.
- Play its part in implementing those recommendations of the Bull Report approved by the States of Jersey, in particular those relating to the establishment of a Youth Action Team.
- As a member of the Corporate Parent, continue policy discussions with the Royal Court and Youth Court, particularly with regard to court options and residential/secure care.

- Re-consider the question of whether cannabis should be reclassified once the Advisory Council on the Misuse of Drugs has reported to the Health and Social Services Committee in 2005.

Pillar 6 – Enforcement

- 1.22 The Home Affairs Committee has a prime responsibility for enforcement through the States of Jersey Police and the Customs and Immigration Department. A close working relationship will be maintained with other enforcement agencies, notably the Honorary Police and the Viscount's Department. The Committee endorses the 6 'policing promises' that the States of Jersey Police has made to the people of Jersey and will continue to survey the public regularly in order to identify their law enforcement concerns and which areas to target. The public continue to identify drug trafficking as the greatest menace to society and there is a continuing concern over anti-social behaviour. Consequently, through the Joint Intelligence Bureau, both Customs and the Police will pursue those who seek to profit from trading in illegal drugs. The authorities have had significant success within the region of £4.5 million of drugs seized in 2003, and in excess of £7 million in 2004.

Action Plan

- 1.23 In order to address the enforcement issues and challenges ahead, the Home Affairs Committee will –
- By the end of 2005, or when the future position of the Connétables under Ministerial Government has been decided, develop the framework and law drafting instructions for a group to oversee policing matters as an alternative to the establishment of a Jersey Police Authority.
 - Support the States of Jersey Police in the achievement of its Policing Plan objectives.
 - Plan for the anticipated rise in crime (estimated at 11%) over the next ten years as a result of projected demographic changes.
 - During 2006, bring in the Crime (Disorderly Conduct and Harassment) (Jersey) Law, 200-, to combat anti-social behaviour, but support the role of the Parish Hall Enquiry in dealing with less serious anti-social behaviour and nuisance.
 - During 2006, analyse the nature and effect of anti-social behaviour in Jersey and, in consultation with others, seek appropriate solutions.
 - Maximise intelligence collecting and sharing with other jurisdictions in order to combat imported crime, particularly drug trafficking.

Pillar 7 – Prosecution

- 1.24 This policy takes a holistic view of criminal justice and its place in the social and political context. It is not a judicial services review, although this may become a subject for discussion at the new forum envisaged under Pillar 4 – Joint Working.
- 1.25 Having consulted the Attorney General at an early stage in the policy setting process, the Home Affairs Committee will not pursue the Rutherford Report recommendation that a public prosecution service be created. This could not be justified on cost grounds and would result in Centeniers losing their traditional role of presenting cases in the Magistrate's Court.
- 1.26 Regarding the future development of Parish Hall Enquiries, the Committee supports their status as an investigatory rather than a judicial body. To do otherwise could compromise their traditional and valuable role in dealing with offenders outside the formal criminal justice system and in being able to meet the provisions of the Human Rights (Jersey) Law 2000. The Rutherford Report made specific recommendations on the role of the Parish Hall Enquiry in dealing with young offenders. Since then, a

better understanding has been developed between agencies on maximising appearances at Parish Hall level prior to charging. Similarly, since publication of the Bull Report, the Committee has had the benefit of being a partner in taking forward the recommendations of the Children's Executive detailed in Pillar 5– Early Intervention. These recommendations will have a bearing on any future changes to the role of the Parish Hall Enquiry rather than recommendations 5 and 6 of the Rutherford Report.

Pillar 8 – Dealing with Offenders

- 1.27 Jersey is unique in having a prosecution process – the Parish Hall Enquiry – which is not a judicial process and is held to determine whether or not a prosecution should be brought in court. In the case of children particularly, this often enables reintegration to take place through a process which begins and ends in the community. Voluntary supervision has been highly successful in this regard, and latterly, restorative justice techniques have been augmented through the Victim-Offender Conferencing Initiative. Within the formal court system, binding over orders with appropriate conditions, probation and community service (which is a direct alternative to custody) have been successful over many years.
- 1.28 The growth in Jersey's prison population is of particular concern to the Home Affairs Committee and may be exacerbated by the anticipated rise in crime as a result of demographic changes. From a purely financial perspective, the growth in numbers experienced in recent years is unsustainable particularly as we are entering a period of stringency in public expenditure. Whether an offender should be deprived of their liberty is, however, far too complex and serious a matter to be reduced to a book-balancing exercise. The challenge for the Committee is to create the conditions in which punishment, deterrence and rehabilitation can be brought to bear in the most cost-effective way. In the Committee's view, the Island is not doing enough to educate, re-skill and rehabilitate prisoners both during their sentence and after release. Furthermore, Jersey is out-of-step with most other established Western democracies in not giving prisoners an opportunity to show that they can lead a life free from offending at an earlier stage in their sentence.
- 1.29 The Committee has considered a range of measures that could be introduced to reform the framework in which custodial sentences are served. However, many of them would fail to provide the necessary safeguards of proper preparation for release whilst in custody and supervision thereafter. The Committee will therefore pursue a range of measures after due consultation with the judiciary, criminal justice agencies and other interested parties.
- 1.30 Other than the collection of parking fines, the Island has not developed disposal through administrative means. A separate group under the Attorney General has already considered whether there are grounds for a system of pleading guilty by post and is not recommending its introduction. Similarly, a compelling case has yet to be made for the introduction of enforcement cameras to Jersey in relation to motoring offences. The Committee will not pursue this without a political debate on the matter. There is a case, however, for people to be able to pay fines more conveniently, notably through electronic means.

Action Plan

- 1.31 The Home Affairs Committee will –
- In consultation with the Honorary Police, Probation and After-Care Service and others, continue to support the Parish Hall Enquiry system and consider further ways in which it can be strengthened.
 - Investigate greater use of the Electronic Monitoring Scheme ('Tagging') of prisoners which has been highly successful since its introduction in April 2003.
 - Request the Royal Court to review its sentencing policy in respect of drug trafficking offences in the light of principles applied in other jurisdictions and the experience gained since sentencing principles were first formalised in the Court of Appeal landmark judgment of Campbell, Molloy and MacKenzie (1995) JLR 136 as amended by subsequent judgments.

- Urge the courts to take positive steps to maximise the use of community penalties and to reserve custody for dealing with the most serious offences, where the protection of the public is a major consideration and where offenders have a history of not responding to community penalties.
- Maximise the use of transfers where prisoners can demonstrate links with England and Wales, thereby reducing significantly the cost to the public.
- Investigate whether a more ‘customer-friendly’ approach to the payment of parking fines and fines for other minor offences might be made available through fixed penalties.
- Investigate the suitability of enforcement cameras for Jersey and whether their introduction would be cost-effective.
- In conjunction with the Law Officers’ Department, investigate ways of expanding powers in relation to civil asset forfeiture.

Pillar 9 – Rehabilitation

- 1.32 Whilst in many cases a custodial sentence cannot be avoided, it is nevertheless the case that custody often results in offenders losing their employment, accommodation and contact with family and friends. The development of alternatives to custody, such as Probation and Community Service, have been beneficial in assisting offender rehabilitation. The Probation and After-Care Service has played a vital role in this and half their work is now concerned with rehabilitation. Since 2001, a close working relationship has been built up with the Prison to the extent that there is now a Prison Probation Officer. Sentence planning has been piloted in the Young Offenders’ Institute and various programmes are run to aid prisoner rehabilitation.
- 1.33 The Home Affairs Committee believes there is much more scope for prisoner rehabilitation in order to reduce recidivism rates. Currently, 50% of adults and 70% of young offenders will be reconvicted within 12 months. The fact that the present total annual running cost budget for the Jersey Probation and After-Care Service (approximately £1 million) is similar to the amount of money spent on accommodating prisoners in the UK in 2004 graphically illustrates the level of under-resourcing in this vital area. Despite the limitations on funding, all prisoners are offered voluntary contact with the Probation and After-Care Service on release. The Service is experienced at helping offenders to gain access to accommodation and employment opportunities as well as services more directly related to their offending. There are a range of services available to ex-offenders but, without professional assistance, they are not always able to access them. It is therefore disappointing that few prisoners take up the offer of assistance from the Probation and After-Care Service post release. Before the appointment of a Probation Officer at HM Prison La Moye, only one or two prisoners requested voluntary after-care each year; the numbers are now increasing but are still in single figures. This lack of response is one compelling reason for placing post-custodial supervision on a statutory footing.
- 1.34 Pillar 8 – Dealing With Offenders, outlines a different framework within which custodial sentences could be served where greater emphasis is given to rehabilitation. The Home Affairs Committee has been careful to study the provisions of the UK’s Criminal Justice Act 2003 in which the system of parole will be reformed. The Committee sees no need to replicate those provisions precisely; however, it will be important to adopt a system which dovetails with that in the UK, not least so that the Island can revert to transferring the majority of prisoners with demonstrable links with England and Wales so that prisoners will be more willing to request transfer to prisons in England and Wales knowing that they will receive similar treatment in terms of release as those prisoners sentenced from the English courts. The Committee intends, therefore, to introduce a system of discretionary supervised release along the lines described in paragraph 12.35 but subject to the recommendation made by the joint Home Affairs/Law Officers’ Department working group.
- 1.35 There will be a cost to introducing such a system; however, depending upon the future prison population,

these costs could be offset by the savings that will accrue from fewer prisoners needing to be transferred to prisons in England and Wales and, of those that are, most requesting such a transfer and demonstrating links with England or Wales. An additional 3 Prison Officers will be needed for sentence planning during the custodial part of the sentence. Thereafter, an additional 3.5 Probation staff will be required to take on the heavier supervisory role whilst prisoners are released on licence. Better value for money should be achieved in terms of lower re-offending rates.

1.36 The Home Affairs Committee recognises the link between poor educational ability and high rates of recidivism. In accordance with a proposal formulated by Deputy Jennifer Bridge and Professor Edward Sallis, it wishes to create a Prison Education Unit to deliver a range of educational services including basic skills, national vocational courses, distance learning and careers guidance.

1.37 Finally on rehabilitation, the Home Affairs Committee is committed to the philosophy of harm reduction and has carried this forward into the new 'Building a Safer Society' Strategy. The Committee is currently examining the recent Prison Health Needs Report which may highlight further action required. The Committee also expects to be able to consider this year a follow-up report from the Advisory Council on the Misuse of Drugs on the question of whether certain illegal substances should be downgraded and the UK's experience in having re-classified cannabis.

Action Plan

1.38 The Home Affairs Committee will –

- In 2006, seek approval for new post-custodial supervision legislation in order to introduce a system of discretionary supervised release.
- Ensure that funding for an additional 3 Prison staff and 3.5 Probation staff required to implement post-custodial supervision is included in the 2006 Resource Plan.
- Subject to the approval of new legislation, introduce a system of discretionary supervised release in 2006.
- Seek funding in the region of £100,000 to establish a Prison Education Unit in partnership with Highlands College.
- Explore further life-long learning opportunities for prisoners in consultation with the Education, Sport and Culture Committee.

CONSULTATION AND DELIVERY

1.39 Prior to the Criminal Justice Policy being lodged for debate, there will be a 4-month consultation period which will allow for views from all members of society to be gleaned. The Home Affairs Committee will adhere to the following timetable for delivery –

Timetable for Delivery		
√	Sep 2003 – Mar 2004	Policy development through Focus Groups
√	Apr – Jun 2004	Policy drafting
√	Jul – Sep 2004	Home Affairs Committee reviews first draft
√	Oct 2004	Second draft prepared
√	Dec 2004 – Feb 2005	Home Affairs Committee reviews second draft
√	Mar 2005	Home Affairs Committee approves consultation document

√	Apr – May 2005	Consultation with members of the judiciary and prosecution
√	Jun – Aug 2005	Consultation with States Members and the public
√	Aug – Sept 2005	Review comments and prepare final draft
√	Oct 2005	Home Affairs Committee approves and lodges the Criminal Justice Policy for States of Jersey debate

FINANCIAL AND MANPOWER IMPLICATIONS

- 1.40 Additional financial and manpower costs will be incurred in implementing this policy fully, but these are not excessive. The most significant costs are associated with the introduction of post-custodial supervision legislation, forming an independent group to oversee policing matters and establishing a Prison Education Unit. Total revenue implementation costs amount to £480,000, but £250,000 has already been granted through the 2006 revenue allocation process in order to fund the provision of 6.5 additional staff to introduce supervised release. Ideally, revenue growth will be approved to fund the remaining £230,000. Should this not be forthcoming, the Home Affairs Ministry would need to review future budgetary priorities or seek other funding streams for particular policy aims. Some policy measures are already funded, the most significant being the ‘Building a Safety Society’ Strategy. A summary of the existing funding and implementation costs is given at Appendix 3.

CRIMINAL JUSTICE POLICY – OVERVIEW

BACKGROUND

- 2.1 Historically, criminal justice policy and practice in Jersey has evolved through the office of the Attorney General partly in his capacity as the *Partie Publique*. This role is vitally important in that it ensures that the public interest is served in the judicial process. Hitherto, the executive has played a largely passive role in criminal justice policy matters with its involvement concentrated on delivery of various aspects of the criminal justice process through its operational departments and taking legislation through the States of Jersey. Prior to 2000, executive responsibility for the delivery of criminal justice services was fragmented across States of Jersey Committees, i.e.: States of Jersey Police (Defence Committee), HM Prison (Prison Board), Customs (Finance and Economics Committee) and Probation and After-Care Service (Probation Board). These services were drawn together under the Home Affairs Committee shortly after its creation in December 1999 although, in the case of the Probation and After-Care Service, this extends to financial responsibility only with operational responsibility remaining with the Probation Board. Whether by accident or design, the complementary, and sometimes conflicting, responsibilities and objectives of these operational departments highlighted the need for an over-arching policy on criminal justice matters. Consequently, when the States of Jersey adopted P.70/2002, which outlined the organisation of departments under ministerial reform, responsibility for criminal justice policy was allocated to the new Ministry for Home Affairs.
- 2.2 Since there would be very few changes to the composition of operational departments in the Home Affairs area during the transition to ministerial government, in 2002 the Home Affairs Committee decided to press ahead with the formulation of a criminal justice policy for Jersey. This was a bold step given the complexity of the task and the fact that there was no pre-existing policy; however, the prize would be a criminal justice policy lodged for debate by the time the States of Jersey transferred to ministerial government. Given the action plans detailed in this document, the criminal justice policy will have a 5-year life between the years 2006-2010. The policy is a key component in delivering Strategic Aim Three, Objective 3.8, of the States Strategic Plan: To Enhance Quality of Life by achieving low levels of crime.
- 2.3 It is acknowledged that, in developing this first Criminal Justice Policy for Jersey, many of the objectives are of Island-wide significance. This is particularly true of Pillar 5 which deals with early intervention. Within this Pillar, strategies to positively impact upon risk factors will require considerable further exploration and consultation encompassing the States sector, voluntary partners and the public. It is therefore important to recognise that the Committee is seeking support for the principles which underpin this Criminal Justice Policy, accepting that partnership work to achieve the higher level aspirations will continue for many years into the future. The Action Plans described at the end of each section describe the role and contribution of the Home Affairs Committee in taking these matters forward.

POLICY DESIGN

- 2.4 Bearing in mind that this was ‘un-trodden turf’ in that the Island had no formal criminal justice policy, the Home Affairs Committee commissioned Professor Andrew Rutherford, Dean of Law at Southampton University, to carry out an independent review into various aspects of the criminal justice process. The purpose of the review was to provide a focus for future policy setting and a statistical base from which to carry out informed debate and decision making. His report, entitled ‘Review of Criminal Justice Policy in Jersey’ (hereinafter referred to as the ‘Rutherford Report’) was published in October 2002. The Rutherford Report made ten recommendations which are reproduced at Appendix 1. The Committee took an early decision not to pursue Recommendation 4 because of the cost implications and the impact on the traditional role of the Honorary Service. The other recommendations were taken forward into policy design and are referred to in the relevant part of the policy document.
- 2.5 In designing this policy, the Committee’s objective has been to translate the criminal justice principles and priorities of government into courses of action which it believes will deliver the desired changes. In so doing, the Committee has sought to design a policy which will look to the future, take a holistic approach, use the available evidence upon which to base decisions, be inclusive of the views of

professionals and the public, and ensure that solutions are both cost-effective and joined-up. Consequently, this policy should not be confused with a judicial services review which would concentrate solely on the judicial process. Rather, the Committee has taken the approach that criminal justice is part of life, is a key part of the fabric of society and paints a broad canvas. A myopic approach would contend crime happens, offenders are dealt with by the courts and are subsequently punished. This policy takes a more enlightened approach by questioning why crime takes place, assesses the depth of its roots, whether it can be prevented, and what alternatives are there to complement formal court action and the penal system. Moreover, it seeks to uphold the independence of the judicial system and does not seek to interfere in the sentencing policy of the courts.

2.6 In formulating the policy, a ‘cradle to grave’ approach was taken by first examining criminal justice values that are relevant to our society, then looking at a logical progression from early intervention, through enforcement and how offenders are dealt with, to rehabilitation. The importance of sound criminal justice statistics and the needs of victims are also recognised. This led the Committee to found its criminal justice policy on nine specific ‘pillars’ which are represented diagrammatically below and covered in the remaining chapters.

✓

Oct 2005

Home Affairs Committee approves and lodges the Criminal Justice Policy for States of Jersey debate

FINANCIAL AND MANPOWER IMPLICATIONS

- 2.8 Additional financial and manpower costs will be incurred in implementing this policy fully, but these are not excessive. The most significant costs are associated with the introduction of post-custodial supervision legislation, forming an independent group to oversee policing matters, and establishing a Prison Education Unit. Total revenue implementation costs amount to £480,000 but £250,000 has already been granted through the 2006 revenue allocation process in order to fund the provision of 6.5 additional staff to introduce supervised release. Ideally, revenue growth will be approved to fund the remaining £230,000. Should this not be forthcoming, the Home Affairs Ministry would need to review future budgetary priorities or seek other funding streams for particular policy aims. Some policy measures are already funded, the most significant being the 'Building a Safety Society' Strategy. A summary of the existing funding and implementation costs is given at Appendix 3.

POLICY CONTEXT – INTERNAL AND EXTERNAL INFLUENCES ON CRIMINAL JUSTICE POLICY

INTRODUCTION

- 3.1 Designing a criminal justice policy requires an analysis and reconciliation of a range of conflicting priorities and risks. Judgements must then be made to arrive at the most appropriate and cost-effective options. Tensions are bound to arise within our criminal justice system, the most striking example at present being the need to reconcile court sentencing policy, particularly with regard to drug trafficking, with the need to manage the prison population at sustainable levels. In terms of risk, we have already made a judgement, for example, that employing a range of modest intervention policies through the Building a Safer Society Strategy will be reflected in lower crime levels than would otherwise be the case. The policy also needs to be put into context against the various factors which bear on policy formulation. This is best done through a 'PESTEL' analysis which draws out the political, economic, social, technological, environmental and legal factors at play.

'PESTEL' ANALYSIS

Political

- 3.2 The Island's aim is to transfer to ministerial government by the end of 2005. Business conducted through the new 'Ministries' will be liable to scrutiny through Scrutiny Panels, with greater transparency and accountability achieved through the Public Accounts Committee. Hitherto, the Home Affairs Committee's involvement in the criminal justice process has been mainly through the work of operational departments, in particular the States of Jersey Police, HM Prison, the Customs and Immigration Department and the Probation and After-Care Service. However, Home Affairs will become responsible for the formulation of criminal justice policy itself. Jersey does not currently have a formal policy but, historically, the principles of good justice have been upheld by the office of the Attorney General in his role as the Partie Publique whereby he seeks to safeguard the public interest. Thus, the governmental transformation that we are currently engaged in requires the Home Affairs Committee to take responsibility for the future shape of criminal justice policy and its implementation by the agencies under its control.
- 3.3 Jersey's criminal justice policy also needs to be alive to significant changes taking place in UK policy. The UK Government has been particularly active in recent years in making changes to the whole spectrum of law and order ranging from community safety initiatives through police reform to the power of the courts. However, it would be a mistake to read across into the Jersey system every new initiative emanating from Whitehall. The Island must examine critically new developments before thinking of adopting them here in case we achieve the same objective in a different way already or they are simply not right for Jersey. We must not assume automatically that the UK's problems are our problems. We face different challenges from which it follows that other remedies will often be more appropriate. In fact, our criminal justice challenges are more akin to those faced by Guernsey and the Isle of Man than the UK or mainland Europe.

Economic

- 3.4 Jersey has a stable, low crime society which contributes significantly towards maintaining economic prosperity. Rising crime would have a negative effect on economic prosperity. Jersey is entering a period of stringency in public spending whereby departments have been required to review the services they provide to the public. There is little scope for drastic savings in the criminal justice area, which incorporates the judicial system and operational departments delivering front-line services. This is due to the lack of economies of scale; wide statutory responsibility; a custodial system that has to cater for all categories of offender; and the ability of other jurisdictions to invest more funding in the criminal justice area, notably policy formulation. However, there is scope for prioritising tasks and putting better systems in place, for example, to manage the prison population more cost-effectively. There are also value-for-

money issues such as the balance between custody and community penalties, although it is accepted that the judiciary must be free to judge whether a custodial or community penalty is appropriate in individual cases. In the current financial climate, the challenge is to ensure that the criminal justice system, and the various agencies within it, operates efficiently without compromising its effectiveness.

Social

3.5 The 'Imagine Jersey' consultation process carried out in early 2004 indicated how the public perceives the state of criminal justice in Jersey. Very few delegates placed law and order high on the list of challenges facing the Island in terms of desired change. Indeed, the fact that many people did not even mention it as a specific objective could indicate that the Jersey community has come to expect a feeling of well being, a high standard of policing and a judicial system of the first order. That should not be a signal for complacency since there are other social problems which need to be factored into a criminal justice policy, for example, those on low wages in a high-cost society, the special needs of young people and the persistence of drug trafficking. We must also learn from the UK's experience with extended opening hours as they try to address the problems associated with 'binge drinking'. It is vital that policies interact and Home Affairs will therefore continue to play a part in the Social Policy Strategy Group. We must also bear in mind that, on the 1st May 2004, the EU acquired ten more member states predominantly from Eastern Europe.

Technological

3.6 Advances in technology will continue to help the criminal justice process operate more efficiently and have a bearing on policy making. DNA profiling, for example, has had a profound effect on crime detection. This has worked its way through to improving the chances of successful prosecution which, at the end of the chain, can impact upon the incarceration rate. The advent of electronic monitoring of prisoners has proved to be a useful adjunct to custody and was introduced in Jersey in April 2003. This initiative has been highly successful with 61 prisoners having been 'tagged' up to December 2004, 46 of whom completed the licence period successfully. Although such advances come at a price, we should be ready to fund new techniques which improve the likelihood of bringing criminals to justice, as in the case of DNA profiling, or provide managerial options and financial savings. The UK is intending to bring in satellite tracking as the next generation of electronic monitoring. It is too early to say whether this would be a viable or appropriate option for Jersey. Regarding information technology, the Home Affairs Committee is currently working with the Jersey Legal Information Board (JLIB) to analyse criminal justice business processes with a view to improving efficiency and achieving greater integration of the criminal justice system.

Environmental

3.7 At first sight, environmental factors would seem to have little influence on criminal justice policy. However, the relevance is more apparent when placed in a quality of life context. For example, the general ambience of town life is affected by our ability to 'design out crime' in a planning context. People's perception of the Waterfront as a safe place to go and the attractiveness of the town environment will be greatly influenced by the way in which the area is developed in the future and levels of public disorder often associated with the concentration of hostels and nightclubs in the Weighbridge area. The Alcohol Strategy has been adopted and it contains policies which are designed to improve the environment. For example, a key aim is to reduce alcohol-related crime and nuisance in the vicinity of drinking venues, the town centre and other public places by providing good practice advice to the Planning Department and licensees, and managing the environment through CCTV. Further afield, there would surely be an environmental impact if it became necessary to consider either a prison extension or a second prison on a green field site.

Legislative

3.8 The Rehabilitation of Offenders (Jersey) Law 2001 was brought into force on the 1st December 2002. The Police Procedures and Criminal Evidence (Jersey) Law 2003 is proving influential and calls upon

enforcement agencies, including the Honorary Police, to be fully conversant with its provisions. The Regulation of Investigatory Powers (Jersey) Law 2005 will have a similar impact. There are clearly cost and manpower implications to such new legislation.

3.9 There may also be new legislation which flows from the development of criminal justice policy, for example, in order to create additional sentencing options for the court or to update Prison legislation. All new legislation has a lead time in terms of drafting instructions, law drafting and consultation and this will need to be taken into account in the timescales for policy implementation. Legislation taken from the UK often needs to be tailored to meet Jersey's requirements.

PILLAR 1 – CRIMINAL JUSTICE VALUES

4.1 What we, as a society value, should underpin the criminal justice process. Establishing these values was therefore an early consideration. Approximately 120 people were specifically invited to provide opinions as well as the general public. These included all States of Jersey members, members of the judiciary and other officers associated with the criminal justice process from which emerged a consensus as to the principal values. In no particular order, those identified by respondents were –

- Justice
- Respect for human rights and dignity
- Protection for the public, victims and witnesses
- Freedom from prejudice
- Right to legal representation
- Right to a fair trial
- Respect for the rule of law
- Awareness of cultural diversity
- Rehabilitation
- Deterrence from offending
- Fairness
- Integrity
- Impartiality
- Equality of treatment
- Professionalism

4.2 Based upon these values, the key aim of criminal justice policy is –

To enhance the quality of life in Jersey by creating a safer community; reducing the level of crime, disorder, offending and re-offending; and to pursue policies which assist in the delivery of justice fairly and cost-effectively by –

- ❖ Supporting early intervention initiatives to address the risk factors that give rise to offending.
- ❖ Supporting the rights of the accused, particularly the right to legal representation.
- ❖ Minimising the stress and inconvenience to victims and witnesses.
- ❖ Encouraging respect for the rule of law.
- ❖ Supporting the Honorary Service in their parish duties.

- ❖ Eliminating the risk of bias or prejudice based on race, ethnicity, class, gender or age.
- ❖ Re-habilitating and re-educating offenders to change their attitude and behaviour.
- ❖ Reducing the fear of crime.
- ❖ Helping to protect the Island from the threat of terrorism.

4.3 There is an element of risk associated with the performance and delivery of these objectives in that implementation is not entirely in the hands of the Home Affairs Committee. For example, through effective policing, it can exercise direct control over reducing the level of crime, disorder and offending. On the other hand, it must let the judiciary decide upon a sentencing regime which delivers justice for all and protection to society. The constitutional principle of the independence of the judiciary in a democratic society needs to be preserved, as does the judiciary's right to decide the sentencing policy of the court. That is not to say, however, that the actions of the judiciary do not impact upon the aims of the executive and vice versa. It is important, therefore, that a dialogue remains open between the two so that there is some correlation between policy and the work of criminal justice agencies on the one hand, and the criminal justice process and sentencing policy on the other. This particular objective is covered in greater detail in Pillar 4– Joint Working. Similarly, the above supporting objectives are translated into policy aims in the following chapters covering the remaining eight criminal justice 'pillars'.

Pillar 1 – Policy Statement

The Home Affairs Committee will uphold the values that society considers should underpin the component parts of the criminal justice process. These values translate into the following key aim of criminal justice policy:

To enhance the quality of life in Jersey by creating a safer community; reducing the fear of crime and the level of crime, disorder, offending and re-offending; and to pursue policies which assist in the delivery of justice fairly, promptly and cost-effectively.

Action Plan

To achieve this key aim, the Committee will lead or support policies and initiatives which:

- Support early intervention initiatives to address the risk factors that give rise to offending.
- Support the rights of the accused, particularly the right to legal representation in appropriate cases.
- Minimise the stress and inconvenience to victims and witnesses.
- Encourage respect for the rule of law.
- Support the Honorary Service in their parish duties.
- Reduce the risk of bias or prejudice based on race, ethnicity, class, gender or age.
- Rehabilitate and re-educate offenders to change their attitude and behaviour.
- Reduce the fear of crime.
- Help to protect the Island from the threat of terrorism.

PILLAR 2 – CRIMINAL JUSTICE STATISTICS

INTRODUCTION

- 5.1 Policy development should be evidence-led if it is to be objective and take account of trends in offending. As the Rutherford Report highlighted the collection of criminal justice data in Jersey has, hitherto, been fragmented and inconsistent. Departments have tended to develop information systems to meet their own needs rather than for wider benefits. In so doing, departments have sought only to better manage their own business; however, this does not help us to understand a criminal justice process which is dynamic and in which the roles of departments such as the States of Jersey Police, Probation and After-Care Service and the courts are inextricably linked.
- 5.2 There are several reasons why the collection of criminal justice statistics has not developed in a more holistic way. Criminal justice is a particularly complex area with many variables; offenders, offences, antecedents, sentences, counting rules, etc. It is only in recent years that the technology has existed to draw the threads together in a coherent and useful way. The cost of such systems remains prohibitive and the ‘art of the possible’ has meant measures being applied to meet departmental needs rather than to inform the criminal justice process. Integrated information systems of such capability also require leadership at a high level to create the vision and drive a project forward.

THE LONGER TERM VISION – AN INTEGRATED CRIMINAL JUSTICE SYSTEM (CJS)

- 5.3 The Jersey Legal Information Board (JLIB) has supported the need for a core management and information system for a number of years and has been advised by Professor Richard Susskind, Information Technology Adviser to the Lord Chief Justice, on approaches to developing such a system.
- 5.4 Together with JLIB, the Committee has given its in-principle support for the vision of an integrated CJS and agreed that it would oversee the project given that it is better placed than the JLIB to progress future funding bids. It was agreed that the project should correspond with the States of Jersey’s current change programme.
- 5.5 Some progress has already been made. The technological infrastructure is in place to support collaborative, electronic working. The data to be collected has been identified and some process work has been undertaken. Change programme work, in particular process re-engineering, will provide a framework within which this work might be undertaken and above all, there is a keenness amongst key people to develop the way we work. An integrated CJS is currently being developed in Northern Ireland through the Causeway project. Causeway is a joint enterprise by the criminal justice organisations of Northern Ireland that aims to improve performance by sharing information electronically. Their vision is that all information shared within the CJS will be accurate, consistent, up-to-date and accessible electronically by staff who have a need to use it.
- 5.6 There would be little point, especially in the current financial climate, in attempting to justify a sophisticated, cross-departmental, IT solution without a clear and compelling business case being made. Consequently, a Scoping Study was undertaken from December 2004 to February 2005 to determine a sensible direction for Jersey and the costs/benefits, etc. The study was carried out by Dr. Debbie King, formerly Jersey’s Chief Probation Officer, and Douglas Mason of the Computer Services Department. The Study Team concluded that they could not recommend the implementation of a sophisticated, fully integrated criminal justice system at this point, but recognised that this would be a desirable aim for Jersey in the longer term. Though benefits to integration were identified, they were not considered sufficient to outweigh the costs, difficulties, and risks of integration at this time. Instead, recommendations have been made which should help to address some of these issues in ways other than full systems integration, but which could lay the foundations for a fully integrated criminal justice system, if and when the environment becomes more favourable. They considered this to be a more realistic and achievable aim at present. The report and its recommendations are being considered by the Committee and JLIB.

5.7 The Rutherford Report envisaged that “a reliable, robust and consistent set of crime and criminal justice statistics be in place on an annual basis by the year 2005.” The Home Affairs Committee takes the view that the achievement of this objective is not solely dependent upon the ‘big bang’ solution of a fully integrated system. Indeed, much is already being done to co-ordinate the production of annual statistics on a more modest scale through the Criminal Justice Statistics Working Group which brings together the planning and statistics specialists of all the criminal justice agencies and the courts. Although the quality and accessibility of data varies between agencies, this has not precluded the production of longitudinal statistics to inform policy making and planning. Consequently, the following statistical analysis seeks to provide a comprehensive picture of criminal justice trends in Jersey, focussing on five main areas: the States of Jersey Police, the Magistrate’s Court, the Youth Court, the Probation and After-Care Service and the Prison. As this consultation document goes to print, the Home Affairs Department is in the process of analysing the results of the Jersey Crime Survey 2004. These will be published separately and referred to in this policy document once updated for lodging ‘au Greffe’ for debate by the States of Jersey.

States of Jersey Police - Recorded Crime Trends

5.8 Since the introduction of the OPEN system of recording offence data in 2001, the States of Jersey Police has begun to develop a comprehensive electronic database of recorded crime showing the nature of offences and offenders. Recorded crimes are those that are recorded by the Police and do not denote all crimes that are committed in Jersey. There are a number of reasons for this but, principally, it is because some crimes go unreported and therefore do not come to the attention of the Police. Although unreported crime is estimated to be around 40% of all crimes, official Police statistics provide reliable data on crime trends.

5.9 Society is most concerned about the recorded crime level; the level of offences against people and their property; and whether public disorder is prevalent. [Chart 1](#) shows that despite the popular belief that crime is rising, there has been a significant decrease in recorded crime since 1993. [Chart 2](#) shows that acquisitive crime (i.e. where property or goods are acquired in the process) is showing a marked decrease since 2001, whilst offences against the person and against property have shown little change. [Chart 3](#) would suggest that the public perception that public order offences are on the increase is not borne out by the trend in recorded offences.

Chart 1

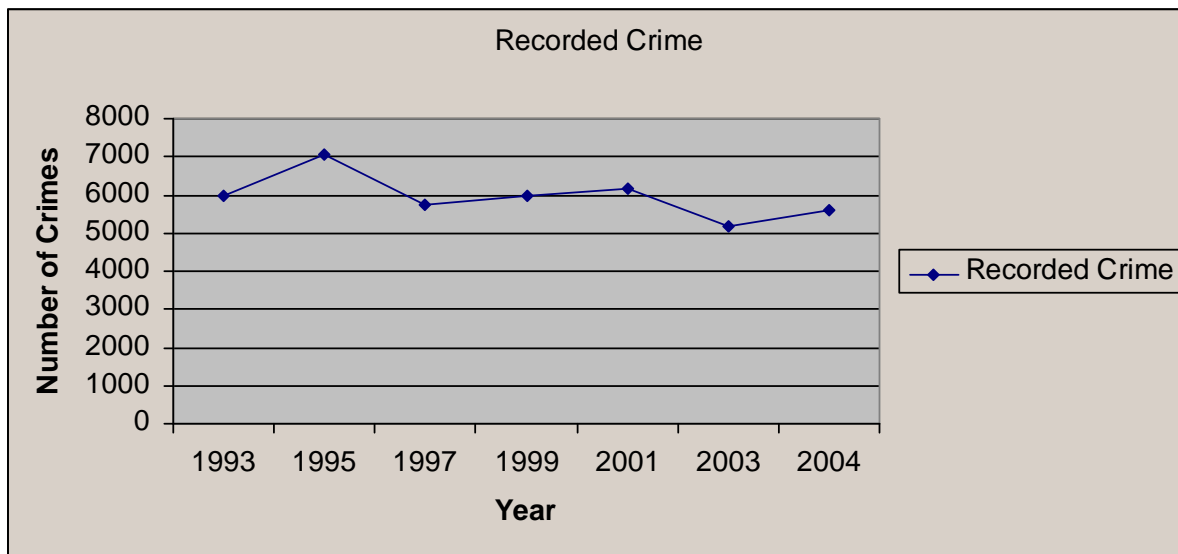


Chart 2

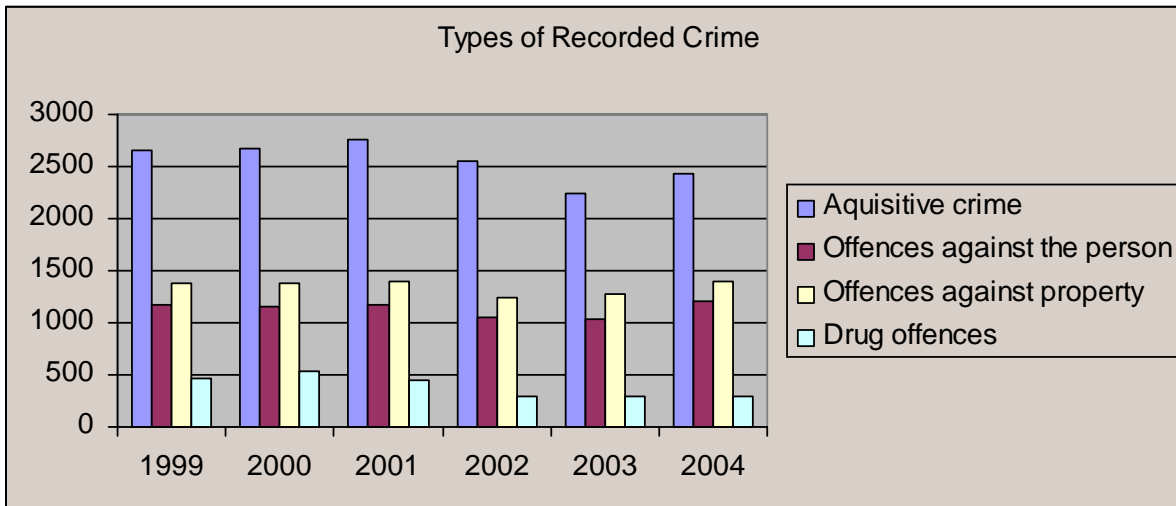
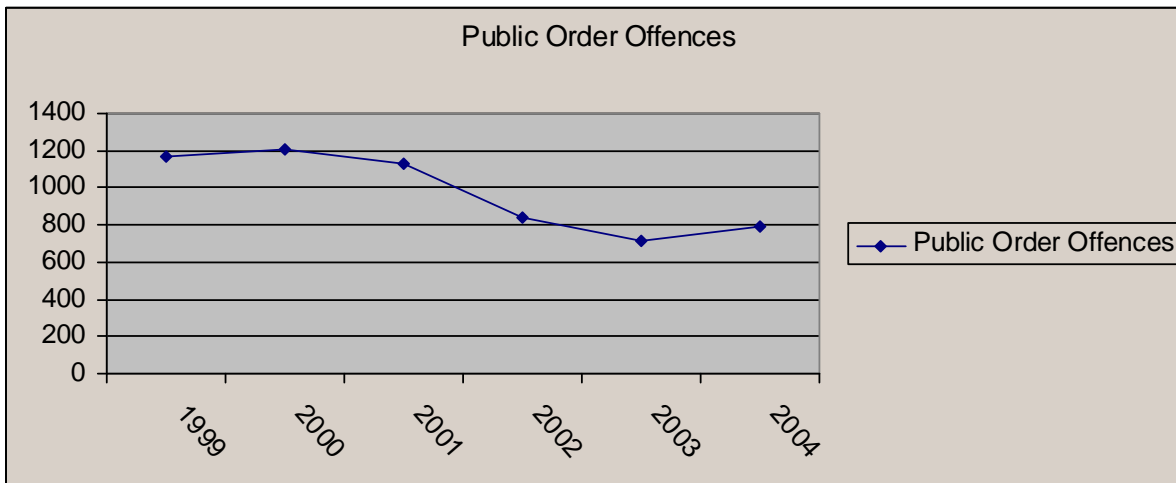


Chart 3



Magistrate’s Court – Trends in Appearances and Sentencing

- 5.10 Data for the Magistrate’s Court has been obtained from a manual analysis of all charge sheets. [Chart 4](#) shows there have been markedly fewer offenders appearing in the Magistrate’s Court since the late 1990s. This accords with the downturn in recorded crime over the same period. [Chart 5](#), which shows the categories of offences dealt with in the Magistrate’s Court, also highlights the downward trend in court appearances with the exception of breaches of Court Orders.
- 5.11 The sentencing trends in [Chart 6](#) reflect the sharp fall in the number of short custodial sentences up to the mid 1990s and the increasing use of Probation and Community Service Orders as an alternative to custody. The overall rise in committals to the Royal Court reflects increased offending or an increased detection rate in relation to offending. The apparent drop in committals in 2001 was caused by the increased jurisdiction of the Magistrate’s court to 12 months and £5,000 which came into effect on 26th October 2000.

Chart 4

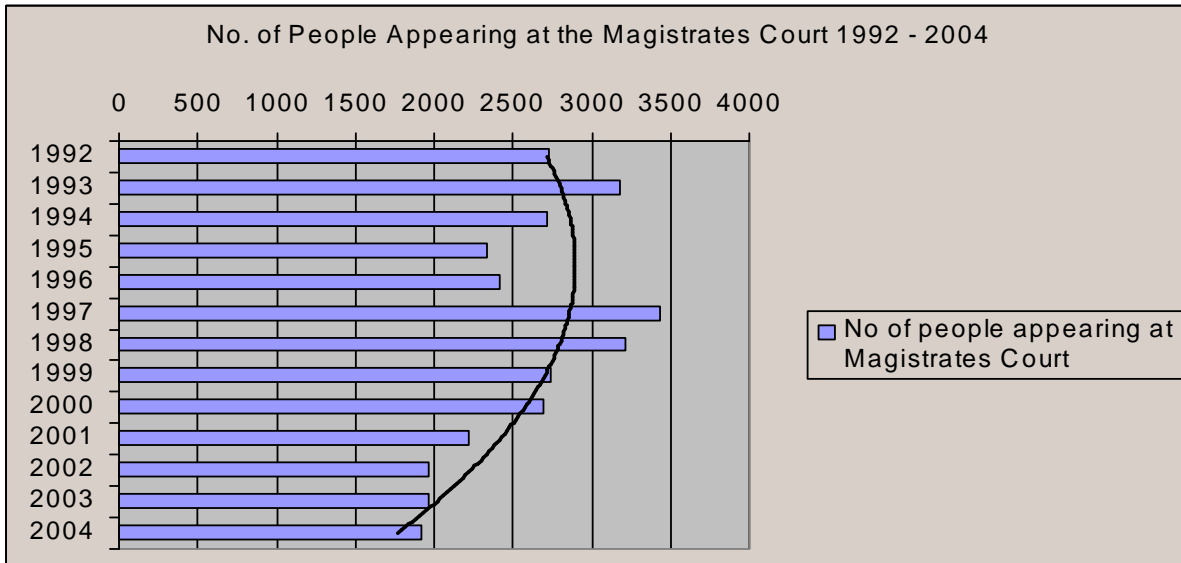


Chart 5

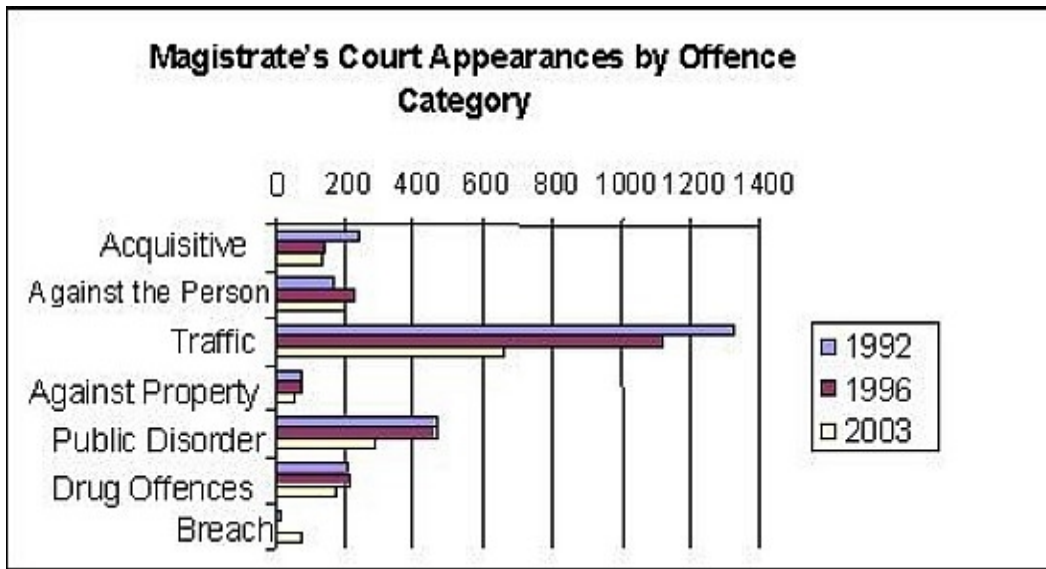
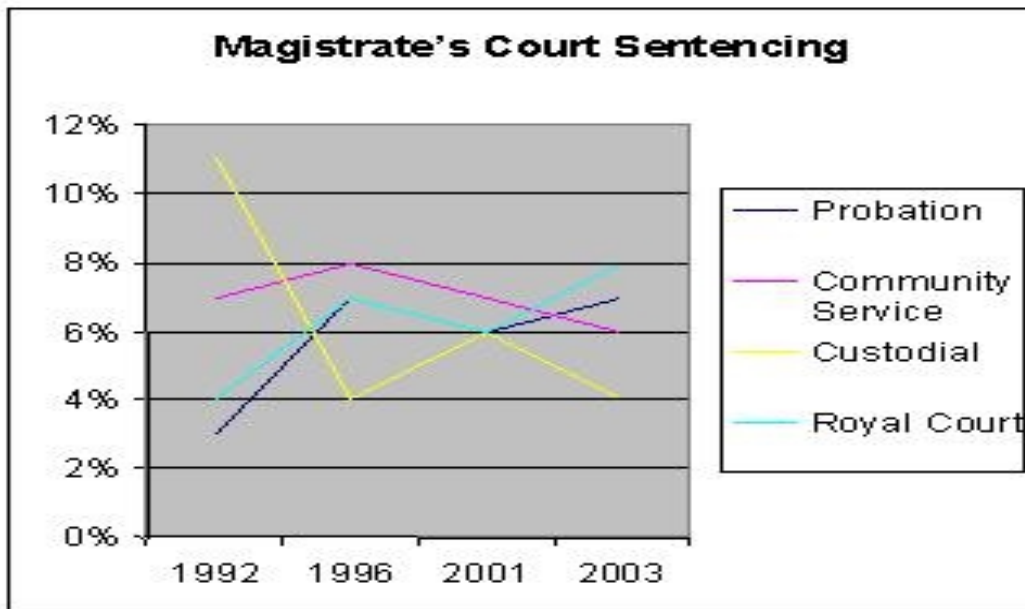


Chart 6



Youth Court

- 5.12 In 2004, statistics from the States of Jersey Police^[1] show that there was a 19% increase over 2003 in the number of youths caught offending, and a cumulative increase of 72% since 2002. Despite this increase, there has only been a small increase in the number of youths appearing before the Youth Court indicating that the majority of additional offending is being dealt with at Parish Hall Enquiries.
- 5.13 Table 1 shows trends in the categories of offences being dealt with by the Youth Court. The most significant factors are –
- Rises in acquisitive crime, offences against the person and public disorder.
 - A significant rise in the number of Court Order breaches.
 - Drug abuse problems that might be affecting the young are not resulting in court appearances.
 - A high percentage rise in finance related offences, but the numbers are relatively small.

Table 1 – Offence Type

	1997	1998	1999	2000	2001	2002	2003	% Change 97-03
Acquisitive	28	31	23	40	37	55	57	104%
Against the Person	21	31	24	35	44	42	37	76%
Financial	4	2	11	9	10	15	21	425%
Against Property	11	14	12	13	11	10	11	0%
Public Disorder	15	9	4	13	32	16	36	140%
Traffic	76	76	56	71	92	61	71	-7%
Drug Offences	1	1	0	3	0	0	0	-100%
Other	0	0	1	1	5	6	14	140%
Breach	6	8	9	4	20	46	30	400%
Total	162	172	140	189	251	251	277	115%

5.14 Table 2 analyses Youth Court offences from Table 1 in terms of how they were dealt with. Rather than focus on the total numbers and types of offences, this table enables an analysis of the changing pattern of sentence/disposal over the period. The most significant features are –

- Fines form 18% of sentences in 2003 as opposed to 12½% in 1997.
- Probation has doubled in use having risen from 16% of sentences in 1997 to 30% in 2003.
- Youth detention has risen only slightly over the period – from 2.4% of offences in 1997 to 3.6% in 2003.
- The proportionate rise in remands to the Royal Court has been small – an increase of only 1%.

Table 2 – Sentences

	1997	1998	1999	2000	2001	2002	2003	% Change 97-03
Fine	20	18	13	26	47	45	52	160%
B/Over	73	66	39	83	72	48	59	-19%
B/Over – Les Chênes	1	1	3	4	7	1	0	-100%
C/Service Order	9	16	20	14	35	28	20	122%
C/Service & Probation	1	0	0	1	1	8	10	900%
Royal Court	9	17	15	14	4	10	18	100%
Probation	26	35	23	37	67	69	84	223%
Attendance Centre	10	1	1	0	0	0	0	-100%
AC & Probation	2	0	0	0	0	0	0	-100%
Youth Detention	4	9	8	2	8	14	10	150%
BOTLI	1	1	5	0	3	2	2	100%
Probation – Les Chênes	5	5	7	4	6	6	0	-100%
Acquittal/Discharge/Dismiss	1	3	6	3	1	20	22	2100%
Other	0	0	0	1	0	0	0	-100%
Total	162	172	140	189	251	251	277	

Probation and After-Care Service – Trends in Rehabilitative Sentencing

5.15 The Probation and After-Care Service’s Annual Report 2004 contains a wealth of useful statistical information. In particular, it details the following trends in rehabilitative sentencing –

1. There were 223 new Probation Orders made in 2004. Although this is slightly fewer than in the peak years of 2000/2001, the total number of cases heard by the Magistrate’s Court has dropped significantly over the period (see Chart 4).
2. A similar comparison can be made with the peak years of 2000/2001 in respect of Community Service Orders. A total of 189 Orders were made in 2004, which is 9 more than in 2003.

5.16 The Annual Report contains an interesting analysis of the factors considered to be contributory to offending taken from the cases in which Probation have assisted in all three courts. This information bears out the importance of addressing risk factors as explained in Pillar 5 – Early Intervention.

HM Prison La Moye

5.17 The size of the prison population at La Moye was highlighted in the Rutherford Report. At that time, Jersey’s prison population rate per 100,000 inhabitants was 150, rising to 208 when prisoners

accommodated and paid for in prisons in England and Wales were taken into account. The mean prison population rate for European countries is 140 per 100,000 inhabitants. Only 18 months later, Jersey's prison population rate per 100,000 inhabitants was 216 for prisoners incarcerated at La Moye, rising to 248 when corrected for prisoners in England and Wales (see Appendix 4). Our incarceration level is more than twice that of Western European states such as Holland, France, Italy and Germany, and also of island states such as the Isle of Man and Guernsey.

CRIME IN JERSEY – WHAT THE STATISTICS SAY

- 5.18 People get their information about crime from many different sources; they may have had personal experience; they may know someone who has been a victim or offender; the media influences people's perceptions of how safe our island is, as do annual reports from our criminal justice agencies. As in many other communities the variety of information sources can lead to some confusion about the true picture of crime and criminality in Jersey.
- 5.19 Firstly, it is generally perceived that crime is increasing in our Island. The reality is that, over the 11-year period from 1993-2004 there was a 15% drop in recorded crime and a 33% drop in Magistrate's Court appearances. In 2004, overall recorded crime was 4.6% up on the 3-year average for January to June. However, care must be taken in deducing that crime is on the increase. Recent changes to the way in which assaults in particular are recorded have had a marked influence on the figures. For example, the Police now record cases of minor assault with no injury and no desire from the victim to make a complaint. Similarly, the Police can now identify 'hot spots' using the technology available to them. Perversely, focused policing in these areas can have the effect of increasing recorded crime in the short term.
- 5.20 Secondly, youth offending is seen as a particular problem in Jersey. Unfortunately, the States of Jersey Police has only been able to keep reliable data on the ages of offenders for the past 2 years, so it is too early to show any long-term trends. Nevertheless, it is a fact that 32% of detected offences in Jersey in 2004 were committed by youths under the age of 18. Such an increase is not due solely to demographic change. The States of Jersey Police has had an increased detection rate and employed intelligence-led tasking to target crime and disorder hotspots. The States of Jersey Police consider they are apprehending a greater number of existing offenders rather than there being a significant surge in youth crime.^[2] Youth Court statistics do show a remarkable increase in appearances from 2000 onwards; however, as [Table 2](#) shows, there has been no corresponding increase in the percentage of children being placed in youth detention or referred to the Royal Court whereas the Court's use of Probation has doubled over the period. This indicates that whilst more young people are appearing before the Youth Court, the percentage of those committing serious offences remains fairly static. However, the statistics in relation to Probation are probably distorted for 2 reasons. Firstly, the lack of a secure sentencing option or secure Children's Home accommodation for youths under 15, other than 2 welfare placements available at Greenfields, has meant that persistent offenders have been placed on Probation repeatedly. Secondly, the increase in the sentencing jurisdiction of the Youth Court on 26th October 2000 created a situation in which youths who were under 17 and who, therefore, under the terms of the Criminal Justice (Young Offenders) (Jersey) Law 1994, could not be sentenced by any court to more than 12 months at the Young Offenders Institution, could not be sentenced for a longer period by the Royal Court than the sentence available to the Youth Court. Consequently, the Youth Court generally stopped committing those under 17 to the Royal Court.
- 5.21 Finally, there is a common misconception that beating crime means locking up criminals. Jersey has the reputation of being a somewhat punitive society but custodial sentences for drug trafficking tend to be longer in Jersey than in other jurisdictions. Jersey's prison population rate for 2003 of 248 per 100,000 population puts it in the upper quartile of prison populations in Europe. 58% of sentenced offenders in the Prison have a drug offence as their primary crime. 41% of prisoners are serving more than 4 years. However, the reconviction study conducted on behalf of the Probation and After-Care Service shows that custodial sentences do not rehabilitate those at greater risk of re-offending with 69% having been reconvicted within 2 years. The figure for young offenders was 85%^[3].

Pillar 2 – Policy Statement

Criminal justice policy development needs to be evidence-led in order to take account of trends in offending. Hitherto, departments have tended to develop information systems in order to meet their own business needs. However, criminal justice is a complex and dynamic process and the ability to access a common database would create efficiencies in document management, the removal of duplication and accuracy of statistical information. Such an integrated criminal justice system will take time to deliver; consequently, the Home Affairs Committee envisages a long term and a short term strategy.

In the long term, the Committee aims to develop an integrated criminal justice information and document management system. A project of such complexity will require significant financial investment; a Scoping Study was carried out in early 2005 and its recommendations are being considered by the Committee and the JLIB.

The Home Affairs Department and other criminal justice agencies have had the foresight to produce criminal justice statistics annually using systems currently in place. In keeping with Recommendation 2 of the Rutherford Report, a Criminal Justice Statistics Working Group has been set up to continue this work until an integrated solution is in place.

Action Plan

- Implement the recommendations of the Integrated CJS Scoping Study as appropriate and bid for any necessary resources.
- In the meantime, continue to produce co-ordinated criminal justice statistics annually using current systems through the Criminal Justice Statistics Working Group.

PILLAR 3 – LOOKING AFTER VICTIMS

INTRODUCTION

“The greatest task facing the criminal justice system was to protect the vulnerable.”

Mr. Justice Moses, Soham Murder Trial

- 6.1 Too often, in the past, victims and witnesses have been treated without due consideration by agencies within the criminal justice system. It is a fact that, in most criminal justice systems, once a victim reports a crime, they have very little, if any, involvement in the investigation, prosecution and outcome of their case. They may have been asked to provide witness statements to the Police and the courts but it is very rare for them to be provided with any information about the progress of the case including the outcome.

VICTIMISATION IN JERSEY

- 6.2 Statistics from the Jersey Crime Survey 2004 show that approximately one in 4 respondents to the survey had been a victim of crime in the preceding 12 months. Furthermore, the chance of being victimised during the 12-month period, for the same type of crime a second time is much greater than normal i.e. becoming a repeat victim. For example, according to respondents, the chance of having something stolen from your car a first time is one in 49; however, the chance of being victimised a second time is one in 5. The chance of having your house burgled is one in 47; the chance of it happening again is one in 4. For sexual assault the probabilities are a one in 72 chance of becoming a victim and a one in 3 chance of becoming a repeat victim. Repeat victimisation is therefore a key issue.
- 6.3 Only 54% of respondents reported the incident to the States of Jersey Police. Official police statistics^[4] show that, just over 30% of recorded crimes led to a prosecution which means that approximately one in 11 households who reported being victimised would have seen an offender prosecuted. 60% of respondents to the Jersey Crime Survey stated that they avoided certain areas at night because of a fear of victimisation. 22% of people felt unsafe walking in their own neighbourhood after dark.
- 6.4 In developing policy proposals, we must be careful not to overlook issues such as violence against staff and so-called ‘hidden victims’. It is unfortunate that there is an increasing incidence of violence and hostility against professional staff such as nurses, social workers, doctors, police officers, prison officers and other groups who are legitimately carrying out their duties on behalf of the wider community. These staff groups deserve support in the difficult work they undertake and are entitled to protection just like any other member of the community. It is essential that we do not allow abuse against health and social care staff, in particular, to be legitimised because the individual perpetrator may be experiencing personal, social or physical difficulties.

THE IMPACT OF CRIME:

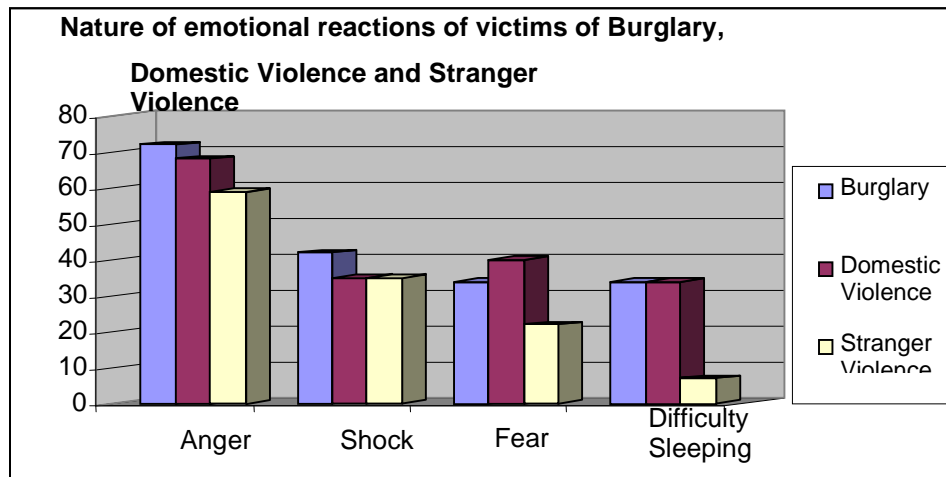
- 6.5 The focus group on ‘Looking After Victims’ defined a victim as someone who has suffered by reason of a crime. Taken literally this could be interpreted as meaning everyone in society. We all have to pay for insurance, to put locks on doors and windows, we are taxed to pay for the police and other emergency services. Crime clearly has an impact on us all. This policy concentrates on the response of criminal justice agencies and their partners and, therefore, a specific definition of a victim has been developed. For the purposes of this policy, a victim is defined as *‘Someone who has suffered physical, emotional, financial or spiritual harm, either directly or indirectly, real or threatened, as a result of a crime.’*
- 6.6 Central to any discussion on the place of the victim within the criminal justice system is an understanding of the impact that crime has on victims, their friends and family, and society as a whole. In the 1988, British Crime Survey (BCS) respondents were asked if they had had any emotional reactions to their victimisation. The following table illustrates the proportion of all victims affected in various ways by their victimisation.

Table 3

	Personal Crimes	Household Crimes
Victim experienced emotional reactions	66%	51%
Victim affected 'very much' or 'quite a lot'	44%	27%
Victim affected for at least a week	27%	12%
Victim's worst reaction:		
nuisance	3%	30%
anger	10%	18%
shock	26%	5%
financial loss	3%	13%
fear	13%	8%
invasion of privacy	1%	9%
sentimental loss	1%	3%
injury	7%	0%
<i>Source: BCS (1988)</i>		

6.7 The table shows that victims' reactions to crime are more or less as would be expected. Over 60% of victims of personal crime stated that they had suffered some form of emotional reaction. A higher percentage of victims of personal crime stated that they were affected for at least a week. The 2000 BCS confirmed that the most common reaction for victims of burglary, domestic violence and stranger violence was anger. The following chart summarises the findings.

Chart 7



Source:

BCS 2000

6.8 Various studies have attempted to quantify the cost (in monetary terms) of different types of crime on victims. A study conducted by the Home Office in 2000^[5] estimated a range of costs, including costs in anticipation of crime and those as a consequence of crime. These costs are summarised in the table at Appendix 5, and extrapolated for offences in Jersey in 2001. The Home Office model suggests that the cost suffered by victims in Jersey in 2001 could be estimated at c. £28 million.

CURRENT PROVISION FOR VICTIMS OF CRIME IN JERSEY

6.9 The following are examples of the ways in which victims are offered support in Jersey. There are many other agencies giving support to the victims of crime, often as part of a more general support service – good examples, by no means exhaustive, are Brook, Citizens Advice Bureau, Samaritans, Shelter Trust, Alcoholics Anonymous, Jersey Addiction Group. Discussions are continuing with representatives from Jersey Police (States and Honorary), Health and Social Services, Probation and After-Care Service and

Prison to introduce a multi-agency panel to consider the small number of individuals who pose the greatest risk in terms of serious offending or harm to others and identify ways to minimise the risk to the public. It is anticipated that the new procedures will be in place by the summer of 2005. The Attorney General will shortly be issuing revised draft guidelines for prosecuting counsel in relation to the treatment of victims.

States of Jersey Police

- 6.10 The Police are the first point of contact with the criminal justice process for most victims. The attending officer will provide the victim with a leaflet containing information on crime prevention, victim support and other support agencies. The Police keep the victim informed of court dates and, at the conclusion of proceedings, will advise victims, in writing, of the outcome. If a victim is required to attend court as a witness then the Witness Notification Clerk will provide them with a booklet explaining the process.
- 6.11 In the case of a serious crime such as murder, or where a child is involved, the Police have specialist staff including the Family Protection Team, Family Liaison Officers and Victim Liaison Officers to offer advice. In some cases the information gathered from the victim in relation to the harm suffered as a result of criminal activity will assist the court during criminal proceedings.
- 6.12 The Police Procedures and Criminal Evidence (Jersey) Law 2003, requires a system of ‘appropriate adults’ to be in place to assist in dealing with detained persons who are deemed to be vulnerable in, for example, interview situations. Health and social care professionals are currently fulfilling this role but this is proving to be a distraction from their normal work. A joint working group is reviewing the provision of appropriate adults which, following the UK’s experience may, subject to consultation, be provided by volunteer groups or through agencies such as the Citizens Advice Bureau.

Jersey Victim Support Scheme

- 6.13 Jersey Victim Support provides emotional and practical support to victims of crime. The service is both confidential and free. Victim Support volunteers are trained to the national standard. Jersey Victim Support currently deals with approximately 400 referrals per year.

Jersey Rape Crisis

- 6.14 Jersey Rape Crisis provides male and female victims of rape and sexual abuse with both emotional and practical support. It operates a 24-hour free-phone number and is operated by appropriately trained Victim Support staff and volunteers.

Jersey Women’s Refuge

- 6.15 The Refuge offers safe accommodation to women and children suffering domestic abuse. Trained staff and volunteers maintain a 24-hour service, with help, advice and counselling. Jersey Women’s Refuge also operates an Outreach Service which raises awareness of the issues surrounding domestic abuse; provides training for agencies in the private, voluntary and public sectors; and supports women and children in the community. The Refuge is recognised as a leader in best practice as evidenced by their invitation to run a domestic advice workshop in Gibraltar in May 2004.

Compensation

- 6.16 Victims who have suffered personal injury, loss of earnings or loss or damage to property may qualify for compensation. There are 3 sources of compensation available to victims of crime in Jersey depending upon the circumstances:
- **A Compensation Order against the offender**
The court may order the offender to pay compensation in addition to the sentence imposed for the criminality of the offence. The victim cannot apply for this directly.

- **A civil action**
Whatever the result of the criminal case, a victim can sue the offender for damages in the Royal Court. The increased jurisdiction of the Petty Debts Court allows general damages to be claimed up to a maximum of £10,000.
- **Criminal Injuries Compensation Scheme (CICS)**
If a victim has been injured as a result of an offence they can apply for compensation from the CICS. In 2003, the CICS' budget was raised by £100,000 to £284,000. The current maximum amount payable is £100,000 although the CICS Board would prefer to see this raised to £250,000. The States of Jersey is unlikely to approve this during the present climate of budgetary stringency. The effect would be for one large award to take up virtually all the budget. Exceeding the budget would impact on front-line services funded by the Home Affairs Committee and the Committee would not, therefore, accede to this.

Reparation

- 6.17 The Probation and After-Care Service runs the Jersey Victim-Offender Conferencing Scheme as a restorative justice initiative which has seen some remarkably positive results in the 2 years it has been running. It currently deals, almost exclusively, with young offenders, and results from satisfaction surveys show that both offenders and victims find the experience very useful. (see Pillar 8 – ‘Dealing with Offenders’).
- 6.18 The focus group discussions highlighted the fact that much commendable voluntary work goes on across a range of support agencies to meet the needs of victims. However, such agencies are largely independent of each other and sometimes find difficulty in accessing and understanding the criminal justice process. Independence, of course, has been their strength in that they provide unique, practical support outside the public gaze. It would be helpful, however, if government facilitated the ‘coming together’ of these agencies on a regular basis in order to share experience and create a more effective interface with the Courts and the criminal justice agencies. The advantages of this were recognised by the UK Government in its 2002 White Paper ‘Justice For All’ with its aim of ‘creating a better deal for victims, witnesses and communities’.

CURRENT THINKING IN HELPING VICTIMS

- 6.19 The UK has published its national strategy for delivering improved services to victims and witnesses^[6]. It starts from the premise that the criminal justice process needs to become more attuned to the needs of victims and witnesses, but recognises that those needs extend beyond what criminal justice agencies can offer on their own.
- 6.20 It states that “*victims of crime need to feel that the criminal justice process is accessible and responsive, seeks to make amends as far as possible for the damage done by the crime, and will protect them from further harm.*” The report continues that victims “*...want to be treated with respect, discretion and consideration... they want to be treated as individuals, with the response being appropriate to them and proportionate to the crime.*” The report states that victims need practical help, emotional support, compensation or reparation for injury and loss.
- 6.21 The report highlights the fact that some victims have particular needs. For example –
- **Children and Young People:** Many children and young people experience victimisation and the consequences can be serious both at the time and for their later development, including the potentially increased risk of turning to offending behaviour. Children may have particular difficulty understanding and articulating the need for help and may be fearful of the consequences of, for example, telling parents or others in authority.
 - **Repeat Victims:** Repeat victimisation is still underreported. However, targeting repeat

victimisation can both help to reduce the distress of some of the most vulnerable and intimidated victims, and be an effective strategy against persistent offenders.

- **Victims of Domestic Violence:** Domestic violence has the highest rate of repeat victimisation of any crime, with over 50% of incidents being repeats.
- **Minority Ethnic Communities:** Language difficulties, unfamiliarity with the criminal justice process, pressure from within their communities and fear of intimidation or stigmatisation can make reporting a crime incredibly difficult for victims of hate crime.
- **‘Hidden Victims’:** It should also be recognised that many victims, such as those mentioned above, the elderly, the mentally ill and the disabled, are often unable or unwilling to report abuse to the police or other authorities. For these victims we need to ensure that there are mechanisms in place to identify ‘hidden victims’ and to provide support and advice outside of the formal criminal justice process.

6.22 The report focuses on five key issues which are relevant to Jersey and which could form the basis of a victim strategy –

1. **Clarifying responsibilities and accountability of criminal justice agencies:** What criminal justice agencies, including the Honorary system, are responsible for, and to whom they are accountable, in the context of dealing with victims and witnesses needs to be clear as should the type and level of service, and the division of responsibilities between agencies.
2. **Case preparation, progression and management:** Good case management, from reporting to disposal, is essential so as to achieve certainty in listing arrangements and to ensure minimum inconvenience to victims and witnesses.
3. **Supporting victims and witnesses and keeping them informed:** Victims and witnesses need to be well supported and informed. This includes consistent and timely referral to Victim Support. It includes developing a needs assessment approach to identify victims and witnesses who require more support and/or are at risk of non-attendance. It includes the need to better understand the particular experience of those victims mentioned above, such as victims of hate crime.
4. **Making it easier for victims/witnesses to give evidence:** It should be easier for victims and witnesses to give evidence. Wider use of TV links, the use of intermediaries and some restrictions on cross-examination should be available to provide the most vulnerable witnesses, such as victims of domestic violence, sexual assault etc. the opportunity of presenting evidence without fear of intimidation or retribution.
5. **Tackling witness intimidation:** Witness intimidation is a significant problem in the UK. We have no data available locally but, given the size of our community and the fact that we live on a small island, the potential for witness intimidation is great. We need to ensure that the court environment protects victims and witnesses. The new Magistrate’s Court will significantly improve facilities in this regard. There needs to be early identification of the possibility of intimidation with the police and the courts working together to protect the most vulnerable.

6.23 It is of paramount importance that we develop a local strategy for ensuring that services to victims and witnesses are high quality. This could be achieved in partnership with the Victim Support Service commencing with a review of the existing Jersey Victims’ Charter.

Jersey Victims’ Charter

6.24 The Victims’ Charter contains 11 principles which form ‘The Statement of Rights for Victims’ –

1. The interests of victims should be balanced against those of the defendant.
2. Victims of crime and, where relevant their immediate family, must not be discriminated against on the basis of age, gender, sexuality, disability, culture, race, religious belief, occupation, political opinion or the nature of his or her complaint.

Victims must have the right to –

3. Respect and recognition at all stages of the criminal justice proceedings;
4. Receive information and explanation about the progress of their case;
5. Provide information to the court responsible for decisions relating to the defendant;
6. Ask for their physical safety and their psychological well-being to be protected;
7. Ask for protection from any intrusion into their privacy;
8. Receive information regarding their rights and the services available;
9. Have access to free victim support services;
10. Apply for compensation both from the offender and from the state;
11. Have access to health care services.

6.25 The Victims' Charter was a significant step forward when it was introduced in 1996. Since then, much has been done to address the rights of victims, not least through public funding of the Victim Support Service; the availability of information at all stages on case progression; the availability of compensation through the Criminal Injuries Compensation Scheme and Compensation Orders; and the sensitive handling of victims' health needs as a result of violent or sexual crime.

6.26 However, the Charter needs updating to take account of developments in the 21st Century and the Home Office 'New Deal' research. Firstly, with the advent of the Data Protection Law, there is sometimes a perception that the crime, once reported, is no longer the 'victim's crime' and that the best a victim can hope for is to be a witness in the case. Participation in the criminal justice process can be a key ingredient in helping the victim come to terms with what has happened to them. The restorative justice process, in use in Parish Hall Enquiries, is a good example of how victims can remain the most important person in the case.

6.27 Secondly, victim impact statements need to be routinely available to the courts in order that the impact of crimes on victims can be taken fully into account during sentencing. The Attorney General has agreed with the Royal Court the protocols to be used in producing victim impact statements. They are professionally produced, usually by a psychologist or psychiatrist, and only with the agreement of the victims.

6.28 Thirdly, media intrusion remains a difficult area and somewhat of a 'double-edged sword'. Victims must be made aware, at an early stage, of the likely media interest. Although they may not be named in media reports, other publicity will often lead to their identification. Domestic violence is a particular area where the naming of the offender can lead inexorably to the identification of the victim. In all but exceptional cases, the courts are loath to shackle the media's right to report on court proceedings in what is a public forum. In a broader sense, publicity can often be beneficial. For example, the reporting of domestic violence cases raises public awareness that domestic violence is a crime and will be treated seriously by the courts. Moreover, victims of domestic violence often feel that justice has been done when the perpetrator's name appears in the newspaper.

- 6.29 Fourthly, although compensation is available, funding is becoming tighter as budgetary pressures start to bite. Despite this, funding is provided currently through the Building a Safer Society Strategy at a level of approximately £30,000 per annum and the Committee will aim to continue this level of support. However, when the Service was set up, it had been the intention that, as a charitable trust, it should become self-financing in time by seeking private sector support and donations. This is a particular challenge for the Service's Committee which is aware that public sector financial support is likely to become more difficult to sustain.
- 6.30 In so far as keeping victims informed of the progress of their case is concerned, there is an efficient system for notifying victims of the first court appearance of the accused; however, the system does not work as well where cases are remanded to a later date. There is a need to establish where the responsibilities of the States of Jersey Police transfer to a centenier or the Legal Adviser in order to ensure continuity in the treatment of victims. In terms of providing compensation, victims will be better able to pursue a civil claim now that the jurisdiction of the Petty Debts Court has been increased to allow claims for personal damages to be made up to £10,000.

Measuring Our Success in Looking After Victims

- 6.31 It is possible to have an efficient criminal justice process and yet not meet the needs of victims. Therefore, we need a separate method of measuring our performance in looking after victims' needs. A number of performance measures are already in place: the Police Satisfaction Survey, the Jersey Crime Victimization Survey and validations of service carried out by Jersey Victim Support.

Pillar 3 – Policy Statement

Rates of reported and recorded crime mean that many victims and witnesses of crime never see the perpetrators brought to justice. Helping them is therefore a lot more complex than simply assisting them through the court process. Jersey has developed a close network of agencies involved in providing support to those affected by the consequences of crime, for example, the States of Jersey Police, the Honorary Police, Victim Support, the Women's Refuge, the Brook Agency, Citizens Advice Bureau and Crimestoppers. We also have statutory provision for the Criminal Injuries Compensation Scheme and Compensation Orders. As a result of the Crime and Community Safety Strategy, a Victims' Charter was developed in 1996 and the Victim Support Service set up. There is now a wide variety of agencies involved, in one form or another, in victim support who are keen to work more closely together. For its part, the Home Affairs Committee is committed to ensuring that everything is done within the resources available to minimise the level of victimisation through crime prevention measures and to help people who have been the victims of crime. However, justice must remain objective and victims should not have direct input into the administration of justice. Account also needs to be taken of the needs of repeat victims and hate crime victims. Research carried out by the UK Home Office for its strategy 'A New Deal for Victims and Witnesses' provides a useful and relevant framework for reviewing local arrangements for victim support.

Action Plan

The Home Affairs Committee will:

- Establish a Victims' Agencies Forum to bring together agencies representing the victims of crime and witnesses.
- Update the Victims' Charter in order to take account of significant developments since its initial publication such as human rights and data protection legislation, the Rehabilitation of Offenders Law, restorative justice techniques, media interest, the increased jurisdiction of the lower criminal and civil courts and the UK's experience in developing the 'New Deal' initiative.
- Review the funding arrangements for the Jersey Victim Support Scheme in consultation with the Jersey Victim Support Committee.
- Carry out a Crime Victimisation Survey every 3 years, in order to gauge the public's perception of safety, the levels of unreported crime, the needs of victims, and the quality and extent of assistance given.
- Review the provisions of the Criminal Justice (Evidence and Procedure) (Jersey) Law, 1997, to make it less restrictive so that victims and witnesses could present their evidence without fear of intimidation or retribution.

PILLAR 4 – JOINT WORKING

INTRODUCTION

- 7.1 The component parts of criminal justice are referred to by some as a ‘system’ and by others as a ‘process’. The distinction we would draw is that a ‘system’ is achieved when the separate ‘processes’ of decision taking, from the initial response to an offence through to the dispositional of sentenced offenders, are linked up.
- 7.2 Within the criminal justice system, effective communication is a prerequisite for successful joint working and, in this instance, it has two foci. Firstly, it is about ensuring that all agencies within the system are communicating and have a common understanding. Agencies have been allowed to develop their own IT structures with the result that it is often difficult for them to share even basic information. To some extent this has been recognised by the Jersey Legal Information Board (JLIB) and it is hoped that the change programme currently under way in the public sector will encourage a more integrated approach.
- 7.3 Secondly, differing organisational cultures can be difficult to reconcile i.e. between those agencies with a punitive, enforcement approach and those with a more social, preventative approach. Fortunately, the work undertaken in implementing the Building a Safer Society Strategy – and the Crime and Community Safety and Substance Misuse Strategies before it – has ameliorated many of the cross-cultural issues. The formation of the Children’s Executive, and in particular that of the Youth Action Team, will further work to break down the barriers.

EXISTING NETWORKS

- 7.4 There are a great many agencies across all sectors which have a potential impact on the aims and objectives of any criminal justice policy. In Jersey, we are fortunate in that we have a strong tradition of joint working, especially at the operational level. The diagram at Appendix 6 highlights the numerous interactions which Home Affairs departments have on a regular basis with other departments and agencies within and outside the Island.
- 7.5 Joint working has been a particular strength in the criminal justice field for a considerable period of time. Aside from the more routine contacts highlighted in the diagram, all the agencies within the criminal justice system, together with Health and Social Services, Education, Sport and Culture and Housing have met on a regular basis at political, strategic and operational levels since 1995, as part of their commitment to the Crime and Community Safety and Substance Misuse Strategies. At the operational level, the Senior Officer Group, which has 13 members and is responsible for implementing the latest strategy, has met bi-monthly since 1995. It is recognised as one of the most successful multi-agency partnership groups operating in the States of Jersey. Whilst there have been some difficult issues to resolve, over the past 3 years the group has worked well together culminating in the States of Jersey’s adoption of the new joint strategy ‘Building a Safer Society’.
- 7.6 Joint working is a simple enough concept but it is difficult and complex to implement successfully. Within the criminal justice agencies themselves, there are a number of good examples. The States of Jersey Police engage the Honorary Police in weekly tasking briefings; speeding and ‘drink drive’ campaigns; and joint, high visibility policing in the town. They have recently produced a joint Memorandum of Understanding in the conduct of operations. Work with the Children’s Service involves joint training, case conferences and intelligence sharing. The Customs and Immigration Department and the States of Jersey Police work together on the Joint Intelligence Bureau and the Joint Financial Crime Unit to make the best use of intelligence and co-ordinate operations. Virtually all Probation’s effort involves partnership working. Their unique relationship with Parish Hall Enquiries is particularly effective whilst a partnership with the Prison and Securicor enabled electronic monitoring to be introduced in Jersey. More recently, the Children’s Executive, comprising senior officers of the Home Affairs, Probation and After-Care, Education, Sport and Culture and Health and Social Services Departments, have worked together effectively to draw up an implementation plan for the Bull Report^[7]

recommendations.

7.7 Despite the desire of agencies to work more closely together, there are always barriers to be overcome, some of them a product of modern society. Data protection allows us to share information in an appropriate way whilst protecting the rights of the individual. Lack of integrated IT and case management leads to duplicated effort and delay. The knock-on effect to the Prison of drug sentencing policy has been a dramatic increase in the prison population which should have been anticipated. Therefore, funding should have been secured to deal with this anticipated rise, or at least the additional cost taken into consideration when approving the change in sentencing policy.

‘HIGH LEVEL’ JOINT WORKING

7.8 The Rutherford Report recommended the establishment of a body with oversight responsibility for criminal justice policy. To be called the Criminal Justice Policy Oversight Council, its task would be to keep under review and co-ordinate all legislative and other initiatives relevant to criminal justice in order to encourage a joined-up approach that fully respects the independence appropriate to the essential separation of powers.

7.9 Whilst it is clear that effective joint working has become commonplace at officer level, both in the conduct of operations and the development of strategy, the same cannot be said for liaison between the executive and the judiciary at the highest level. Meetings do take place, but they tend to be ad hoc in nature to discuss specific issues. Clearly, as the Rutherford Report suggests, there are clear boundaries of responsibility which must be preserved. Sentencing policy is the preserve of the Court, whilst legislation, resourcing and the direction of operational departments belong to the executive. However, the criminal justice process implies a synergy between the executive and the judiciary which would benefit from a policy and planning forum. Rather than establish a formal body with oversight responsibility, there is a willingness amongst both parties to interact on a more regular and informal basis.

Pillar 4 – Policy Statement

Joint working is now a cornerstone of States of Jersey policy as well as a vital part of the criminal justice process which assures a common understanding of criminal justice issues, helps to reconcile differences in approach, minimises duplication of service, and provides value-for-money by ensuring that resources are applied for best effect. At operational level, criminal justice agencies have worked hard to achieve this but there is a need for better joint working at the highest level.

Action Plan

The Home Affairs Committee will:

- Continue to strive for effective joint working, not only between the criminal justice agencies reporting to it, but also the partner agencies in the public, private and voluntary sectors.
- Establish an informal forum for criminal justice policy and planning involving the executive, the judiciary and the prosecution.

PILLAR 5 – EARLY INTERVENTION

INTRODUCTION

- 8.1 Most modern-day crime prevention initiatives are aimed at reducing opportunities to offend or prevent crimes re-occurring in particular locations or situations. The impact of improved security or surveillance may be assessed over a relatively short timeframe. In contrast, early intervention crime prevention focuses on a range of social and individual factors that impinge on children’s development, thereby encompassing a broad array of programmes and interventions. Causal connections and the effects of these programmes are hard to measure. However, there is a growing body of literature which demonstrates a strong correlation between certain kinds of negative early childhood experiences and later offending. Most importantly, it is widely acknowledged that persuasive evidence has emerged over recent years indicating that interventions early in life can have long-term impacts on crime and other social problems.
- 8.2 By its nature, intervention is designed to prevent offending taking place, whilst diversion and treatment seek to assist those with the root causes of their problems, normally in a non-punitive way. The relationship between risk factors, offending and the criminal justice process is depicted on the table overleaf.

WHAT IS ‘EARLY INTERVENTION TO PREVENT CRIMINALITY’?

- 8.3 A report from the South Australian Crime Prevention Unit, entitled “*Pathways to Prevention: Early Intervention and Developmental Approaches to Crime in Australia*” identified a number of key concepts of early intervention to prevent criminality.
- 8.4 Early intervention aims to prevent the *development of criminal potential in individuals*. It does this by *aiming to reduce risk factors and increase protective factors*; that research has shown to be related to later offending. Interventions are most effectively targeted at ‘transition points’. Pathways through life *fork out in different directions at the kind of crucial transition points that mark new experiences and new relationships*. These are the times when people, especially young children, are most vulnerable to negative influences, but are also when they are most likely to be open to support and assistance. Interventions are most likely to be effective if *they work at multiple levels, concurrently* and target *multiple risk factors* and/or develop *multiple protective factors*. Interventions are most effective if introduced *early in the pathway to offending*.

Modifiable Risk Factors for Criminality

- 8.5 As mentioned above, early intervention works by reducing risk factors and increasing protective factors. Although comprehensive research has identified numerous predictors, it is possible to group these risks and protective factors under five broad headings.

Table 4. Risk and protective factors associated with antisocial and criminal behaviour [\[8\]](#)

RISK FACTORS				
CHILD FACTORS	FAMILY FACTORS	SCHOOL CONTEXT	LIFE EVENTS	COMMUNITY AND CULTURAL FACTORS
Prematurity Low birth weight Disability Prenatal brain damage Birth injury Low intelligence Difficult temperament Chronic illness Insecure attachment	<i>Parental characteristics:</i> Teenage mothers Single parents Psychiatric disorder Substance abuse Criminality Antisocial models <i>Family environment:</i>	School failure Normative beliefs about aggression Deviant peer group Bullying Peer rejection Poor attachment to school Inadequate behaviour	Divorce and family break-up War or natural disasters Death of family member	Socio-economic disadvantage Population density and housing conditions Urban area Neighbourhood violence and crime Cultural norms concerning violence as

<p>Poor problem-solving Beliefs about aggression Attributions Poor social skills Low self-esteem Lack of empathy Alienation Hyperactivity/disruptive behaviour Impulsivity</p>	<p>Family violence and disharmony Marital discord Disorganised Negative interaction/social isolation Large family size Father absence Long-term parental unemployment <i>Parenting Style:</i> Poor supervision and monitoring of child discipline style (harsh or inconsistent) Rejection of child Abuse Lack of warmth and affection Low involvement in child's activities Neglect</p>	<p>management</p>	<p>acceptable response to frustration Media portrayal of violence Lack of support services Social or cultural discrimination</p>
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Table 5.

PROTECTIVE FACTORS				
CHILD FACTORS	FAMILY FACTORS	SCHOOL CONTEXT	LIFE EVENTS	COMMUNITY AND CULTURAL FACTORS
Social competence Social skills Above average intelligence Attachment to family Empathy Problem-solving Optimism School achievement Easy temperament Internal locus of control Moral beliefs Values Self-related cognition Good coping style	Supportive caring parents Family harmony More than 2 years between siblings Responsibility for chores or required helpfulness Secure and stable family Supportive relationship with other adult Small family size Strong family norms and morality	Positive school climate Pro-social peer group Responsibility and required helpfulness Sense of belonging/bonding Opportunities for some success at school and recognition of achievements School norms concerning violence	Meeting significant person Moving to new area Opportunities at critical turning points or major life transitions	Access to support services Community networking Attachment to the community Participation in church or other community group Community/cultural norms against violence A strong cultural identity and ethnic pride

8.6 The above examples of risk factors have been proven to increase the risk of offending. Some of them are causative i.e. they may contribute to causing offending. Others may be co-related i.e. they may not cause offending but they may be seen in the lives of people who offend. Protective factors are factors which tend to protect against developing offending behaviour, or are co-related with non-offending. The relationship between risk factors, protective factors and offending behaviour is complex. No single risk factor has a strong enough impact to ‘cause’ criminal behaviour and no one protective factor can prevent criminal behaviour. Similarly, not everyone affected by risk factors will offend; and not everyone who offends is affected by risk factors.

What Works in Early Intervention

8.7 Research to date suggests that the most effective results are achieved by working with multiple risk and protective factors at multiple levels.

8.8 Interventions that have been shown to work include –

- Long-term support to the parents of very young children, enabling them to provide appropriate care, stimulation and support to their children. The right kinds of programmes can reduce abuse and neglect of children, build the social and cognitive capacities of children, and improve their life chances and those of their parents.
- Early childhood, pre-school and early primary school programmes that build particular social, emotional and cognitive capacities of children.
- Programmes which build supportive school environments and provide positive experiences of schooling.
- Programmes which deal with aggressive behaviour, oppositional disorder or behaviour disorders at different ages.
- Programmes for children, which build positive relationships between peers and adults.
- Constructive responses to early anti-social or criminal behaviour.

Cost-Benefits to Jersey of Early Intervention

8.9 Much has been made of late of the cost of Government to the tax payers of the Island. When being forced

to make cuts in expenditure, agencies often have to focus on those programmes which tackle immediate problems and produce small, short-term gains. Unfortunately, this means that, in some instances, more far reaching programmes, with the potential of achieving significant improvements in the long-term, are sidelined.

8.10 A number of projects have been evaluated, mostly in the US, in respect of their monetary benefits. Amongst those recently analyzed or re-analyzed are the following:

- **Perry Pre-school Project** – this project provided centre-based classes and teacher home visits for one or 2 school years to 58 children aged 3 or 4 in Ypsilanti, Michigan from 1962 to 1967. Benefits were tracked for both the participants and a comparison group through to age 27. Benefits included better school performance, higher employment, less welfare dependency, and lower involvement in criminal activity. In monetary terms, society benefited to the tune of \$50,000 per child, half of that in the form of savings to government.
- **Parental/Early Infancy Project** – in Elmira, New York, nurses started visiting mothers when they were pregnant and continued until the child was 2. The objective was to improve pregnancy outcomes and parenting skills and link the mother with social services. Between 1978 and 1980 the programme reached 116 first-time mothers. They and another 184 in the control group have been followed through to age 15 of the first-born child. Improvements for the mothers included better pregnancy behaviours and less child abuse in the short-term and lower welfare participation and criminal behaviour in the long-term. The children benefited as well in several domains. For the higher-risk portion of the sample, benefits to society amounted to \$31,000 per first-time mother.
- **Chicago Child-Parent Centres** – promoted reading and language skills, provided health and social services, and promoted parent involvement for children in pre-school through to third grade. A cohort of 989 children completing kindergarten in 1986 was tracked to age 20 and compared with a no-pre-school group of 550 children. The programme resulted in long-lasting educational-achievement benefits. Reduced special-education use, increased earnings and lower involvement with the juvenile justice system translated into \$35,000 in benefits per programme participant.

CURRENT AND FUTURE PROVISION IN JERSEY

'Building a Safer Society' Strategy

8.11 The Crime and Community Safety Strategy, which preceded the Building a Safer Society strategy (BaSS), introduced a number of new initiatives aimed at early intervention to prevent criminality. In line with our philosophy of 'Investing in Children', the Children's Service received a substantial amount of strategy funding and has invested in initiatives aimed at providing a varied programme of residential, respite and community based preventative work. This has included developing the Grands Vaux Family Centre to enable high-class interventions for vulnerable children/families; providing support to vulnerable children in mainstream nurseries; and introducing 'child centred' programmes for the most vulnerable children within specialist mainstream nurseries. Vulnerable children have also been supported through the further development of 'after school' groups seeking to prevent them being received into care. Up until February 2005 a total of 244 children had been supported through the Grands Vaux Family Centre and 'after school' groups and 96 vulnerable children had received support in mainstream nurseries.

8.12 From 2005 Jersey introduces BaSS: its first joint crime and community safety and substance misuse strategy. This includes the Alcohol Strategy. BaSS focuses on the 3 levels of intervention: **primary** – which are aimed at the general public; **secondary** – which are aimed at specific 'risk groups', particularly young people; and **tertiary** – which focus on the consequences of offending behaviour. A diagram outlining the relationship between the criminal justice process with risk factors, offending behaviour and subsequent action is at Appendix 7. Although a susceptibility to risk factors does not always result in offending behaviour, clearly intervention at this stage has a deterrent effect and is preferable to dealing

with the consequences of crime.

- 8.13 Nearly £1.5 million is being invested by BaSS over the next 3 years, in developing initiatives such as those mentioned above, whilst seeking to engage more fully with the voluntary and private sectors. Initiatives such as the Jersey Early Learning Literacy Years (JELLY) clubs, aimed at increasing literacy amongst vulnerable families; the Pathways Project, which focuses on community development in one of Jersey's more challenging neighbourhoods; enlargement of the parenting programme, which emphasises parents' responsibilities towards their children's behaviour; increased nursery places; and the establishment of new parent and toddler groups, all seek to ensure that vulnerable parents are provided with the support necessary to develop the skills which will help them to provide care, appropriate supervision and guidance for their children.

Harm Reduction

- 8.14 The Island embraced the ethos of harm reduction when the States of Jersey adopted the Substance Misuse Strategy in 1999. The Strategy defines 'harm reduction' as based upon the premise –

“... that it is the harm that accrues from drug use, rather than the drug itself, which is the proper, first focus for preventive efforts. This notion is driven by two related issues. The first is that it is recognised that the use of mood altering drugs, whether legally sanctioned or not, is normally deemed by users to be worthwhile ... in effect, people use drugs because they want to, and they want to because drug use ‘works’ for them ... The second strand of this harm reduction approach is that the total eradication of the use of mood altering drugs is unachievable.”

The substance misuse section of 'Building a Safer Society' continues with the theme of harm reduction.

- 8.15 Harm reduction is put into practice daily by officers on the Senior Officer Group which manages the Strategy, and by other agencies in the front-line. The Alcohol and Drug Service has been the leading proponent of harm reduction. The Service works closely with the States of Jersey Police through the Arrest Referral Worker. Allowing Centeniers to deal with personal possession of Class B drugs (first offence) by referral to the Drugs Awareness Course is another example of how the courts and the Police have accepted harm reduction techniques. The Prison has had a heroin replacement programme for a number of years and has had a Prison Drug Education Worker funded by the Substance Misuse Strategy. Probation and After-Care Service has been at the forefront of promoting harm reduction; for example the Court Liaison Officer has proved invaluable to the courts, whilst the Prison Probation Officer has a harm reduction role. Since the Rutherford Report was published, an Arrest Referral Worker has been appointed which was recommended specifically.^[9] Other projects which fulfil the ethos of harm reduction are the Town Alcohol Project, Health Promotion Officer (Drugs), the Needle Exchange Programme, the Methadone Programme and the Portuguese Offender Social Worker.
- 8.16 The courts are now more likely to accept a recommendation for treatment in the knowledge that the Court Liaison Officer would monitor the programme. Records show that 60% of offenders completed their orders without re-offending. The methadone programme is also proving successful with 34% of those on the programme coming off heroin at the first attempt. There is also a Prison Substance Misuse Counsellor who is able to offer some group work and one-to-one counselling for prisoners with a history of substance misuse. It is important to note that all this rehabilitative work is funded through the Building a Safer Society Strategy. Great strides have been made in addressing the effects of drug misuse through partnership working but, nevertheless, there is a recognition that some users legitimise drug use and continue to forge alliances both inside and outside of prison. Whilst it is not possible to rehabilitate everyone, some offenders come to terms with the problem themselves whilst others require intervention at different stages in their lives.
- 8.17 The Rutherford Report also recommended that consideration should be given to reclassifying ecstasy and cannabis^[10]. The Advisory Council on the Misuse of Drugs concluded that the sensible course would be to monitor developments in the UK closely. It agreed to reconsider the position after one year as a result

of the legislative changes which came into effect on the 1st January 2004. The Advisory Council on the Misuse of Drugs met in February 2003 to consider the proposed reclassification of cannabis in the UK and the possible implications for Jersey if it were to follow suit. At the present time, the Health and Social Services Committee has not indicated an intention to recommend reclassifying ecstasy from Class A to Class B or cannabis from Class B to Class C. Guernsey has already decided not to reclassify cannabis. The Home Affairs Committee will reconsider the position in consultation with others once the Council's follow-up report is available.

Scrutiny

8.18 In October 2004, Scrutiny Report 1/2004: Responding to Drug Use was published. This contains several recommendations of an intervention nature which, although primarily in the Health and Social Services area, will be reviewed on a multi-agency basis initially by the Senior and Chief Officers' Groups responsible for the Building a Safer Society Strategy. The Home Affairs and Health and Social Services Committees responded to the report formally in March 2005.^[11]

Bull Report Implementation

8.19 Of key importance to early intervention in Jersey will be the development of the Children's Executive. It is important to stress that the focus of the Bull Report was on provision for children with severe emotional and behavioural difficulties (SEBD) rather than any contact that some children may have with the criminal justice system. The Children's Executive will oversee the co-ordination of services to children with SEBD and their families. However, there is a criminal justice connection in that part of the Executive's remit will be preventative intervention and diversion where such problems emerge. The main aims of the Children's Executive will be to –

- generate a co-ordinated approach to caring for young people whose needs include residence in newly configured care environments or in what will be the Island's first totally secure setting;
- create educational arrangements which offer individualised and innovative programmes more readily suited to identified needs;
- establish a Youth Action Team comprising personnel from a wide range of services such as Health and Social Services, Children's Service, the States of Jersey Police, Probation and After-Care Service, Youth Service, Careers and Education, all of whom will focus on developing preventative intervention packages for children and young people at risk overall, at risk of offending and who are already known to the courts;
- develop therapeutic services aimed at supporting and promoting positive mental health and reducing young people's reliance upon addictive substances.

8.20 The Youth Action Team (YAT) is, arguably, the key proposal in relation to early intervention to prevent criminality. It will have dedicated staff on permanent secondment from agencies such as Probation and After-Care Service, the States of Jersey Police, the Children's Service and new staff recruited especially for the YAT. It will deliver a mixture of existing programmes which have been proven to work locally - such as the Parenting Programme, Restorative Justice and Court Liaison Officer – and new initiatives such as the challenge and adventure programmes, youth justice workers and specialist drug and alcohol nurse.

8.21 The Children's Executive has made other recommendations with regard to the youth justice system including the enhancement of the Parish Hall Enquiry, remands, court options and residential/secure care. The Executive considers that there would be merit in a child being able to attend a local Parish Hall, regardless of which Parish the offence was committed in, and for a more problem-solving approach to be adopted where Parish Hall sanctions are breached in a minor or non-persistent way. A Residential Supervision Order (RSO) is recommended for children experiencing significant difficulties at home,

school and the community, including offending, in order to help them re-integrate back into the community. Although intervention is always preferable, to provide for children who have not offended, the suggestion is that applications for RSOs are made through the Royal Court. Where children have committed serious offences or have shown an unwillingness or inability to respond to other residential provision, which puts either themselves or the public at serious risk of harm, it is recommended that provision be made for a Secure Placement Order (SPO). Discussions are ongoing with the Royal Court as to whether placements should be made following civil application or criminal proceedings. The court supports the civil route but feels strongly that a criminal route is also required as, in the case of children under 15, the Court's enforcement powers are limited. Probation and Binding Over Orders require consent and fines are not practicable. Although it is hoped that a civil application would occur first, the Court's view is that the lack of a criminal route would undermine public confidence and set a poor example to the defendant. An alternative option would be to raise the age of criminal responsibility, or otherwise take youngsters under the age of 14 out of the criminal justice system. Policy discussions on these matters are ongoing between the Corporate Parent and the Royal Court.

8.22 The recommendations made by the Children's Executive are an example of what can be achieved through a joined-up approach. They not only offer greater scope for effective intervention at one end of the spectrum but, at the other, put the custody of children, where this is deemed to be necessary, in its proper context. The Home Affairs Committee fully supports the recommendations.

Pillar 5 - Policy Statement

Early intervention to prevent criminality is a key area of criminal justice policy and one which, if invested in, will have a significant impact on criminality in our Island. The States of Jersey made a significant commitment to this philosophy in 1999 when it funded both the Crime and Community Safety Strategy and the Substance Misuse Strategy. It continued the commitment in 2004 in adopting, overwhelmingly, a report and proposition to bring these strategies together from 1st January 2005 in a new strategy, 'Building a Safer Society'.

Although the focus of the Bull Report was on addressing the needs of children with severe emotional and behavioural difficulties, there is a clear interface with the criminal justice process where offending behaviour is concerned. The Home Affairs Committee embraces fully the work carried out by the Children's Executive in recommending changes to the youth justice system.

Finally, the Home Affairs Committee is committed to the philosophy of harm reduction and has carried this forward into the new Building a Safer Society Strategy. The Committee also expects to be able to consider, in 2005, a follow-up report from the Advisory Council on the Misuse of Drugs on the question of whether certain illegal substances should be downgraded and the UK's experience in having re-classified cannabis. The Committee is mindful of the stance taken by Guernsey who, at present, have decided not to reclassify cannabis, and of recent medical research in the UK which has drawn attention to the psychiatric impact of cannabis.

Action Plan

The Home Affairs Committee will:

- In partnership with the Health and Social Services Committee, take the lead in implementing the Building a Safer Society Strategy and monitoring its progress.
- Play its part in implementing those recommendations of the Bull Report approved by the States of Jersey, in particular those relating to the establishment of a Youth Action Team.
- As a member of the Corporate Parent, continue policy discussions with the Royal Court and the Youth Court, particularly with regard to court options and residential/secure care.
- Re-consider the question of whether cannabis should be reclassified once the Advisory Council on the Misuse of Drugs has reported to the Health and Social Services Committee in 2005.

PILLAR 6 – ENFORCEMENT

INTRODUCTION

- 9.1 In the context of criminal justice policy, enforcement is defined as enforcing the criminal law, mainly through the States of Jersey Police, Honorary Police, Customs and Immigration, and enforcing orders of the court through the Viscount's Department. This section provides a short background to the enforcement role of each of these agencies, comments on their recent performance and goes on to examine enforcement challenges and issues.

BACKGROUND TO LAW ENFORCEMENT AGENCIES

States of Jersey Police

- 9.2 The States of Jersey Police has a uniformed establishment of 243 police officers and an additional 85 civilian staff. Their revenue budget for 2005 is £19.85 million. Whilst it may be felt that the States of Jersey Police has a high establishment for a small island, it must be appreciated that there are unique challenges facing an independent police force serving an island community. The Isle of Man and Guernsey both face the same problems but have larger police establishments per thousand population than Jersey. The number of officers per 1,000 population in Jersey, Guernsey and the Isle of Man is 2.76, 2.85 and 3.24 respectively. Once a comparison is made with a police division of equivalent size in the UK, the fundamental differences between local policing and that on the UK mainland become apparent. As well as the gamut of operational responsibilities undertaken by a UK police Division, the Jersey force has to be self-sufficient in the provision of port security, financial crime investigation, a Criminal Records Bureau and access to the Police National Computer, a Drug Squad, an Intelligence Bureau, the ability to undertake major crime investigation and to cover major incidents, and the provision of specialist capabilities such as firearms and surveillance teams. In addition, the Jersey Force carries out its own disclosure to the courts, provides a training function, CCTV coverage, and needs to maintain a range of support services such as HR, IT, communications and finance.
- 9.3 The States of Jersey Police surveyed the public in 2001 and 2003 to help identify priorities. The top 10 priorities from the public's perspective are shown in the following table –

Table 6.

Priority	Activity	2003	2001
1	Detecting or arresting people who sell illegal drugs	88%	88%
2	Responding quickly to emergency calls	88%	87%
3	Catching people involved in violent crime	85%	86%
4	Patrolling the town centre after dark	81%	77%
5	Detecting or arresting burglars	73%	72%
6	Detecting or arresting people who use illegal drugs	70%	n/a
7	Dealing with rowdy or drunken behaviour	64%	62%
8	Dealing with vandalism	64%	64%
9	Detecting or arresting car thieves	62%	58%
10	Dealing with serious motoring offences	61%	63%

- 9.4 Using the results of these surveys, the States of Jersey Police made six policing promises to the people of

Jersey which have been endorsed by the Home Affairs Committee. An assessment of progress to date has been made against each of these promises:

- **Preserving and improving the quality of life in Jersey** – recorded crime in Jersey fell for the second successive year in 2003. There has been particular success in reducing house burglaries and assaults, and arresting major players in the local drugs market. The survey showed that 83% of residents consider their neighbourhoods to be safe and an equal number have confidence in the Force.
- **Maintaining and enhancing the Island’s reputation as a financial centre of integrity** – the 2003 International Monetary Fund inspection of the Joint Financial Crimes Unit, manned by the States of Jersey Police and Customs and Immigration, reported that the unit had achieved the required standard of excellence for the conduct of money laundering investigations.
- **Developing an intelligence-led, pro-active style of policing** – the National Intelligence Model is being implemented and a reform of intelligence gathering and dissemination processes is already reaping rewards.
- **Giving value for money** – the force uses the Business Excellence Model for monitoring continuous improvement and is subject to external scrutiny from Her Majesty’s Inspectorate of Constabulary. They concluded that the Force is ‘providing an effective policing service to the people of Jersey’.
- **Developing and implementing the concept of problem-solving policing** – this is about treating the problem and not the symptoms. Permanent solutions are sought, but this may not mean eliminating a problem. The number of problem incidents or level of harm to the public may be reduced, or the problem and impact may remain the same but require less policing effort to respond to it.
- **Working in and with the community** – there is now a team of dedicated Community Officers and the Force is working hard to build good working relationships with many partners, particularly the Honorary Police with whom it has agreed a Memorandum of Understanding. Community and race relations training is undertaken by officers, whilst surveys have shown that victims of crime are impressed with the service they receive.

9.5 The Performance Benchmarking Report noted that the States of Jersey Police performs well in comparison to the selected measures used. Whilst noting that the cost of the service per officer falls in the upper quartile (£79,484 compared to £64,800 in Guernsey), the report acknowledges that we have to provide the additional services referred to previously. Staffing of the port and financial crime investigations alone adds £1.3 million to the budget compared to a UK Division.

Honorary Police

9.6 There are over 300 Honorary Police officers in Jersey currently made up of 12 Connétables, 61 Centeniers, 56 Vingteniers and 190 Constables’ Officers. All are elected by the parishioners of the Parish in which they reside (apart from St. Helier) and serve.

9.7 According to record, a Constable (or Connétable) was first mentioned as far back as 1462 and the first reference to a Centenier is in the records of 1502. The titles ‘Constable’ and ‘Centenier’ were well known in France and England but in Jersey their roles have developed along different lines. In Jersey, the position of a Connétable is similar to that of a Mayor, there being no similarity to a Police Constable either in Jersey or in the United Kingdom. Originally, there were only Honorary Police in Jersey who, in time, became too few in number. Paid police became necessary and were the forerunners of the States of Jersey Police Force. Any member of either force has the power of detention, but the Connétable and Centenier retain their customary right to charge. The Connétables have generally delegated their role as

police chief in their Parishes to a senior Centenier known as the Chef de Police.

- 9.8 At present, depending upon their position, Honorary Police belong to the Comité des Connétables, the Comité des Chefs de Police or the Honorary Police Association. There are, however, plans for the Connétables to relinquish their policing role as they are also members of the States of Jersey. There is a perceived conflict between their roles as law makers and law enforcers. At the same time, a Comité des Chefs de Police may be established to oversee Honorary policing across the Island and all Honorary officers will then become members of a single Honorary Police Association.
- 9.9 As well as supporting areas of the criminal justice system, the Honorary Police also provide the first stage of the prosecution process. A Duty Centenier will be on duty twenty-four hours a day during a seven day period and attends the Parish Hall as necessary. Their primary duties will be to charge and set bail for offenders who have been arrested or reported for offences within the Parish. All sudden deaths are attended by a Centenier and he/she has the power to search premises for stolen property without a warrant.
- 9.10 A Parish Hall Enquiry is held in the Parish in which an offence is alleged to have taken place. If a suspected offender is under 18 years of age, a parent or other guardian must go to the Parish Hall Enquiry with him or her; there will usually be a Probation Officer present. If the suspected offender is younger than 13 years of age, a Child Care Officer will normally attend instead of the Probation Officer.
- 9.11 A Centenier will be in charge of the Enquiry and there will usually be a Vingtenier or Constable's Officer present. The Centenier can only deal with offences if they are admitted. If there is no admission, he/she is obliged to refer the matter to a Court if he/she decides a prosecution should be brought. This decision requires 2 tests to be addressed: the 'evidential test' as to whether or not a court or jury, properly directed on the law, would be more likely than not to convict the accused of the offence charged, and the 'public interest test' which is whether it is, or is not, in the public interest to prosecute. This is, therefore, a prosecution process, and the decision whether or not to deal with the offence is a decision taken by the Centenier as a prosecutor balancing the different public interests which are involved. The Centenier will usually give the alleged offender the opportunity to tell him/her about the alleged offence. In the case of younger people, he/she may also ask a parent for background information. The Centenier will also be aware of any previous offences that may have been committed.
- 9.12 The Centenier may find it helpful not to reach a decision immediately. He/she can defer a decision for up to 3 months. If the decision is not to prosecute but to deal with the offence, there is a choice between—
- Giving a caution, usually in writing. This is a warning to behave better in the future and is kept as a permanent record.
 - Ordering the payment of a fine.
 - Requesting a compensation payment.
 - Allowing voluntary supervision with the Probation and After-Care Service or, for those under 13 years of age, the Children's Service.
 - Referring the case to the Magistrate's Court or Youth Court.
- 9.13 The Centenier is limited in the type of offences he/she can deal with. Therefore, where an offence is admitted, and the Centenier decides not to give a caution, he/she may have to inform the offender that the law instructs that such a case must be referred to a Court. In this event, the offender will be cautioned, formally charged and advised of the date he or she is to appear before a Magistrate.
- 9.14 On joining the Honorary Police, an officer will be issued with a handbook, which contains information on their role, and will also be expected to undertake immediate and on-going training which is conducted or

supervised by a professional Training Officer (currently a former States of Jersey Police officer).

- 9.15 The foundation course covers a basic knowledge of law and procedures needed by a new officer. Officers work towards an assessment of their competency to carry out policing functions. Parishes will also make available a variety of other training opportunities in such areas as first aid and conflict resolution, driver awareness, and manual handling.
- 9.16 It is difficult to place numbers on the roles played by the Honorary Police. At every sitting of the Magistrate's Court and the Youth Court, at least one, but usually several Centeniers will be present and acting as 'first-line' prosecuting officers. Most Parishes hold Parish Hall Enquiries on at least 2 evenings per week which will be staffed by Honorary Police. Routine Honorary patrols are provided in all parishes several evenings per week when there is always a duty Centenier, a duty Vingtenier and a duty team of Constable's Officers on call to respond to emergencies. Additionally, Honorary officers police special events such as the Battle of Flowers, the Battle of Britain Display, Food Fairs and other Parish events ranging from large funerals to road closures in case of high tide flooding. Many Honorary officers also give time to liaise with schools and youth clubs in their parishes. It would be true to say that man- and woman-hours given by Honorary officers in the course of a year across the Island will amount to many thousands. Honorary policing, however, is not free; the annual cost to rate payers is approximately £289,000^[12], mainly as a result of the operation and maintenance of vehicles and equipment.
- 9.17 In 2003, the first Queen's Golden Jubilee Award was received by the Honorary Police for the vital role played by the Honorary Service within the community.

Customs and Immigration Department

- 9.18 The Customs and Immigration Department, through joint working with the States of Jersey Police, is in the vanguard of protecting the Island against 'imported crime', the focus of which over the last 10 years has been the importation of illegal drugs. It also maintains a high state of vigilance against the constant threat of illegal immigrants.
- 9.19 The Jersey Customs and Immigration Department has statutory responsibility to control the importation of prohibited and restricted commodities, with illegal drugs being the predominant enforcement interest for the Department. Article 61 of the Customs and Excise (Jersey) Law 1999, establishes offences in relation to the fraudulent evasion of Duty, prohibitions and restrictions. Article 4 of the Misuse of Drugs (Jersey) Law 1978, creates offences relating to restrictions on importation or exportation of controlled drugs. The Law defines controlled drugs as –

Class A– the more harmful drugs such as heroin, cocaine ecstasy etc;

Class B – controlled drugs such as cannabis, amphetamine;

Class C – benzphetamine, methaqualone, barbiturates etc.

A person guilty of an importation offence is liable to the following maximum penalties –

- (a) Class A drugs: to a fine or up to life imprisonment, or to both;
- (b) Class B drugs: to a fine or to imprisonment for a term not exceeding 14 years, or to both;
- (c) Class C drugs: to a fine or to imprisonment for a term of not exceeding 5 years, or to both.
- 9.20 The importation of illegal drugs was recognised as a serious problem 10 years ago. In October 1994, a report sponsored by the Presidents of the then Defence Committee and Finance and Economics Committee^[13] made a number of recommendations 'to provide a coordinated and professional approach to the enforcement of the Misuse of Drugs Laws, and to identify the best structure and practices to

achieve that approach’.

- 9.21 As a result, a Joint Drugs Intelligence Bureau was established which enabled all drugs intelligence to be gathered, collated and disseminated at a single point. Additionally, a Strategy Group, consisting of senior Police and Customs managers, was set up to prioritise/direct the operational teams, allowing the capacity for effective drug enforcement to be greatly enhanced. It was recognised at the time that, if this initiative proved successful, it would have an impact in other areas. With the anticipated increase in arrests of hardened criminals, the resources of the Crown Offices and court availability would be affected. At that time, 47% of the prison population were serving sentences in relation to drug convictions. The expectation was that this would increase and, due to the fact that more of the drug syndicate principals would be caught, the sentences would probably be longer. Unfortunately, the timeliness of this warning was not acted upon in a positive way and Jersey is now paying the price with prison overcrowding and the cost of accommodating the overspill in UK prisons. Because of our effective border controls, Jersey has become a victim of its own success. Enforcement on the same scale is not evident in islands within the jurisdiction of the United Kingdom, such as the Isle of Wight, which do not have border controls.
- 9.22 All drug operations, whether carried out by Police or Customs, are intelligence-led. Intelligence is developed by various means and drug operations can be developed over short or long periods. However, drugs can be detected either when a suspect is stopped at a control point or arrested by a police officer inland. Since 1994, there has been a dramatic increase in drug seizures. Graphs highlighting the growing trends in terms of value and drug commodities are attached at Appendix 8. The seizure trend is likely to grow because the Police and Customs work extremely closely together and the 2 agencies are becoming increasingly more professional in their approach with a wider range of source intelligence being developed. Drug trafficking is an ongoing problem and is outlined later in this chapter under ‘Enforcement Challenges and Issues’.
- 9.23 The Immigration Section also plays its part in preventing even greater strain on the prison. It is a quite significant, but sometimes overlooked, contribution to dealing with imported crime. For many years it has worked very closely with its own French counterparts i.e. the Police Aux Frontières (PAF), in dealing with illegal immigrants found at the Jersey borders. Asylum seekers are usually encountered at the frontier. They will have arrived from a safe third country, usually France. Under the Refugee Convention they are sent back to a safe third country where they should have pursued any asylum claim. These persons are not recorded as ‘asylum seekers’; they are counted simply as ‘persons refused leave to enter’ along with other persons refused entry. Very rarely Immigration encounters persons already in the Island who claim asylum. The last occurrence was in October 2001 when 2 persons were detained as illegal entrants, claimed asylum, and were detained for 6 months in prison.
- 9.24 The term ‘illegal immigrants’ technically includes persons attempting to enter either with false documents, by employing deception or entering clandestinely, and persons discovered after entry (sometimes years after entry) who gained entry or leave to remain illegally like asylum seekers. Those encountered on arrival are counted in the ‘persons refused leave to enter’. Those encountered in the Island are counted separately as ‘enforcement’ cases. The statistics for 2002-2004 are as follows –

Table 7.

	<u>2002</u>	<u>2003</u>	<u>2004</u>
Persons refused leave to enter	95	77	39
Enforcement cases	11	7	16

- 9.25 It is rare that persons are detained either in Prison or at Police Headquarters. The policy is to return persons abroad as quickly as possible. For example, of the 16 enforcement cases in 2004, only 3 were detained and then only for one night each at Police Headquarters. The current policy is not to process asylum seekers and illegal immigrants intercepted at the frontier through the court process but to return them abroad.
- 9.26 Every holder of a false document is likely to have committed an offence but it is unproductive to delay

removal by taking them to court. In most instances, to do so would make it harder for them to be returned abroad as the French authorities will not accept them back if they are detained for more than 24 hours. Moreover the court's workload would be increased as would the prison population and repatriation costs.

Viscount's Department

- 9.27 The Viscount's Department is not involved in law enforcement generally or in a policing sense. In the context of criminal justice policy, however, its roles are to enforce arrest orders for defendants who have failed to appear in court and to enforce fines, costs and compensation orders.
- 9.28 Approximately 1,800 arrest orders are made by the courts every year with 70% (1,300) being made by the Magistrate's Court in relation to parking charges. Arrest orders for other than parking offences are issued to enforcement officers each day. Attempts proportionate to the alleged offence are made to enforce each order. As time allows, special efforts are made to pursue any outstanding arrest orders before they are finally 'written off' from active enforcement. Regarding parking arrest orders, letters are sent to defendants and approximately one quarter respond and are processed through the court. The remaining cases are allowed to lie on file except for multiple parking arrest orders for the same individual or where the defendant is wanted for a non-parking offence. Parking arrest orders are automatically deleted from the Viscount's Department's computer system after a suitable period.
- 9.29 A total of between 2,000 and 2,500 fines, costs and compensation orders are imposed every year. In 90% of cases, time to pay is granted by the Court. By delegation from the Magistrate, the Department exercises a discretion in enforcing fines whereby allowances are made for temporary unemployment or sickness. Where a defendant wilfully fails, neglects or refuses to pay, the default prison sentence is activated without reference back to the court. The defendant has the right to have the activation for the default penalty reviewed at the next sitting of the court. For young offenders, activation of the default sentence is not automatic and they have to be summonsed to appear before the Court.
- 9.30 The success rate for fine enforcement is 96% by number and 94% by value. There are approximately 80 compensation orders each year and the enforcement success rate is 99% in number and value. There are 250 cost cases annually which have a success rate of 97% by number and 99% by value. These success rates are exceptional when compared with the United Kingdom where they range from 33% to 87% with an average of 55%. This currently is a cause for concern for the UK Government in that the level of unpaid fines has reached £350 million. The Viscount's Department considers that its ability to activate a default prison sentence automatically is the most powerful tool at its disposal and is a significant deterrent to non-payment. The Department believes it is adequately resourced for its enforcement task although it is operating at close to maximum efficiency by making the optimal use of IT.

ENFORCEMENT CHALLENGES AND ISSUES

A Jersey Police Authority

- 9.31 A proposition to set up a Jersey Police Authority (JPA) was adopted by the States of Jersey on the 19th May 1998 having been recommended by the Clothier Report on the Policing of the Island. The 'shadow' JPA carried out much detailed work over the following 3 years into how the JPA could be set up as a legal entity. However, progress then became stalled for a variety of reasons which were reported to the States of Jersey^[14]. This paper also gave options for the way forward. Latterly, it has become clear that a JPA, or any form of group overseeing policing matters, cannot make any useful or legitimate contribution to police accountability or strategic direction until the future position of the Connétables under Ministerial Government has been decided. Once this issue has been resolved, the Home Affairs Committee will be better placed to recommend to the States of Jersey a framework that will provide accountability and transparency under Ministerial government.

Demographic Bulge

- 9.32 Half the Island's crime is committed by young men. The population of 14 – 17 year olds is predicted to increase by 13% from 2002 to 2006. Males under the age of 18 commit 40% of all offences and, according to police statistics, one in fifteen 14-17 year olds was arrested in 2002. Although these are not unusual findings compared with the UK and Europe, the police predict there will be an increase of 11% in crime over the next few years. Persistent youth offending is also problematic; in the first 7 months of 2004, 39 youths were arrested between 3 and 12 times each. This had implications for other agencies, in particular the Youth Action Team, Children's Executive and schools.
- 9.33 The likely effects of these demographic changes re-enforce the view that there is a need for criminal justice policy to tie in with other policies, particularly those in Education, Social Services, the Probation and After-Care Service and HM Prison. It is better to influence the behaviour of young people during their formative school years with the aim of diverting them away from any criminal tendencies and encouraging them to indulge in wholesome activity. This philosophy has a resonance with the aims and objectives of the Building a Safer Society Strategy (see [Pillar 5 – Early Intervention](#)).

Public Disorder and Anti-social Behaviour

- 9.34 The States of Jersey Police's satisfaction survey showed that people do worry about public disorder and anti-social behaviour. Police officers on the beat and a modern legislative framework are essential tools in combating these problems. At present, there are insufficient statutory powers to deal adequately with problems such as anti-social behaviour, disorderly conduct and 'neighbours from hell' situations. The Home Affairs Committee approved the Draft Crime (Disorderly Conduct and Harassment) (Jersey) Law 200-, in 2004, which is currently with the Attorney General.
- 9.35 In an attempt to deal with these problems on the mainland, the UK Government has brought in Police Community Support Officers (PCSOs)^[15], anti-social behaviour orders (ASBOs) and acceptable behaviour contracts (ABCs). PCSOs start on a salary of £14,793 p.a. plus a weekend working allowance. London boroughs have appointed between 14 and 32 PCSOs^[16]. In the year October 2003 to October 2004, a total of 2,600 ASBOs were ordered in the UK as the government tried to clamp down on the problem. This was twice as many as the 4 years previously put together. A third of these orders were breached but no figures are available as to how many resulted in youth detention or imprisonment. These measures have had some success; however, ASBOs have been discredited in circumstances when it would have been more appropriate to charge someone with a criminal offence in the first place. ASBOs are an injunction power in which the test applied is a civil one, although the breach of an ASBO becomes a criminal matter. Repeated breaching of an ASBO can often result in custody. This 'back door' route to custody has led to heavy criticism of ASBOs. Figures released by the UK Government in May 2004 showed that the numbers in youth detention rose by a thousand in the previous year with some of the increase due to breaches of ASBOs.
- 9.36 There would be a practical difficulty in adopting ASBOs in Jersey in that only the Royal Court retains injunction powers. Consequently, the Royal Court could become embroiled in dealing with relatively minor matters of bad behaviour. Whilst mindful that the Parish Hall Enquiry is a prosecution rather than a judicial process, Jersey prides itself on having this local framework to address similar issues and it is felt unnecessary at present to superimpose ASBOs on the existing structure. Jersey also has a Statutory Nuisances (Jersey) Law 1999, which has scope for greater use in anti-social behaviour situations. The softer powers contained in ABCs have an equivalent application in Jersey Housing contracts although it is accepted that eviction proceedings can take time to implement.
- 9.37 Despite the different systems and powers that exist in Jersey, anti-social behaviour remains a concern. However, before deciding what additional powers might be needed, the problem needs to be clearly defined and the adequacy of existing powers reviewed. To do otherwise might obscure the true nature and extent of the problem and cause inappropriate solutions to be formulated. The UK's experience with ASBOs also needs to be properly evaluated.

Imported Crime

- 9.38 The Home Affairs Committee is conscious that there is an element of so-called ‘imported crime’ into Jersey, particularly in the context of drug trafficking. Consequently, it is legitimate for the Committee to consider, firstly, whether it would be possible to refuse entry to the Island to anyone suspected of carrying illegal substances and return them to their point of departure, and secondly, whether we could restrict entry where a person has significant criminal convictions.
- 9.39 On the first point, the legal position appears to be that there is no existing legal power for the States of Jersey Police or Customs and Immigration to return suspects to their point of departure. Furthermore, to create such a power might cause legal difficulties with the Common Travel Area (CTA) concept. Since most drug importations originate from the UK, it is doubtful whether any controls that might be possible would be effective. British nationals arriving from and returning to the UK could subsequently arrive from abroad (i.e. outside the CTA) but could not be returned abroad. It could also be argued that law enforcement agencies have a duty to detect and prosecute crime where it occurs. Returning suspects to their point of departure goes against this principle and could cause political difficulties with neighbouring jurisdictions. The international legal position in which Jersey exists prohibits^[17] –
- the introduction of immigration or border controls in relation to UK, EEA and certain Commonwealth citizens;
 - taking measures which would amount to control over the rights of such citizens to come and live in the Island;
 - the Island from treating UK citizens differently from citizens of other EU states and EEA citizens – in relation to their rights to establish themselves in the Island, and;
 - taking actions which might not be consistent with the UK Immigration Act as extended to Jersey, Article 4 of Protocol 3 and European Court judgments relating thereto.
- 9.40 The above issues were raised during the States debate on the draft Migration Policy on 22nd June 2005. As a result, the Policy and Resources Committee has undertaken to review the international legal position with regard to people’s right to freedom of entry and whether the States could tighten border controls. The Home Affairs Committee will contribute to this review and have regard to the outcome prior to lodging this policy for debate.
- 9.41 Where drug trafficking is concerned, there would be a practical difficulty in targeting those who have significant criminal convictions. Most couriers are selected for their absence of criminal convictions for drug offences so that they do not draw attention to themselves. Consequently, it is often difficult to identify suspects in advance; indeed, much of the success in intercepting commercial quantities of illegal drugs has been achieved through the vigilance of Customs Officers at points of entry to the Island. Where evidence does exist, it might be possible to introduce a power to make an exclusion order. The principal difficulty here would be that the excluded person should have a right to challenge the order, ask for its periodic review and have a right of appeal against a decision to uphold the order.
- 9.42 As well as vigilance, good intelligence has proved to be most effective in combating the enduring drug trafficking problem. States of Jersey Police and Customs and Immigration effort is totally ‘joined up’ in this regard, and perhaps the greatest effort should go into maximising the sharing of intelligence with other jurisdictions on the basis that the risk of ‘double detection’ has a real deterrent effect.
- 9.43 The Home Affairs Committee has been keen to ensure that everything possible is done to prevent illegal drugs coming into the Island by alerting agencies in other jurisdictions, particularly the UK and France, and for the drugs to be ‘taken out’ before arrival in Jersey. Part of the Island’s Drug Enforcement Strategy has always been to identify the most appropriate place to effect the seizure of drugs destined for the Island. Many of the larger seizures have taken place in France. However, in relation to those who conceal illegal drugs internally, early interception is not a feasible option. Normally there is no specific

intelligence and it is only due to the expertise, profiling and experience of the Anti-Smuggling Officers at our ports and airport that these types of seizure are made.

- 9.44 Jersey Customs has set the standard by developing an excellent working relationship with the French Customs authorities in both Brittany and Normandy, and particularly the DNRED (Direction Nationale du Renseignement et des Enquêtes Douanières). As a result, a number of joint operations have been conducted between the agencies in recent years, particularly in relation to large commercial quantities of cannabis identified for importation into Jersey by fast boats from the Normandy coast. In such operations the opportunity is taken, wherever possible, to effect the arrests in France. French Customs are entirely comfortable with this operational strategy and, in the last few years, this has resulted in over 600 kg of cannabis being seized and 14 drug traffickers being imprisoned in France.
- 9.45 In relation to UK Customs, they operate a somewhat different regime. Their priority is also the detection of Class A drugs, but on a completely different scale. The majority of their time is spent looking at importation connected with serious organised crime. The relatively small amount of drugs that come to the Channel Islands is not a priority for them. Nevertheless, there are Channel Island-led operations where joint working with the UK occurs and, depending on the strategy of the operation, there are times when the decision is made to effect seizure and arrests in the UK. HM Customs have advised that they would not have the resources to monitor exports of illegal drugs in the manner we would require if they are to fulfil their own overall National Drug Strategy Plan. The volume of traffic at southern UK ports and airports militates against this.
- 9.46 Part of the Island's drug strategy is to arrest the principals of the drug gangs who reside in Jersey. Unless the agencies permit 'live drugs to run', i.e. into Jersey and occasionally away from the ports, Customs and Police officers have no opportunity to arrest key players in the Island.
- 9.47 A recent initiative has been to publish reported cases in the evening papers in the local media where arrested people originate from. These reports indicate how effective our enforcement agencies are at intercepting illegal importation. Offenders are apt to use the fact that they were not aware of the Island's drug sentencing policy as mitigation prior to sentencing. The intention of reporting these offences in the UK regions is to act as a deterrent in that they stress the likelihood of being caught. The early indications are that these reports are being read and in some circumstances are making would-be couriers think twice. It will be difficult to assess the value of the programme but, if it deters only a handful of potential couriers, it is worth continuing with. This initiative is funded from the Drug Trafficking Confiscation Fund.

Police Procedures and Criminal Evidence (Jersey) Law, 2003.

- 9.48 Article 43 of the Police Procedures and Criminal Evidence (Jersey) Law 2003, which has yet to be brought into force, provides for the possibility of courts sitting at weekends or on Bank Holidays for the purpose of reviewing bail and detention. Consequently, there may be a need for a third magistrate on a part-time basis.

Pillar 6 – Policy Statement

The Home Affairs Committee has a prime responsibility for enforcement through the States of Jersey Police and the Customs and Immigration Department. A close working relationship will be maintained with other enforcement agencies, notably the Honorary Police and the Viscount's Department. The Committee endorses the six 'policing promises' that the States of Jersey Police have made to the people of Jersey and will continue to survey the public regularly in order to identify their law enforcement concerns and which areas to target. The public continue to identify drug trafficking as the greatest menace to society and there is a continuing concern over anti-social behaviour. Consequently, through the Joint Intelligence Bureau, both Customs and the Police will pursue those who seek to profit from trading in illegal drugs. The authorities have had significant success within the region of £4.5 Million of drugs seized in 2003, and in excess of £7 Million in 2004.

Action Plan

In order to address the enforcement issues and challenges ahead, the Home Affairs Committee will:

- By the end of 2005, or when the future position of the Connétables under Ministerial Government has been decided, develop the framework and law drafting instructions for a group to oversee policing matters as an alternative to the establishment of a Jersey Police Authority.
- Support the States of Jersey Police in the achievement of its Policing Plan objectives.
- Plan for the anticipated rise in crime (estimated at 11%) over the next ten years as a result of projected demographic changes.
- During 2006, bring in the Crime (Disorderly Conduct and Harassment) (Jersey) Law, 200-, to combat anti-social behaviour, but support the role of the Parish Hall Enquiry in dealing with less serious anti-social behaviour and nuisance.
- During 2006, analyse the nature and effect of anti-social behaviour in Jersey and, in consultation with others, seek appropriate solutions.
- Maximise intelligence collecting and sharing with other jurisdictions in order to combat imported crime, particularly drug trafficking.

PILLAR 7 - PROSECUTION

INTRODUCTION

- 10.1 In the policy overview chapter, comment was made that this policy should not be confused with a judicial services review. It is not the purpose of this policy – at least on this occasion – to review prosecution powers and procedures in Jersey’s court system. These aspects of the criminal justice process are covered in the Rutherford Report ^[18] and need not be repeated here.

RUTHERFORD REPORT RECOMMENDATIONS

- 10.2 There were, however, particular recommendations contained in the Rutherford Report –
- The pivotal role occupied by the Attorney General within Jersey’s criminal justice process.
 - The historical role of the centeniers in the Magistrate’s Court and their ability, in most cases, to present the facts to the court.
 - The introduction of legally qualified prosecutors to the Magistrate’s Court in 1998 to prosecute trials, guilty pleas and objections to bail of a complex nature, and committals.
 - The legal aid system.
 - The function of the courts and the unique role of the Jurats.
- 10.3 The Rutherford Report made 3 recommendations which, if implemented, would impact upon the prosecution system, the role of the Centenier and the function of the Parish Hall Enquiry. The Committee’s stance with regard to each of these recommendations is set out in the following paragraphs.

Recommendation 4

- 10.4 Recommendation 4 suggested “*the establishment of a public prosecution service*” ^[19].
- 10.5 This suggestion implied that a Director of Public Prosecution Office should be established, which would be notionally answerable to the Attorney General. The Committee agrees with the Attorney General’s view that this was not a practical idea in financial or human resources terms.
- 10.6 Since the introduction of professional prosecutors to the Magistrate’s Court in 1998, the system has been working most satisfactorily. If changes were brought about so that the Legal Adviser brought all the prosecutions, additional prosecutors would be required. There were no significant advantages to this, and Centeniers would understandably see no justification for losing their right to present cases in court. The decision not to proceed with this recommendation was taken at an early stage by the previous Home Affairs Committee and endorsed by the present Committee. ^[20]

Recommendation 5

- 10.7 Recommendation 5 envisaged an enhanced role for the Parish Hall Enquiry. The Report extolled the virtues of the Parish Hall Enquiry system in diverting appropriate cases away from the formal criminal justice process. This, of course, is its great strength and it was suggested that the restorative justice project could be expanded to give diversion greater force. Special Enquiries, using Youth Panel members appointed at Parish level were also envisaged in order to reverse the trend of young offenders appearing directly before the Youth Court.
- 10.8 Restorative justice techniques, whereby some reparation for the victims of crime is sought, have been

practiced through Parish Hall Enquiries for many years. The Victim-Offender Conferencing Project^[21] has been highly successful in youth hearings; this is explained in greater detail in the next pillar on ‘Dealing with Offenders’. However, it is resource intensive and, taking account of other priorities, the scheme cannot be extended to adult hearings for the time being. This recommendation runs into greater difficulty, however, with the suggestion that lay members could have a role in the proceedings. Having taken advice from the Attorney General, the Committee is reminded that the Parish Hall Enquiry is an investigatory body, rather than a judicial one, and it would not work to combine the two. Problems might be encountered once the Human Rights (Jersey) Law 2000 was brought into force. Any hint that the Centenier might be sitting as a judge could compromise the right to a fair trial. Such problems are not evident at present because the Parish Hall Enquiry is a charging process rather than a judicial one. Once the Human Rights Law is in force, people appearing before an Enquiry would have to accept the level, as well as the principle, of a fine; if they do not, they will have the option of appearing before a Court.

10.9 Although the Committee agrees with the sentiment expressed in the Rutherford Report in terms of the benefit of enhancing the Parish Hall Enquiry system, these are outweighed by the inherent dangers in tampering with a tribunal that works successfully as a diversionary tool. There has been evidence of a continuing tendency to by-pass the Parish Hall Enquiry for certain offences and in the case of some persistent offenders. For the system to work effectively, there must be appropriate balance and good decision making on the part of Centeniers.

Recommendation 6

10.10 Recommendation 6, under the heading of ‘Dealing with young persons’, stated that “*there should be specially designated Parish Hall Enquiries with respect to persons under the age of 18*” and that “*the role of Youth Panel members within the existing Youth Court structure should be extended*”.^[22]

10.11 In the Committee’s view – and again having taken advice from the Attorney General – the same problem occurs with this recommendation as with Recommendation 5 in that it implies a judicial system at Parish Hall level. Since the Rutherford Report was published, the Committee has benefited from involvement with the Education, Sport and Culture and the Health and Social Services Committees, in the implementation of the Bull Report recommendations. The youth justice aspects of the Bull Report were covered in Pillar 5– Early Intervention. Although the focus of that work was on children with severe emotional and behavioural difficulties, and not on criminal justice, there is a clear relationship between the two. The formation of a multi-agency Youth Action Team, as recommended in the Bull Report, will greatly influence the way we deal with young offenders. Furthermore, that report precipitated a States of Jersey debate on the custodial provision for young offenders which was preceded by a seminar, organised by the Home Affairs Department and the Probation and After-Care Service, in which the Scottish Children’s Hearing system, highlighted in the Rutherford Report, was examined. Both the Children’s Hearing system and the Parish Hall Enquiry system have much to commend them and the seminar has helped to shape recommendations for the way in which young offenders who commit serious offences are dealt with.

Pillar 7 – Policy Statement

This policy takes a holistic view of criminal justice and its place in the social and political context. It is not a judicial services review, although this may become a subject for discussion at the new forum envisaged under Pillar 4 – Joint Working.

Having consulted the Attorney General at an early stage in the policy setting process, the Home Affairs Committee will not pursue the Rutherford Report recommendation that a public prosecution service be created. This could not be justified on cost grounds and would result in Centeniers losing their traditional role of presenting cases in the Magistrate’s Court.

Regarding the future development of Parish Hall Enquiries, the Committee supports their status as an investigatory rather than a judicial body. To do otherwise could compromise their traditional and valuable role in dealing with offenders outside the formal criminal justice system and in being able to meet the provisions of the Human Rights (Jersey) Law

2000. The Rutherford Report made specific recommendations on the role of the Parish Hall Enquiry in dealing with young offenders. Since then, a better understanding has been developed between agencies on maximising appearances at Parish Hall level prior to charging. Similarly, since publication of the Bull Report, the Committee has had the benefit of being a partner in taking forward the recommendations of the Children's Executive detailed in Pillar 5 – Early Intervention. These recommendations will have a bearing on any future changes to the role of the Parish Hall Enquiry rather than recommendations 5 and 6 of the Rutherford Report.

PILLAR 8 – DEALING WITH OFFENDERS

INTRODUCTION

- 11.1 In Jersey, offenders can be dealt with, as appropriate, outside the formal criminal justice process through the Parish Hall Enquiry or, having been charged with an offence, through the formal court process. Having either pleaded guilty or been found guilty, the court can impose a non-custodial sentence (absolute discharge, fine or binding-over order), a community based penalty (probation or community service) or a custodial sentence (which may be suspended by the court).
- 11.2 The Island has a particular challenge at present to decide the most appropriate framework within which custodial sentences should be served. Consequently, this aspect receives the closest attention from a policy perspective. Save for fixed penalty notices for parking infractions and the facility to pay a fine at the Town Hall despite a court summons having been issued, hitherto, Jersey has not favoured dealing with offenders by administrative means. Opinion is divided as to whether other forms of administrative disposal are right for Jersey. Indeed, if the current furore in the UK over extending the use of enforcement cameras is any barometer, such measures remain controversial long after their introduction. The future vision for dealing with children in the youth justice system is covered in Pillar 5 – Early Intervention and, therefore, is not dealt with in any detail here. Mention is made of current methods of dealing with mentally disordered offenders.

PARISH HALL ENQUIRY

- 11.3 Research into the Parish Hall Enquiry system commissioned by the Probation and After-Care Service and the Home Affairs Committee supports the view that the Parish Hall Enquiry system deals successfully and appropriately with a wide range of offending^[23]. The Parish Hall Enquiry is in effect, the traditional response to offending behaviour in Jersey. Every effort is made within the Honorary System to prevent offenders entering the formal court process. The model presumes that reintegration is best achieved through a process that begins and ends in the community, not in the formal criminal justice system. In other jurisdictions, interventions are located within the criminal justice system (Anti Social Behaviour Orders, Referral Orders, Final Warnings and Restorative Justice Initiatives). What is unique about the Parish Hall system is that it exists *outside* the formal criminal justice system. It is organised and resourced by the community. It “defies classification in any modern legal context”^[24]. The Jersey model demonstrates that the restorative outcomes expected by the introduction of a raft of measures in England and Wales as a result of the enactment of the Crime and Disorder Act 1998 can be achieved by the community without recourse to complex, expensive and professional organisational frameworks^[25]. Consequently, we need to be circumspect when considering the introduction of a formal system of legislation and orders when the community solutions implemented at parish level and voluntary contracts are already effective and efficient^[26].
- 11.4 Jersey should continue to seek opportunities to integrate the benefits of traditional, informal community justice into a modern criminal justice system in a way which both promotes effectiveness and saves public money^[27]. Nowhere has this been more evident than in the partnership that has developed between the Honorary Police and the Probation and After-Care Service over many years and which continues to embrace new techniques such as Voluntary Supervision and Restorative Justice.
- 11.5 In the region of 5,000 offences are dealt with each year across the parishes. Because the Probation and After-Care Service attend all Parish Hall Enquiries in respect of youths, it is known that 368 youths appeared in 2003, and that there has been a slight reduction in numbers since 1996.^[28] A Parish Hall Enquiry re-conviction study was carried out in 2002 which proved the effectiveness of the system.^[29]
- 11.6 Officers of the Probation and After-Care Service have offered assistance to Centeniers at Parish Hall

Enquiries since the mid 1960s. In the main, advice and support is offered to youths although Centeniers continue to refer adults to the Service for voluntary supervision. Records of youth enquiries date back to 1986.

- 11.7 **Voluntary Supervision** has been offered by the Probation and After-Care Service since the 1960s when the option of an alternative to a court appearance was identified as a need for children who had committed more serious offences. The Probation and After-Care Service agreed to offer a period of intervention, on a voluntary basis, to address the needs of the child and reduce further offending behaviour. The scheme proved successful with high levels of satisfaction and support from Centeniers together with low rates of reconviction.
- 11.8 The Probation and After-Care Service continues to offer voluntary supervision to appropriate children and the breadth of intervention has expanded considerably in recent years to meet complex needs. A child and his/her parents enter into a voluntary contract with the Centenier to comply with the Probation and After-Care Service during a specified period of months. An individual programme is designed according to the needs of the child. This may involve drug and alcohol education, victim awareness, restorative justice initiatives, employment and training support, bereavement counselling as well as a programme of intervention designed to prevent further offending. If the child breaches this voluntary contract, either by failing to comply with the requirements or by re-offending, the Centenier may decide to prosecute. Voluntary Supervision Orders have given rise to low rates of re-conviction. Similarly, other disposals at Parish Hall have equal success: ‘words of advice’, written cautions and deferred decisions show low levels of re-offending and re-conviction across the parishes.
- 11.9 **The Restorative Justice Victim-Offender Conferencing Initiative** was introduced into Jersey in 2002. This was an integral part of the Crime and Community Safety Strategy (from January 2005, the Building a Safer Society Strategy). Its objective is to look after the victims of crime and to re-integrate offenders and prevent re-offending. Unlike other jurisdictions, restorative justice is not a new concept in Jersey. Centeniers, through the Parish Hall Enquiry system, have for many years been practicing restorative initiatives. Conferencing builds on the restorative justice practices that are already established and successful in our society. It ensures that the victim is at the centre of the process (which is the rationale behind Pillar 3– Looking After Victims). The primary goal is to make good and repair the harm done by crime to the victim, the community and the offender. Offenders must accept responsibility for their actions before restoration can take place. By replacing the state with a human victim, offenders are able to reflect upon the actual harm caused, both to the victim and to the community. The process is inclusive, and may extend to whole community involvement as the case study at Appendix 9 illustrates.
- 11.10 Since the inception of the initiative in 2002, a dedicated Restorative Justice Officer has conducted twelve face to face conferences and over 30 indirect initiatives such as mediating compensation payments and facilitating letters of apology. This work has been conducted at Parish Halls, in schools and at HM Prison La Moye.
- 11.11 The latest evaluation of the initiative shows that levels of satisfaction amongst victims, offenders and participants in the conferencing process are very high. Twelve victims, 17 offenders and 35 victims’ supporters were surveyed with the following results –

Victims:

- Overall, 92% of victims were either “very satisfied” or “satisfied” with the conference as a means of dealing with the offences committed against them.
- 82% felt that they were able to participate in the development of an agreement to repair the harm caused by the offence.
- 75% felt that the conference encouraged the offender to accept responsibility for their actions.

- The overall satisfaction rate of victims with Restorative Justice is 83%.

Offenders:

- 82% of offenders felt that the conference process was fair.
- 82% considered that the conference had helped to understand that their actions were wrong.
- 94% considered that the conference had helped to understand the effects of their behaviour on the victim.
- No offenders considered that participation in the scheme was not worthwhile or worse than they had expected.
- All offenders felt that the conference process would encourage desistance from future offending.

Participants:

Data was collected from other participants in the conference: parents, teachers, Centeniers and friends of both victim and offender –

- 94% of participants felt that the conference had an impact on the offender.
- All participants were satisfied with the conference as a method of dealing with the offences.
- 85% of participants stated that the conference process had encouraged the offender to accept responsibility for their actions.
- All participants would take part in another conference.

SENTENCING PATTERNS

- 11.12 In 2003, an analysis of how cases were dealt with in the Magistrate’s Court was carried out which gives a recent indication of the pattern of sentencing for the majority of court cases in Jersey. This can be compared with sentencing trends for the years 1992, 1996 and 2001 analysed for the Rutherford Report [30]. Probation (7%) shows a slight rise whilst community service (6%) and custody (4%) show larger decreases. When committals to the Royal Court are taken into account (8%), by far the most frequently used sentences in the Magistrate’s Court are fines and binding-over orders (75%).

REFORMING THE FRAMEWORK WITHIN WHICH CUSTODIAL SENTENCES ARE SERVED

- 11.13 The growth of the Prison population was outlined in Pillar 2– Criminal Justice Statistics. The approximate average per capita cost of keeping a prisoner in a prison in England and Wales was £31,700 in 2004. In recent years, we have paid for 25-30 prisoners per year to be held in England and Wales.

Table 8.

2001	£833,000
2002	£798,592
2003	£1,003,562

2004

£854,500

- 11.14 The Prison budget in 2004 was overspent by £2 million. The Finance and Economics Committee helped to alleviate this with a grant from the General Reserve of £1.7 million. In 2005, £1.15 million of revenue growth has been made available as a result of the Fundamental Spending Review process, taking the Prison's base budget to £6.25 million. Work is ongoing to establish a realistic base budget for the Prison. However, incurring additional revenue expenditure annually, equivalent to 20% of the Prison budget, is unsustainable in the longer term. Furthermore, the prison population in England and Wales has now reached 75,000 and the indications are that the relevant authorities could withdraw the facility of purchasing prison places. Therefore, assuming that sentencing principles and trends remain constant, the Prison estate must be expanded and modernised to keep pace with the demands of our courts, and an alternative framework for serving custodial sentences must be introduced. In this regard, the Home Affairs Committee is mindful that a custodial sentence ought to serve three purposes: punishment, deterrence and rehabilitation in varying proportions according to the circumstances of the offence and the offender. It is the Committee's view that the last of these – rehabilitation – could be afforded greater prominence in a custodial environment and provides scope for reforming the structure in which custodial sentences are served.
- 11.15 The Committee has been pro-active in seeking ways to deal with the burgeoning Prison population. In December 2003, a new 37-cell accommodation block was completed and a new wing of the same size will be ready for occupation towards the end of 2006. In April 2003, the Temporary Release Monitoring Scheme (TRMS, or 'tagging') was introduced. Up to the end of 2004, 46 prisoners had successfully completed the licence period on TRMS with a further 6 still on the scheme. (Due to the relatively small numbers of prisoners who can be released on this scheme, the financial efficacy of it is to be subject to an independent audit in April 2005.) Unfortunately, these measures have not kept pace with cumulative effects of longer custodial sentences imposed by the courts and the Committee has been forced to request budgetary increases to cover the additional cost; the Finance and Economics Committee has been supportive in this regard.
- 11.16 Since completion of the new accommodation in December 2003, the amount of normal [\[31\]](#) accommodation has increased. The real difficulty for La Moye is having to deal with different, discrete groups of prisoners which can result in vacancies occurring in one part of the Prison that cannot help ease problems of dramatic overcrowding in another part. It can be that, for this reason, prisoners have to be transferred to prisons in England and Wales even though the overall prison population may be below the total capacity available. The following table shows the position in May 2004 when the population reached its highest level so far (at the time of this report).

Table 9.

	Sentenced	Remands	Total	Capacity
Adult Males	78	27	105	(128) (New wing open)
Vulnerable Prisoners	25	13	38	(18) (All doubled and private part of YOI)
Women	13	5	18	(14) (Dormitory expanded)
YOI	9	8	17	(26)
Totals	125	53	178	(186)

- 11.17 It will be apparent from the above table that the largest part of the prison estate – that for adult males – has some spare capacity. The Prison must operate in this way to cater for a constantly fluctuating population as a result of court sentences, remands in custody and weekend receptions. As at 19th October 2004, the prison population had fallen to 163. The largest falls were in women, young offender and vulnerable prisoner numbers and not in the critical area of adult males.
- 11.18 We therefore still need both a short run solution to deal with the problem of overcrowding and a long run solution to make sure the population can be managed safely and cost-effectively in acceptable conditions.

Doing nothing about the problem is not an option. Solutions – particularly those that address the short run problem – will require political leadership and/or legislative change. Such is the nature of the problem that there are no easy options; some will be regarded as unpalatable or politically unacceptable. Nevertheless, the options have to be considered and they can be loosely divided into front-door and back-door measures.

‘FRONT-DOOR’ MEASURES

A review of drug sentencing policy

11.19 Over the last decade or so, the profile of custodial sentencing has changed. In 1991, a total of 549 offenders received custodial sentences in Jersey. However, the Prison never approached its maximum capacity because 90% of these sentences were for periods of less than 6 months. Over the years, the availability of a range of effective community penalties managed by a strong and professional Probation and After-Care Service has undoubtedly been a major factor in reducing significantly the number of shorter custodial sentences. By 2001, a much reduced total of 253 offenders were given custodial sentences in Jersey with only 54% serving less than 6 months. The irony, therefore, is that the marked reduction in the use of custody as a sentencing option has coincided with severe prison overcrowding due to increased sentence lengths. As the Rutherford Report highlights, the main contributory factor has been the Royal Court’s sentencing policy on drug trafficking. Sentencing principles were first formalised in the Court of Appeal landmark judgment of Campbell, Molloy and MacKenzie (1995) JLR 136 and there have been several judgments since which have modified the guidelines. In upholding the condign punishments meted out by the courts in Jersey, the Court of Appeal has supported the stance that such sentences are necessary to protect the social and economic fabric of Jersey society, to mark public abhorrence of drug trafficking and to deter others from indulging in the same crime. Notwithstanding the integrity of this sentencing policy, the Island is starting to pay in other ways, notably with prison overcrowding and excessive cost to the tax payer. Moreover, there is no evidence that such tough sentences are having the desired effect. Trafficking of Class A drugs into Jersey is still a regular occurrence and it is estimated that there are in excess of 500 heroin addicts in Jersey. On the other hand, we do not know whether the situation would have been much worse had the Court not adopted this sentencing policy. The fact remains, however, that there has been no measurable decline in drug trafficking as a direct result of sentencing policy. Consequently, the Home Affairs Committee will be requesting the Royal Court to review its sentencing policy in respect of drug trafficking against sentencing policy in other jurisdictions and in the light of the experience of the last 8 years. This is supported by the Shadow Scrutiny Panel in its review on substance misuse carried out at the end of 2004.

Maximise the Use of Community Penalties

11.20 Jersey has been creative in making a range of community penalties available to the Courts. There are a range of programmes available as an adjunct to probation aimed at influencing the cognitive behaviour of offenders. As part of the Island’s harm reduction policy, the Island’s equivalent of drug treatment and testing orders has proved to be a highly successful way of diverting offenders from punishment into treatment programmes. Since 1982 Jersey has had a demonstrably effective scheme allowing many offenders to carry out Community Service as a direct alternative to a prison sentence. In addition, courts now have the ability to delay the imposition of a custodial sentence by means of the Criminal Justice (Suspension of Prison Sentences) (Jersey) Law 2003. The courts will always consider the imposition of a custodial penalty where appropriate; however, the Home Affairs Committee will urge the courts to continue to maximise the use of community penalties and to reserve custody for dealing with the most serious offences, where the protection of the public is a major consideration and where offenders have a history of not responding to community penalties.

11.21 A policy of maximising the use of community penalties and other non-custodial measures may attract the criticism that there is an underlying assumption that these alternatives reduce the prison population. Empirical evidence from the UK suggests the opposite in that the introduction of a comprehensive range of early release measures has been followed by a record rise in the prison population. The difference is that UK initiatives were not necessarily pursued as alternatives to custody. The Criminal Justice Act,

1991 introduced community penalties as a layer beneath custody rather than replacing it. Such measures must be carefully analysed for both their intended and unintentional consequences, otherwise alternatives to custody can draw on those who would normally form the 'non-custodial' population. In Jersey, short custodial sentences were targeted in the late 1980s and early 1990s by introducing community service with tight referral criteria, marketing Probation hard, introducing drug awareness as an alternative to short custodials for possession of Class B drugs, and the diversion of intoxicated persons to the Drunk and Incapable Unit. There were also restrictions placed on the custodial sentencing of youths in the Criminal Justice (Young Offenders) (Jersey) Law 1994. As a result, custodial sentencing dropped from 650 sentences a year to around 250 a year over a 10-year period. Furthermore, at the present time, of the prison population at La Moye only 6 are serving sentences under 6 months. The evidence is therefore that the judiciary in Jersey use community penalties as an alternative to shorter periods of incarceration and only a few subsequently end up in custody.

Prohibiting Prison Admissions at a Critical Mass

11.22 Holland, Denmark and Norway are examples of jurisdictions where prison admissions are forbidden into prisons operating over capacity. At times of overcrowding, convicted offenders are placed on waiting lists for later admission. In Holland, prisoners are classified in order to determine who should be admitted and when. Occasionally, the release of lower risk prisoners is authorised to permit the admission of higher risk prisoners. Critical mass is deemed to have been reached at 95% capacity to allow for 'rattle space' to cater for unexpected population fluctuations. Such a system in Jersey might require a lower percentage given the uneven distribution of prisoners across the various wings of the prison. A level of 95% is probably workable in a prison catering for only one category of prisoner.

'BACK-DOOR' MEASURES

11.23 The following options could be considered but the practicality and impact of pursuing any particular course of action would have to be examined and weighed carefully taking into account the views of the judiciary. They are listed in order according to the ease with which they could be put into effect. The last 3 options would require new legislation and, therefore, could not be effected in the short-run.

Relaxation in Remission

11.24 Since enactment of the Prison (Jersey) Rules 1957, in accordance with Rule 26, remission has remained at one third off sentence. Allowing an increase to 50% would reduce prison capacity and bring us into line with the England and Wales Criminal Justice Act 2003.

11.25 Factors to be considered –

- Could be achieved quickly by the Committee amending Rule 26 of the Prison (Jersey) Rules 1957.
- Likely to have greater public acceptance than other back-door measures.
- It would be difficult to revert to a lesser remission period at a later date, i.e. once changed, it is likely to remain.
- Unless some provision could be put in place immediately, the relaxation to 50% would not carry with it the safeguard of supervision once released. In the UK, prisoners serving up to 4 years are subject to a system of Automatic Conditional Release after serving half their sentence. Once released, they are supervised by the Probation and After-Care Service until $\frac{3}{4}$ of the sentence has been served. If they commit a further offence during the last $\frac{1}{4}$ of their sentence, they are liable to serve the unexpired portion of the sentence in prison. Prisoners serving less than 12 months are not subject to statutory supervision by the Probation and After-Care Service but are liable to serve the unexpired part of their sentence if reconvicted during this period. Powers to release on parole – now called Discretionary Conditional Release – apply only to those prisoners sentenced

to 4 year's imprisonment or longer. Prisoners deemed by the Parole Board to be unsuitable for parole are released at the two thirds point of their sentence – known as their Non-Parole Date. Some prisoners are not released at this point, e.g. discretionary life sentences, determinate sentences or extended sentences for public protection.

Extended Use of Temporary Release

11.26 Home Detention Curfew in England and Wales has proven to be broadly successful. Of the 90,000 prisoners released early on a tag with no active supervision, 88,000 did not re-offend. Of the 2,000 further offences that were committed, 462 were violent crimes, 163 were burglaries, 47 were theft and there were 9 sexual offences^[32].

11.27 The Committee already operates a temporary release scheme under Rule 73 of the Prison (Jersey) Rules 1957. The process and eligibility criteria have been revised since the publication of the King Report^[33] of December 2003 such that it is operating very successfully at present. The Committee could extend the use of temporary release, against revised criteria, in order to effect a higher number of immediate releases.

11.28 Factors to be considered –

- The Prison population could be reduced quickly.
- Does still allow for risk assessment to be carried out on those prisoners who would be released.
- Additional risk assessment will require further resources.
- Would not have the permanency that a change in the scale of remission would have in that the Committee could revert back to the existing temporary release criteria as the Prison population reduced.
- Prisoners could be recalled if conditions are breached.
- Prisoners would require accommodation as there would be no requirement to return to the Prison overnight.
- Now that the system has been tightened up following the King Report, a relaxation could result in a higher number of breaches.
- In the light of the breaches seen in 2003, there would be strong public reaction to a similar experience.

Extension of Electronic Tagging

11.29 At present prisoners become eligible to apply for tagging for the last 6 months of their sentence. This scheme has been a great success during its first year of operation. There are 2 ways in which the use of tagging could be extended. The eligibility period could be increased to, say, within 12 months of release whilst maintaining the home detention curfew of 9 p.m. to 7 a.m. Alternatively, prisoners with the right family support could be effectively 'imprisoned at home'.

11.30 Factors to be considered –

- Maintains a level of risk assessment and supervision in the community augmented by the technology.

- Less controversial than more immediate release measures.
- There would be an incremental additional cost for additional tagged prisoners.
- The capacity to release prison places would be limited by prisoners' suitability for the scheme.
- Involves supervision by the Probation and After-Care Service so an extension to the scheme would have staffing implications.
- An extension of the scheme would have resource implications for the Prison.

Amnesty

11.31 Amnesties have been used regularly in France. The experience of other jurisdictions would suggest that an amnesty could be put into effect in several ways. For example, with exceptions for prisoners sentenced for say, violent or sexual offences, all sentences could be reduced by a fixed percentage or all offenders eligible for release within a fixed period could be released early.

11.32 Factors to be considered –

- The Prison population could be reduced quickly.
- Has the advantage that prisoners could not count on an amnesty occurring again in the future as they could not predict when conditions would justify it.
- Could be viewed as undermining the judicial system.
- Does not allow for risk assessment of those prisoners who would be released, i.e. it is indiscriminate.
- May need legislation to effect.

'One in One Out' Early Releases

11.33 Such a system is used in Holland and Scandinavia where it is coupled with a prison waiting list system; however, this measure focuses on the release rather than the admission.

11.34 Factors to be considered –

- Would enable the Prison to operate inside its maximum operating capacity, presently 186.
- Once in operation, it is less visible than measures that affect releases.
- Would not enable the immediate repatriation of prisoners in UK prisons unless coupled with one of the other measures involving the immediate release of prisoners.
- May require new legislation to effect.

Introduction of a System of Parole or Discretionary Conditional Release

11.35 The introduction of the current UK, 'pre-Halliday', parole system could update the Prison regime and bring important benefits.

11.36 Factors to be considered –

- Would encourage UK residents to return to the appropriate part of the UK at their own request and at nil cost if they could demonstrate links with that jurisdiction. They would then be assessed for release on parole in the prison system to which they have returned.
 - Would enable a system of parole to have some control over the prison population, subject to necessary risk assessment, or enable discretionary conditional release.
 - Would provide a robust and transparent method of effecting early release.
 - Could be brought in during 2006, subject to legislative requirements which are being pursued urgently and the need for additional Prison and Probation staff.
 - More acceptable to the public than more immediate release measures.
- 11.37 This option combines the creation of a much more robust and effective rehabilitative regime in a custodial setting with a reduction in cost of detaining Jersey's prisoners. Consequently, it is dealt with in greater detail in Pillar 9 – Rehabilitation.

MENTALLY DISORDERED OFFENDERS

- 11.38 There will always be a number of people entering the criminal justice system who are experiencing mental health problems. In recent years, the Mental Health Service Community Forensics Team have been working with the courts, Probation and After-Care Service, States of Jersey Police and the Prison to identify, assess and provide appropriate treatment for people with mental health needs. In the UK during the 80s and 90s, much emphasis was placed on court diversion, identifying an individual with a mental health problem and 'diverting' them from the criminal justice system into the mental health system. This approach makes the assumption that the mental health problems of the individual were directly linked to the offending behaviour. The preferred approach locally has been for court liaison by the Forensics Team in which, following an assessment, the courts are advised of the mental state of the individual and decisions as to sentencing or diversion can be made by the courts. This system is augmented by 2 posts funded by the Building a Safer Society Strategy. The Arrest Referral Worker has access to detainees at Police Headquarters some of whom have mental health problems but who do not present as acutely unwell. In such cases, the Arrest Referral Worker can give an assessment, liaise with the Forensic Team and provide ongoing support, either through the courts or by clinical referral. During court proceedings, a Court Diversion Officer working within the Probation and After-Care Service assists the court to decide upon the appropriate disposal of offenders, particularly those displaying alcohol or drug problems.
- 11.39 Part of the UK Mental Health Law specifically relates to mentally disordered offenders. This is not the case for the Mental Health (Jersey) Law 1969. It had been the intention to introduce a new Mental Health Law to Jersey which would have dovetailed with the English and Welsh Mental Health Act 1983. However, the Mental Health Law in England and Wales is under review and it has been agreed locally that any new law for Jersey needs to be able to work in harmony with UK Legislation. Inevitably, this is delaying the process of formulating new local mental health legislation.
- 11.40 In 2004, Dr. Rosemary Wool completed her health needs analysis of HMP La Moye. This analysis of the health needs of the prison population produced some excellent joint working between officers and front-line staff. The resulting document recommends that secondary health care provision be provided by the Health and Social Services Committee with specific emphasis on health promotion, substance abuse and mental health.

ADMINISTRATIVE DISPOSAL

Pleading Guilty by Post

- 11.41 A formal system of pleading guilty by post, particularly for parking offences, has already been considered by a working group under the Attorney General reviewing the Loi (1864) concernant la charge de juge d'instruction. The group concluded that the Island already had a similar system whereby fines could be paid through the Parish Hall and considered a system whereby people could be dealt with in their absence by the court setting a fine. However, this could undermine the powers of the Honorary Police and would remove the deterrent effect of the threat of a court appearance. Nevertheless, people who attract parking fines in particular ought to be able to pay as efficiently as possible. In the modern day, this ought to include payment online, a facility that could be made available through the Customer Contact Centres being developed by the States of Jersey.

Fixed Penalties

- 11.42 Other forms of administrative disposal, such as fixed penalties, have been given serious consideration. In the UK, pressure on the Magistrate's Court system, difficulties with the collection of fines and the geographical difficulties of appearing in a court a long way from one's home have driven the development of administrative disposal. The additional benefit is that the court process can be reserved for those offences which do not lend themselves to administrative treatment. However, in a small island, possible gains need to be weighed against the benefits of the existing system. The geographic difficulties of getting to court do not apply and the court process does not suffer from delays caused by an unmanageable number of minor offences. We have an honorary system which filters out most minor offending and enables people to be dealt with outside the court system. From a practical point of view – and of particular relevance in the current financial climate – administrative systems have significant up-front costs and need to be sustained with both IT and staff support. Conversely, the marginal cost of dealing with offences, such as minor road traffic offences, through the Magistrate's Court is not felt to be significant.

Enforcement Cameras

- 11.43 Perhaps the most high-profile form of administrative disposal in the UK is through the use of enforcement cameras. Although there is no visible political pressure to adopt this technology in Jersey, it nevertheless merits consideration within the context of this policy. In the UK, the case for maximising the use of enforcement cameras is predicated on the assertion that around 100 lives are saved on the roads annually as a result of their presence. In Jersey, there has been one fatality on our roads in the 4 years from 2000 to 2003 directly attributable to speed. In 2004 there have been 5 fatalities on the Island's roads, but only one was confirmed as directly attributable to speed. Those opposed to enforcement cameras regard them as giving rise to a stealth tax. There can only be one cogent reason for introducing enforcement cameras and that is to increase significantly safety on our roads by detecting speeding motorists. Cameras can be used for enforcement in connection with offenders other than speeding, for example, at traffic lights and pedestrian crossings. Whether cameras are necessary in Jersey or would be cost-effective has yet to be determined. The Criminal Justice Scoping Study may provide an opportunity to review their suitability for a small jurisdiction.

CIVIL ASSET FORFEITURE

- 11.44 Following a criminal conviction, the courts in Jersey are able to order the forfeiture of assets which can be shown to be the proceeds of drug trafficking or terrorism. In due course, the Committee will be considering with the Law Officers whether, and to what extent, a process of civil asset forfeiture should be included in domestic legislation.

Pillar 8 - Policy Statement

Jersey is unique in having a prosecution process – the Parish Hall Enquiry – which is not a judicial process and is held to determine whether or not a prosecution should be brought in court. In the case of children particularly, this often enables reintegration to take place through a process which begins and ends in the community. Voluntary supervision has been

highly successful in this regard, and latterly, restorative justice techniques have been augmented through the Victim-Offender Conferencing Initiative. Within the formal court system, binding over orders with appropriate conditions, probation and community service (which is a direct alternative to custody) have been successful over many years.

The growth in Jersey's prison population is of particular concern to the Home Affairs Committee and may be exacerbated by the anticipated rise in crime as a result of demographic changes. From a purely financial perspective, the growth in numbers experienced in recent years is unsustainable particularly as we are entering a period of stringency in public expenditure. Whether an offender should be deprived of their liberty is, however, far too complex and serious a matter to be reduced to a book-balancing exercise. The challenge for the Committee is to create the conditions in which punishment, deterrence and rehabilitation can be brought to bear in the most cost-effective way. In the Committee's view, the Island is not doing enough to educate, re-skill and rehabilitate prisoners both during their sentence and after release. Furthermore, Jersey is out-of-step with most other established Western democracies in not giving prisoners an opportunity to show that they can lead a life free from offending at an earlier stage in their sentence.

The Committee has considered a range of measures that could be introduced to reform the framework in which custodial sentences are served. However, many of them would fail to provide the necessary safeguards of proper preparation for release whilst in custody and supervision thereafter. The Committee will therefore pursue a range of measures after due consultation with the judiciary, criminal justice agencies and other interested parties.

Other than the collection of parking fines, the Island has not developed disposal through administrative means. A separate group under the Attorney General has already considered whether there are grounds for a system of pleading guilty by post and is not recommending its introduction. Similarly, a compelling case has yet to be made for the introduction of enforcement cameras to Jersey in relation to motoring offences. The Committee will not pursue this without a political debate on the matter. There is a case, however, for people to be able to pay fines more conveniently, notably through electronic means.

Action Plan

The Home Affairs Committee will:

- In consultation with the Honorary Police, Probation and After-Care Service and others, continue to support the Parish Hall Enquiry system and consider further ways in which it can be strengthened.
- Investigate greater use of the Electronic Monitoring Scheme ('Tagging') of prisoners which has been highly successful since its introduction in April 2003.
- Request the Royal Court to review its sentencing policy in respect of drug trafficking offences in the light of principles applied in other jurisdictions and the experience gained since sentencing principles were first formalised in the Court of Appeal landmark judgment of Campbell, Molloy and MacKenzie (1995) JLR 136 as amended by subsequent judgments.
- Urge the courts to take positive steps to maximise the use of community penalties and to reserve custody for dealing with the most serious offences, where the protection of the public is a major consideration and where offenders have a history of not responding to community penalties.
- Maximise the use of transfers where prisoners can demonstrate links with England and Wales, thereby reducing significantly the cost to the public.
- Investigate whether a more 'customer friendly' approach to the payment of parking fines and fines for other minor offences might be made available through fixed penalties.
- Investigate the suitability of enforcement cameras for Jersey and whether their introduction would be cost-effective.
- In conjunction with the Law Officers' Department, investigate ways of expanding powers in relation to civil asset forfeiture.

PILLAR 9 – REHABILITATION

INTRODUCTION

- 12.1 Offender rehabilitation is not just a moral issue. It is crime prevention activity to reduce recidivism and produce reformed offenders who inflict no more harm on society.
- 12.2 One in 3 British men has a “Standard List” conviction by the age of 30. (The standard list excludes the majority of public disorder and drunkenness offences as well as all but the most serious motoring offences.) However, we need to keep a sense of proportion with those that offend. Many offenders need only minimum assistance, as their convictions are either once in a lifetime or occasional events of a comparatively minor nature which can be dealt with on their legal merits, with few adverse effects on reconviction rates. It is often overlooked that the majority of court business is dealt with effectively and quickly in a manner which does not adversely affect the individual or the community. However, the impact of more punitive sentences is greater. Those imprisoned are much more likely to lose their employment, accommodation and contact with family and friends. All these factors have a bearing on the risk of further offending.
- 12.3 The development of alternatives to custody, such as Community Service and Probation, can assist offender rehabilitation by allowing offenders to retain these important anchors. Good sentence planning, through-care and post-custodial supervision, can reduce the negative impact of imprisonment. Sometimes, the use of intrusive community-based penalties such as Probation, are not always rehabilitative in effect. Whilst such sanctions have been demonstrated to be effective with those at greater risk of offending, their use with low risk offenders can be harmful, as well as being more expensive than non-custodial, tariff-based sanctions. This finding from other jurisdictions has recently been demonstrated in Jersey.^[34]
- 12.4 Jersey offenders have lower reconviction rates for any given profile than in the UK or North America. The difference is even greater for female offenders.^[35] The reason for this would seem to be that, in contrast to the oft cited intolerance of the Jersey population to offending, individual offenders do have supportive contacts available to them who know the whole person rather than the label. This is a characteristic of smaller communities and is often lost in larger ones. Although this is a rehabilitative advantage, it is not a substitute for the need to assist more formally with the reintegration of offenders into society.
- 12.5 Inevitably there are tensions between tariff, punishment and rehabilitation. At one extreme, a ‘Just Desserts’ model of sentencing would ensure consistency and a proportionate response to offending, but disregard the individual needs of the offender. At the other extreme, a completely individualised model would result in disposals which would be in the best interests of the offender, but which would lack any consistency or objective test of fairness. Justice systems have typically evolved attempting to reconcile both these elements, and Jersey is no exception to this. In dealing with young offenders, for example, the courts have recognised that the best interests of society are usually served by acting in the best interests of the child. In dealing with ‘drug mules’, no matter what the circumstances of the individual, a tariff disposal is almost always imposed.
- 12.6 The Jersey courts are often portrayed as being punitive. Does the evidence support this? The prison population per 100,000 is the highest in Western Europe, but the number of custodial sentences imposed has reduced from 549 in 1991 to around 250 per year. This incarceration rate appears to be within the range found in courts in England and Wales. It would be fair to ask, however, whether we have the balance right between punishment and rehabilitation.

LEGISLATIVE PROVISION

- 12.7 From a legal perspective, the importance of rehabilitation is recognised in a number of different ways –
- Centeniers have the power to decide not to charge offenders, in certain circumstances, even when

an offence is known to have been committed, as does the Attorney General. There is some evidence to suggest, however, that in respect of Centeniers, this discretion is being eroded.^[36] Evidence from Jersey and elsewhere in the world is that cautioning, instead of prosecution, can be an effective way of dealing with less serious offending.^[37]

- The Loi (1937) sur l'atténuation des peines et sur la mise en liberté surveillée recognises that, despite being guilty of an offence, it can be better to allow a person their liberty without punishment providing they agree to reform. This has allowed the development of a modern Probation and After-Care Service which is demonstrably effective at reducing re-offending.^[38]
- The Criminal Justice (Community Service Orders) (Jersey) Law 2001, recognises that providing a constructive alternative to custody can be of benefit.
- The Criminal Justice (Young Offenders) (Jersey) Law 1994, reserves custody for the most serious and persistent young offenders and provides for a compulsory release on licence at the two thirds point of sentence to assist with rehabilitation. The identities of children who offend are protected.
- The Prison (Jersey) Law 1957 and Rules allow temporary release for the purposes of rehabilitation.
- The Rehabilitation of Offenders (Jersey) Law 2001, recognises that, in many cases, people have the right to put their past behaviour behind them.

12.8 There are still, however, some obvious gaps in provision. There is no form of post-custody licence for adult offenders, either linked to a system of parole or otherwise. There are no statutory entitlements to benefit post-release, although generally the Parishes are sympathetic. Unemployment and low educational attainment are common amongst probationers in Jersey. Permanent meaningful employment is the single most powerful protective factor in preventing re-offending, yet nearly 40% are unemployed at the beginning of their Order.

12.9 There has been a Rehabilitation of Offenders' Law in the UK since 1974. We await the effect of the introduction of the equivalent law in Jersey to see if it will help overcome unnecessary prejudice in employing ex-offenders whilst providing sufficient protection for employers. There is also a question as to whether released prisoners and other offenders should have priority or privileged access to services, e.g. States of Jersey Housing.

ROLE OF THE MAIN AGENCIES

Probation and After-Care Service

12.10 Probation's role is care and control, providing a bridge between social care and enforcement. Half their work is concerned with rehabilitation. Independent assessment over the past ten years has shown that the Jersey Probation and After-Care Service is an effective service and, in some areas, has been a demonstrator of best practice. The Service deals with between 300-400 clients per year and works within an annual budget of around £1 million. This amounts to relatively modest public expenditure and it is perhaps ironic that this is approximately the same sum that the Island spent in 2003 accommodating prisoners in UK prisons.

12.11 Around 600 reports are prepared for the Jersey courts annually. Each report examines the factors underlying the subject's offending, assesses the risk of re-offending and the risk of harm to the public, and recommends a course of action to the sentencing court. The Probation and After-Care Service operates two forms of supervision for the courts: Probation for those offenders who need structured intervention in their lives to help them avoid further offending and Community Service for those who do not need such intervention but who would otherwise have been imprisoned.

- 12.12 Each Probation Order is allocated to a Probation Officer who is responsible for ensuring that the Court Order is complied with. A strong positive relationship between officer and probationer is important, although many probationers also attend programmes delivered by other specialist staff. As Probation is made instead of a sentence, if the probationer fails to comply with the terms of their Order, the Court can impose whatever the tariff penalty would have been.
- 12.13 Community Service Orders require an offender to complete a set number of hours of unpaid work for the benefit of the community to the satisfaction of the supervising officer. Each year between 10,000 and 15,000 hours of work are performed. Many charities rely on the help which is provided by these offenders. Because Community Service can only be imposed in the place of a custodial sentence, those people who fail to comply with their Order are usually sentenced to the custodial period they had initially avoided.
- 12.14 A close working relationship with the Prison has been built up over the last three years in preparing prisoners for release and to pilot individual sentence planning and electronic monitoring. The appointment of a resident probation officer at the prison has enabled this work to proceed. Successful though this work continues to be, the funding stream for this post will prove difficult beyond 2004. Although legislation provides for the supervision of young offenders by Probation following release, there is no equivalent provision for adult offenders. Consequently, whilst there is reliable data on re-offending rates for Probation clients, there is far less for prisoners. The fact that more than half of the prisoners have committed drug-related crimes, many of whom are serving long sentences, poses particular accommodation and rehabilitation challenges.

HM Prison La Moye

- 12.15 The role of the prison is to keep in custody those committed by the courts of Jersey and to look after them with humanity. The prison has a duty to help prisoners to lead law-abiding and useful lives in custody and after release.
- 12.16 Key factors in prisoners avoiding re-offending once they are released from prison are a stable relationship, a job, accommodation and investment in education. There is a significant weight of evidence from the UK and internationally that poor levels of literacy, numeracy and general educational ability dramatically increases recidivism rates. But further incarceration is not the only cost. Social costs include benefits, housing subsidies, increased health costs and welfare for those unable to gain meaningful employment. The prison's ability to help address these issues is restricted due to a shortage of resources over many years. Currently, Jersey is spending £172 per annum per prisoner on education (based on 2004 data) compared to the UK average of £1,185.
- 12.17 The 2001 HMI report recommended that a sentence planning regime be put in place throughout the prison. This has been piloted in the Young Offenders Institution; however, resource difficulties have prevented its extension to the adult prison. There has been a pressing need to address the prison's accommodation difficulties by giving this a higher priority through the annual Fundamental Spending Review process. However, the emphasis needs to change if the prison is to fulfil its rehabilitative potential. Consequently, the Committee has made a successful case through the revenue allocation process for the resources necessary to introduce post-custodial supervision in 2006.
- 12.18 Once sentence planning is in place this may only serve to highlight the shortfall in provision to address the needs of the prison population. Some staff have been trained in the delivery of accredited offending behaviour programmes (programmes which have been independently assessed as having the potential to have a positive impact on rehabilitation) but shortages of staff have meant that very few programmes have been able to be delivered. The Prison continues to look at imaginative ways of providing such courses including working with other agencies (voluntary and public) but needs to be assured concerning the efficacy of any work with prisoners in this field.
- 12.19 The Prison has one part-time teacher and a small number of other teachers providing some specified teaching (Spanish, mathematics and basic skills). For such a diverse population mix this means that only

very limited education can be provided. However, the Home Affairs Committee is indebted to Deputy Jennifer Bridge and Professor Edward Sallis for a recent study carried out in partnership with the Prison, which has resulted in a proposal to provide an effective educational regime for prisoners. The study proposes the establishment of a Prison Education Unit as part of the Highlands College Access to Learning Team. The Unit would be based at La Moye and would be supported by the Access to Learning Team who would ensure that staff are properly trained and supported. Learning plans would become an integral part of sentence plans, the aim being to reduce rates of re-offending and to ensure that offenders have better skills to re-enter the labour market following release from prison. The unit would require 2 full-time staff and a variety of part-time tutors at an annual revenue cost of around £135,000 compared to the £50,000 which is spent at present. This proposal supports the concept of life-long learning which is a strategic aim of the States. It will therefore be necessary to engage in discussions with the Education, Sport and Culture Committee to explore other opportunities for prisoner education.

12.20 Regarding work and training, opportunities are very limited. Towards the end of 2004, a module in a certified City and Guilds training course in horticulture was commenced. It is hoped that this can be expanded with prisoners having the ability to put the knowledge they have gained into practice in the horticultural department with the ultimate aim of gaining real skills which will aid them in finding employment on discharge.

12.21 Some woodwork, construction and renovation work is undertaken and it is hoped to develop links to enable some of this work to be organised in a more structured manner linked with the ability to obtain certification for work produced. The physical conditions as well as the lack of staff resources place considerable constraints on what the Prison can offer. The provision of a new kitchen in 2006 will enable the Prison to offer training to prisoners in catering.

12.22 A small number of prisoners are able to be temporarily released towards the end of their sentence to undertake both voluntary and paid employment as part of their rehabilitation process. The lack of less secure prison accommodation can lead to security and staffing difficulties to facilitate this work. It is hoped to provide such a building to hold prisoners who are felt to be suitable to be in the community with minimal supervision. This would be a far more cost-effective solution than having them held in conditions of security greater than their needs.

PAROLE AND SUPERVISED RELEASE

The Present System in the UK

12.23 Jersey does not have a parole system, whereas Guernsey has had one in place since 1991. In the UK the parole system was established by the Criminal Justice Act, 1967; however, owing to procedural inadequacies the system was reviewed in the mid 1980s under the chairmanship of Lord Carlisle of Bucklow.

12.24 The resultant Criminal Justice Act 1991 removed the Parole Board's discretionary power to recommend the release of prisoners serving sentences of less than 4 years. They became subject to a new system of Automatic Conditional Release (ACR) after serving half their sentence. Once released, they are supervised by the Probation and After-Care Service until $\frac{3}{4}$ of the sentence has been served. If they commit a further offence during that period of supervision or the last $\frac{1}{4}$ of their sentence, they are liable to serve the unexpired portion of the sentence in prison. Prisoners serving less than 12 months are not subject to statutory supervision by the Probation and After-Care Service but are liable to serve the unexpired part of their sentence if reconvicted during this period. For both categories, release at half-way will be delayed if the prisoner has to serve extra days for breaches of prison discipline. Powers to release on parole – which is now called Discretionary Conditional Release (DCR) – apply only to those prisoners sentenced to 4 years imprisonment or longer. Prisoners deemed by the Parole Board to be unsuitable for parole are released at the two thirds point of their sentence – known as their non-parole date (NPD) – or at a later date if they have had added days for prison offences, on ACR.

12.25 The 1991 Act also made major procedural changes. At present, every prisoner is interviewed by a

member of the Parole Board who prepares a report but does not make a recommendation or sit on the Panel deciding the case. Although there is no statutory entitlement for the prisoner to see the parole dossier, it is policy for them to see all the reports in the dossier prepared about him/her including the Parole Board interviewing member's report, and to allow them to make representations about any matter contained in the dossier and the report. Reports can be withheld from prisoners if it is judged that matters have been raised which are prejudicial to security and the safety of victims or others. Every prisoner has a right to receive reasons in writing for the decision taken by the Board. Since 1998, the Parole Board has had delegated authority to make the final decision whether or not to grant parole for those sentenced to less than 15 year's imprisonment. For longer sentences, the Board makes a recommendation to the Secretary of State although this is under review following a European Court of Human Rights judgment.

12.26 The Carlisle Committee set out the criteria for granting parole reaching the conclusion that –

“the parole decision will thus be based upon an evaluation of the risk to the public of the person committing a further serious offence at a time when he would otherwise be in prison, as against the benefit both to him and the public of his being released from prison back into the community under a degree of supervision which might assist his rehabilitation and thereby lessen the risk of his re-offending in the future.”

12.27 The risk to be assessed is whether a further serious offence might be committed. It would clearly not be right to prolong a person's detention for several months, or even years, simply on the strength of a fear that he could commit the sort of offences which would merit a non-custodial sentence or, at most, a short prison sentence. The Secretary of State's directions which flowed from the 1991 Act gave primacy to risk assessment and stressed the need to protect the public from serious harm from offenders together with the desirability of preventing further offending whilst aiding their rehabilitation.

Changes Brought About by the Criminal Justice Act 2003

12.28 In July 2001 the UK Government published the Halliday Report entitled 'Making Punishments Work'. This has given rise to the Criminal Justice Act 2003 which will introduce a series of new custodial sentences and alterations to the parole system. Amongst the new sentences being considered are the introduction of 'Custody Plus' which is a short jail term followed by a long period of community supervision which will replace current custodial sentences of less than 12 months, and 'Custody Minus', a suspended sentence with supervision and other additional requirements. The implications for parole are that **the majority of offenders will be released automatically at the half way point of their custody irrespective of the length of their sentence.** In this way, half of the sentence will be served in custody and half will be served on licence in the community. The Prison and Probation and After-Care Services will be able to attach specific requirements to the second half of custodial sentences of 12 months or more to reduce the risk of re-offending and protect the public. Unlike now, the period of supervision will extend to the end of the sentence. Should the offender breach any of these requirements then, as now, they may be recalled to custody. Recall will be an executive decision but the Parole Board will review each decision and determine whether, and at what point, the offender should be released.

12.29 The intention is that **the Parole Board will be able to focus its expertise on those prisoners who present the greatest risk.** Offenders who have been assessed as dangerous will not be eligible for the restructured custodial sentences of 12 months or more described above. The Halliday Report identified an inadequate lack of disposals for offenders who had committed offences which do not carry life but who nevertheless have a high risk of committing a further offence that would cause serious harm to the public. For the first time, therefore, the UK Government are creating a scheme of sentences aimed specifically at sexual and violent offenders who have been assessed as dangerous. **Offenders who have committed a sexual or violent offence** that, in the UK, carries a maximum sentence of between 2 and 10 years' imprisonment, **and who have been assessed as dangerous,** will be liable to a new Extended Sentence for Public Protection (EPP). Unlike the present system, release during the second half of the sentence, whether serving 4 years or not, will be upon the recommendation of the Parole Board. The extended licence period may be up to 5 years for violent offenders and up to 8 years for sexual offenders **Dangerous offenders who have committed a sexual or violent offence** that, in the UK, presently carries

a maximum sentence of 10 years or more will get either a discretionary life sentence or the new Indeterminate Sentence for Public Protection (IPP). The IPP is similar to a life sentence in that the court will set a tariff period, after which release is at the discretion of the Parole Board on grounds of public safety. On release, the offender will be subject to supervision on licence for at least 10 years, after which time the licence may be revoked by the Parole Board if it considers it safe to do so, otherwise it will continue.

12.30 Hitherto, the introduction of a parole or conditional release system in Jersey has not found favour with either the former Prison Board or the former Defence Committee. However, the Royal Court is supportive of a system of parole. Moreover, the focus group felt that the antipathy towards parole was changing. The Home Affairs Committee's judgement is that the climate is right for reforming the framework within which custodial sentences are served in Jersey from a judicial, rehabilitative and financial viewpoint. From the above, it is clear that the UK Government is considering changes to the role of the Parole Board primarily to allow them to concentrate their efforts on dangerous offenders.

The Problem of Restricted Transfers to England and Wales

12.31 Prior to 1997, all transfers of prisoners to England and Wales were on an unrestricted basis, which meant that the administration of the prisoner's sentence was entirely a matter for the receiving jurisdiction. Prisoners transferred from Jersey were therefore eligible for parole equally with prisoners in England and Wales. This meant that prisoners with a connection to that jurisdiction were keen to request repatriation, with the added benefit that Jersey did not pay for these transfers. However, 2 unrelated matters led to a change in policy.

12.32 Firstly, with space at HMP La Moye, it was considered to be less costly to keep prisoners, particularly those with local ties, on the Island for longer. As a result, disparities started to appear in the way sentences were served. Consider, for example, 2 prisoners – one a Jersey resident and the other a visitor – both sentenced to 6 years' imprisonment. The Jersey prisoner would be released after 4 years, but the visitor, if transferred to England and Wales, might only serve 2 years in custody before being released or Parole licence for 2 years (in accordance with the rules applicable at the time). Understandably, such disparities led to Jersey prisoners feeling disadvantaged.

12.33 Secondly, some time following the introduction of the 1991 Criminal Justice Act, it became evident that the legal basis for transfer and release on Parole were no longer as certain as previously. Urgent, but protracted, negotiations took place between officers and legal advisers in the various jurisdictions and a solution found and implemented in the Crime Sentences Act 1997. This re-established the principle of legal transfer, but the view taken by the Prison Board was that it should follow the example of England and Wales and not allow transfers to result in earlier release than would be possible under our own legislation (except in the case of life sentence prisoners who otherwise would never be released).

12.34 Consequently, all transfers to England and Wales since 1997 have been carried out on a 'restricted' basis, meaning that in whichever British jurisdiction the prisoner is serving a sentence imposed by the Jersey Court, he or she will serve two-thirds before being released. There are no longer any feelings of resentment about disparity in time served by prisoners in Jersey.

The Right System for Jersey

12.35 A release system which provides a flexible and cost-effective means of balancing punishment and rehabilitation for Jersey prisoners and which, dovetails with the reforms being introduced by the UK's Criminal Justice Act 2003, might have the following framework –

- Discretionary supervised release at the half sentence point for prisoners serving 12 months or less with a one month resettlement licence.
- Discretionary supervised release at the half sentence point for prisoners serving 12 months or longer (except for dangerous or sexual offenders) with supervision in the community for the

remainder of their sentence.

- The establishment of a system of parole to adjudicate on prisoners' suitability for early release.
- Breach of licence subject to executive recall by the Prison Governor or Chief Probation Officer, but subject to appeal or review by the parole system or the Royal Court.
- All transfers to be on unrestricted terms and, ordinarily, at no cost to the Island. Note: only those prisoners satisfying Home Office Circular 52/97, i.e. strong links to England and Wales and in the interests of their rehabilitation. (these criteria are usually met in the case of drug traffickers).

12.36 The precise legislative framework needed for a new law to facilitate the introduction of discretionary supervised release is currently being investigated by a joint Home Affairs and Law Officers' Department working group. There are many factors to be considered, not least human rights compliance, arrangements for recall in the event of a breach of licence, the establishment of a system of parole and how the provisions can be applied to existing prisoners.

12.37 In formulating a system of discretionary supervised release and post-custodial supervision, the Committee has taken due account of the Scrutiny Panel Report (S.R.1/2004), 'Responding to Drug and Alcohol Use in Jersey'. This report helps to highlight that prisoners need support, as well as supervision, to help them adjust following a period of custody and to minimise the risk of re-offending. Such a system is designed to enable prisoners to make a seamless transition from custody back into the community.

Resource Implications

12.38 These reforms are essentially rehabilitative in nature and, consequently, imply that the States of Jersey will recognise their value and fund the additional resources necessary to put them into effect. There will be a greater emphasis on preparing prisoners adequately for a future life in the community free from crime. Consequently, 3 Prison staff will be needed for sentence planning during the custodial part of the sentence. Thereafter, an additional 3.5 Probation staff will be required to take on the heavier supervisory role whilst prisoners are released on licence. The Island may achieve some savings, nevertheless, as a result of the transfer of prisoners; they will be more motivated to return if there is no disadvantage to them in terms of the sentence regime and they will have the benefit of low category prisons in some cases. There will also be a running cost saving in terms of the shorter period being served in custody. Furthermore, the overall quality of life for prisoners at La Moye should be significantly better as a result of a modernised estate and no overcrowding. The case for these reforms is therefore compelling on humane, social and financial as well as criminological grounds.

Pillar 9 - Policy Statement

Whilst in many cases a custodial sentence cannot be avoided, it is nevertheless the case that custody often results in offenders losing their employment, accommodation and contact with family and friends. The development of alternatives to custody, such as Probation and Community Service, have been beneficial in assisting offender rehabilitation. The Probation and After-Care Service has played a vital role in this and half their work is now concerned with rehabilitation. Since 2001, a close working relationship has been built up with the Prison to the extent that there is now a Prison Probation Officer. Sentence planning has been piloted in the Young Offenders' Institute and various programmes are run to aid prisoner rehabilitation.

The Home Affairs Committee believes there is much more scope for prisoner rehabilitation in order to reduce recidivism rates. Currently, 50% of adults and 70% of young offenders will be reconvicted within 12 months. The fact that the present total annual running cost budget for the Jersey Probation and After-Care Service (approximately £1 million) is similar to the amount of money spent on accommodating prisoners in the UK in 2004 graphically illustrates the level of under-resourcing in this vital area. Despite the limitations on funding, all prisoners are offered voluntary contact with the Probation and After-Care Service on release. The Service is experienced at helping offenders to gain access to accommodation and employment opportunities as well as services more directly related to their offending. There are a range of services available to ex-offenders but, without professional assistance, they are not always able to access them. It is therefore disappointing that few prisoners take up the offer of assistance from the Probation and After-Care Service post release. Before the appointment of a Probation Officer at HM Prison La Moye, only one or two prisoners requested voluntary after-care each year; the numbers are now increasing but are still in single figures. This lack of response is one compelling reason for placing post-custodial supervision on a statutory footing.

Pillar 8– Dealing With Offenders, outlines a different framework within which custodial sentences could be served where greater emphasis is given to rehabilitation. The Home Affairs Committee has been careful to study the provisions of the UK’s Criminal Justice Act 2003 in which the system of parole will be reformed. The Committee sees no need to replicate those provisions precisely; however, it will be important to adopt a system which dovetails with that in the UK, not least so that the Island can revert to transferring the majority of prisoners with demonstrable links with England and Wales so that prisoners will be more willing to request transfer to prisons in England and Wales knowing that they will receive similar treatment in terms of release as those prisoners sentenced from the English courts. The Committee intends, therefore, to introduce a system of discretionary supervised release along the lines described in paragraph 12.35 but subject to the recommendation made by the joint Home Affairs/Law Officers’ Department working group.

There will be a cost to introducing such a system; however, depending upon the future prison population, these costs will be offset by the savings that will accrue from fewer prisoners needing to be transferred to prisons in England and Wales and, of those that are, most requesting such a transfer and demonstrating links with England or Wales. An additional 3 Prison Officers will be needed for sentence planning during the custodial part of the sentence. Thereafter, an additional 3.5 Probation staff will be required to take on the heavier supervisory role whilst prisoners are released on licence. Better value for money should be achieved in terms of lower re-offending rates.

The Home Affairs Committee recognises the link between poor educational ability and high rates of recidivism. In accordance with a proposal formulated by Deputy Jennifer Bridge and Professor Edward Sallis, it wishes to create a Prison Education Unit to deliver a range of educational services including basic skills, national vocational courses, distance learning and careers guidance.

Finally on rehabilitation, the Home Affairs Committee is committed to the philosophy of harm reduction and has carried this forward into the new Building a Safer Society Strategy. The Committee is currently examining the recent Prison Health Needs Report which may highlight further action required. The Committee also expects to be able to consider this year a follow-up report from the Advisory Council on the Misuse of Drugs on the question of whether certain illegal substances should be downgraded and the UK’s experience in having re-classified cannabis.

Action Plan

The Home Affairs Committee will:

- In 2006, seek approval for new post-custodial supervision legislation in order to introduce a system of discretionary supervised release.
- Ensure that funding for an additional 3 Prison staff and 3.5 Probation staff required to implement post-custodial supervision is included in the 2006 Resource Plan.
- Subject to the approval of new legislation, introduce a system of discretionary supervised release in 2006.
- Seek funding in the region of £100,000 to establish a Prison Education Unit in partnership with Highlands College.
- Explore further life-long learning opportunities for prisoners in consultation with the Education, Sport and Culture Committee.

RUTHERFORD REPORT RECOMMENDATIONS

Rec. No.	Rutherford Report Recommendation	Decision/Cross Reference to Criminal Justice Policy
1.	Steps should be taken to establish a body with oversight responsibility for criminal justice policy. Such a body might be called the Criminal Justice Policy Oversight Council.	See Pillar 4 – Joint Working, page 49. An informal forum will be established for discussion on criminal justice policy and planning involving the executive and the judiciary.
2.	A reliable, robust and consistent set of crime and criminal justice statistics be in place on an annual basis by the year 2005.	See Pillar 2 – Criminal Justice Statistics, page 24. A co-ordinated set of criminal justice statistics was produced for 2002 and 2003, and will continue to be produced annually by the Statistics Working Group through the various individual systems at their disposal. This will continue until the scoping study for an Integrated CJS has identified the way forward, resources have been allocated and the project implemented.
3.	There should be a pro-active Police Authority with resources adequate to its task. Only in this way will the Island be able to satisfy itself that the overall level of policing meets the demanding standards appropriate to this crucial arena of criminal justice.	See Pillar 6 – Enforcement, page 66. The Committee will take forward proposals to establish a police consultative forum once the position of the Connétables under the Ministerial Government has been decided.
4.	A public prosecution service be created under a Director responsible to the Attorney General and that the role of the Centenier in the Magistrate's Court should cease.	Home Affairs Committee Act B9 of 22nd May 2003. Following early consultation with the Attorney General, this recommendation will not be adopted.
5.	The rationale of the Parish Hall Enquiry must be clarified and the institution protected and revitalised. In this respect the Centenier, of course, remains a central figure and it follows that his or her role in appropriately diverting cases away from the criminal justice process is one that should be consolidated.	See Pillar 7 – Prosecution, page 82. The diversionary role of the Parish Hall Enquiry must be protected but ought not to be enhanced in the way suggested. The system is currently Human Rights compliant, but this could be compromised unnecessarily.
6.	There should be specially designated Parish Hall Enquiries with respect to persons under the age of 18, and that the role of Youth Panel members within the existing Youth Court structure be enhanced.	See Pillar 7 – Prosecution, page 82. The comments made on recommendation 5 above apply to recommendation 6. There would be problems associated with creating a judicial system at Parish Hall level.
7.	The Probation and After-Care Service be strengthened; it is clear that the service will necessarily play a pivotal role in any concerted, de-escalatory strategy to reduce the Island's very high prison population.	See Pillar 9 – Rehabilitation, page 105. A system of discretionary, supervised release from prison will be introduced which will rely on additional resources for the Probation and After-Care Service to carry out sentence planning and supervision on licence in the community.

<p>8.</p>	<p>Jersey's incarceration rates (including any prisoners held in the UK) should be reduced and held at a level around 85 per 100,000 inhabitants. This would locate Jersey's rate broadly in line with the median rate of European jurisdictions. For Jersey, this rate translates into a total of 70 to 75 prisoners of all categories. The most appropriate way forward would appear to be for the Attorney General to invite the full Royal Court, or the Court of Appeal, to reconsider sentence lengths in light of developments during the seven years since the guideline judgment in Campbell, Molloy and MacKenzie and related judgments.</p>	<p>See Pillar 8 – Dealing with Offenders, page 87. Although it was neither covered nor recommended in the Rutherford Report, the Committee is recommending a system of discretionary supervised release as a method of providing more effective rehabilitation following a custodial sentence. A side-effect will be a reduction in the prison population and the reinstatement of unrestricted transfers to UK prisons.</p> <p>The Royal Court will also be requested to review its sentencing policy for drug trafficking offences in the light of experience since the 'Campbell' judgment.</p>
<p>9.</p>	<p>The harm reduction approach to substance misuse be developed and expanded in accordance with the 1999/2004 strategy. So as to ensure a consistent approach to Jersey's drug scene, the ethos of harm reduction needs to be understood and embraced at every stage of the criminal justice process. In accordance with developments elsewhere, consideration should be given to reclassifying Ecstasy (from Class A to Class B) and Cannabis (from Class B to Class C). The introduction of an arrest referral scheme would provide an opportunity to promote the harm reduction approach to drug users.</p>	<p>See Pillar 5 – Early Intervention, page 54. The harm reduction ethos is now widely embraced and projects funded through the BaSS Strategy follow its principles.</p> <p>The Island will be monitoring closely the UK's experience with the downgrading of cannabis. The Advisory Council on the Misuse of Drugs will be reporting on the UK's experience after January 2005.</p> <p>An Arrest Referral Worker has been appointed since the Rutherford Report was published.</p>
<p>10.</p>	<p>If there is to be any decrease in the level of crime and the threat that it poses on the Island, the focus needs to be on primary and secondary prevention linked closely, in the context of drugs, with Recommendation 9 and the harm reduction strategy.</p>	<p>See Pillar 5 – Early Intervention, page 54. This approach is enshrined in the Building a Safer Society Strategy which encompasses the harm reduction strategy.</p>

CRIMINAL JUSTICE POLICY – FOCUS GROUPS

CRIMINAL JUSTICE POLICY - FOCUS GROUPS									
PARTICIPANTS	FOCUS GROUP								
	CRIMINAL JUSTICE STATISTICS	JOINT WORKING	EARLY INTERVENTION	ENFORCEMENT	PROSECUTION	DEALING WITH OFFENDERS	LOOKING AFTER VICTIMS	REHABILITATION	PAROLE
Senator W Kinnard									
Deputy R Le Hérisier									
Deputy J Bridge									
Steven Austin-Vautier									
Jurat De Veulle									
Crown Advocate C Whelan									
Ian Le Marquand									
Supt. J Pearson									
Centenier D Webber									
Advocate J Gollop									
Advocate R Juste									
Helen Miles									
Graham Power									
Steve Cole									
Peter De Gruchy									
Michael Gafoor									
Centenier A Morley									
Brian Heath									
Dave Mullins									
Dr G Blackwood									
Mike Kirby									
Ian Rogan									
Dr I Skinner									
Tim Allen									
David Le Heuze									
Kate Jeggo									
Janette Gatt									
Constable J Germain									
Centenier C Dix									
Maureen Pallot									
Francis Le Gresley									
Steve Harvey									
Dominique Counce									
Marisha Carter									
Alan Campian									

Based on consultation process leading to States adoption of 'Building A Safer Society' strategy.

CRIMINAL JUSTICE POLICY – IMPLEMENTATION COSTS

Pillar (a)	Action Plan Measure (b)	Existing Funding (£) (c)	Implementation Costs (£)		Comments (f)
			Revenue (d)	Capital (e)	
Pillar 2 – Criminal Justice Statistics	Scoping Study to identify costs/benefits, project boundaries and a way ahead for developing an integrated CJS in Jersey. Provide an integrated CJS for Jersey.	15,000	-	-	Jointly funded by JLIB and the Home Affairs Committee.
Pillar 3 – Looking After Victims	Update the Victims Charter in line with the 'New Deal', new legislation, restorative justice, etc. Funding for Jersey Victim Support Scheme	-	10,000	-	Scoping Study Report indicated no short-term requirement. Revenue growth. Drafting and printing costs.
	Carry out Crime Victimization Survey in 2004 and subsequently every 3 years.	30,000	-	-	Included in Building a Safer Society costs. Includes cost of a survey in 2007.
Pillar 5 – Early Intervention	Implementation of 'Building a Safer Society' Strategy (5-year strategy).	4.5M	-	-	Years 2006-2009 subject to annual revenue allocation review. Half DTCF funded
	Youth Action Team (Probation and Police costs)	400,000	-	-	Approved as part of the Bull Report recommendations.
Pillar 6 – Enforcement	Establishing an independent group to oversee policing matters which takes account of the future role of the Commissaires under Ministerial Government.	-	100,000	-	Revenue growth. See RC35/2003 for background to proposals.

Pillar 8 – Dealing With Offenders	Greater use of the Electronic Monitoring Scheme ('tagging').	160,000	20,000	-	Revenue growth. The Scheme underwent a 'value for money' audit in April 2005.
	Paying fines for parking infractions and other minor offences through fixed penalties.	-	tbd	tbd	Detailed study to be carried out.
	Investigate the suitability and cost-effectiveness of enforcement cameras	-	tbd	tbd	Detailed study to be carried out.
	Expanding processes in relation to asset recovery.	-	tbd	tbd	Detailed study to be carried out. Likely to be self-funding.
Pillar 9 – Rehabilitation	Establish an additional 3 Prison Officers and 3.5 Probation staff to implement supervised release.	-	250,000	-	To be funded as a revenue growth bid for 2006. Could result in reduced costs if the Prison population reduces as a result.
	Establish a Prison Education Unit	-	100,000	-	Revenue growth.
	TOTAL COSTS		480,000		

COST OF CRIME TO VICTIMS

Offence Category	In anticipation of crime (£)			As a consequence of crime (£)							Offences In Jersey In 2001	
	Security Expenditure	Insurance administration	Property Stolen and damaged	Emotional and physical impact on victims	Lost output	Victim services	Health Services	Average cost per crime (£)	No. of Offences			
Violence against the person	2	-	-	13,000	2,500	10	1,200	16,300	N/A			
Homicide	-	-	-	700,000	370,000	4,700	630	1,078,000	0			
Serious Wounding	10	-	-	97,000	14,000	6	8,500	117,000	212 ⁴²			
Other wounding	-	-	-	120	400	6	200	700	N/A			
Common Assault	-	-	-	240	20	6	-	270	627			
Sexual Offences	2	-	-	12,000	2,000	20	1,200	15,100	85 ⁴³			
Robbery/Mugging	-	40	310	2,400	420	6	190	3,400	15			
Burglary (dwelling)	330	100	830	550	40	4	-	1,810	454			
Theft (not vehicle)	-	20	130	100	4	-	-	250	1563			
Theft (vehicle)	70	50	500	220	20	-	-	860	298			
Criminal damage	10	20	190	200	30	-	-	450	1289 ⁴⁴			

Source: The Economic and Social Costs of Crime

Using the above costs and data from the Rutherford report on recorded crime, it is estimated that in Jersey in 2001 the cost to victims was £28,350,000. This figure does not include all types of crime; for instance commercial crimes such as fraud and forgery are not included, nor are public order offences.⁴⁵ Nor does it account for the higher cost of living in Jersey or the likelihood that, as in other jurisdictions, a great deal of crime goes unreported. It is likely, therefore, that the above figure substantially underestimates the true cost of crime to victims in Jersey.

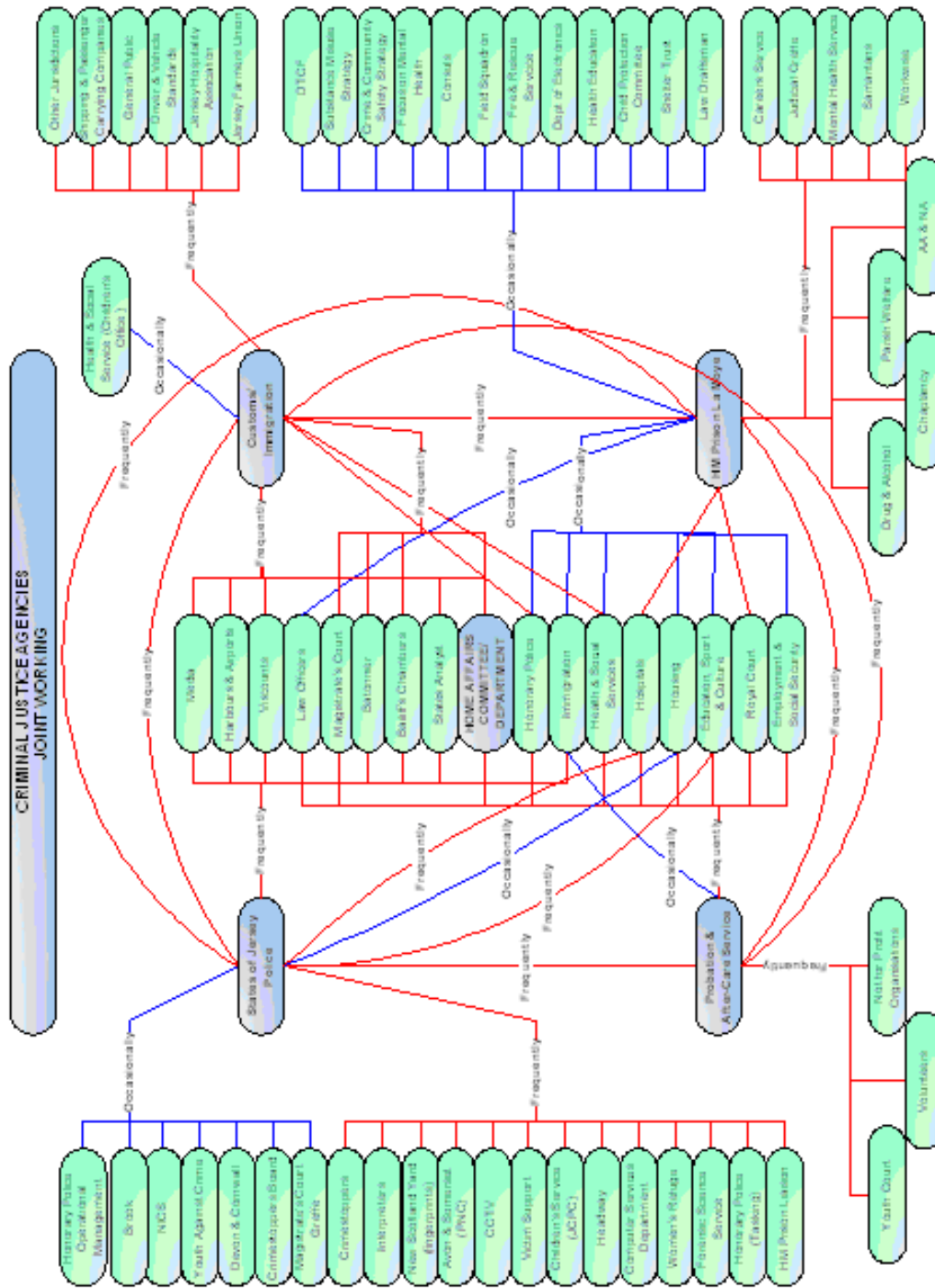
42. *Crimes of Criminal Assaults.*

43. *Includes rape.*

44. *Malevolent Damage.*

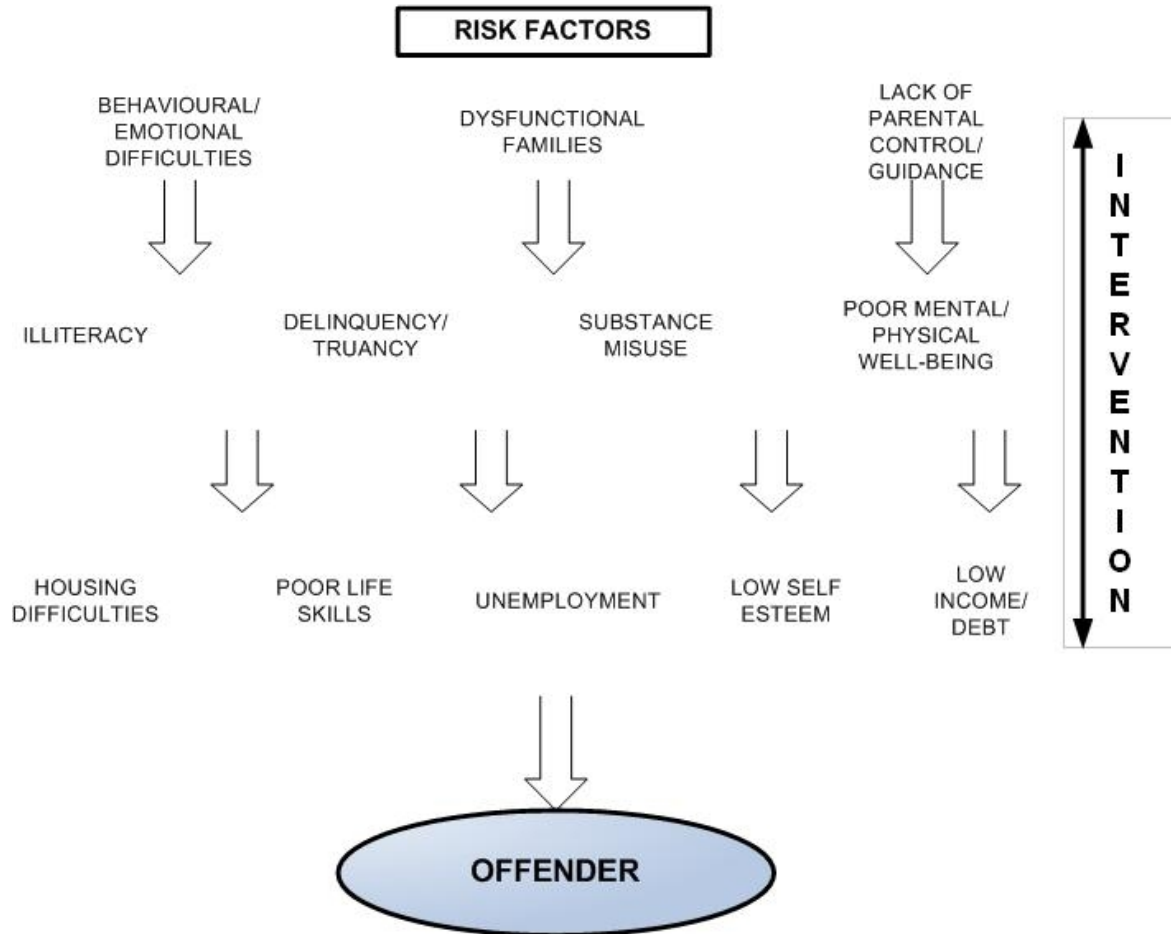
45. *A total of 4543 incidents were included in the calculation. These accounted for approximately 2/3 of all recorded crime for that year.*

CRIMINAL JUSTICE AGENCIES JOINT WORKING



CRIMINAL JUSTICE PROCESS – RISK FACTORS, OFFENDING AND SUBSEQUENT ACTION

CRIMINAL JUSTICE PROCESS – RISK FACTORS, OFFENDING AND SUBSEQUENT ACTION



TREATMENT

- Alcohol and Drug Service (ADS)
- Mental Health Service (through Arrest Referral)

DIVERSION

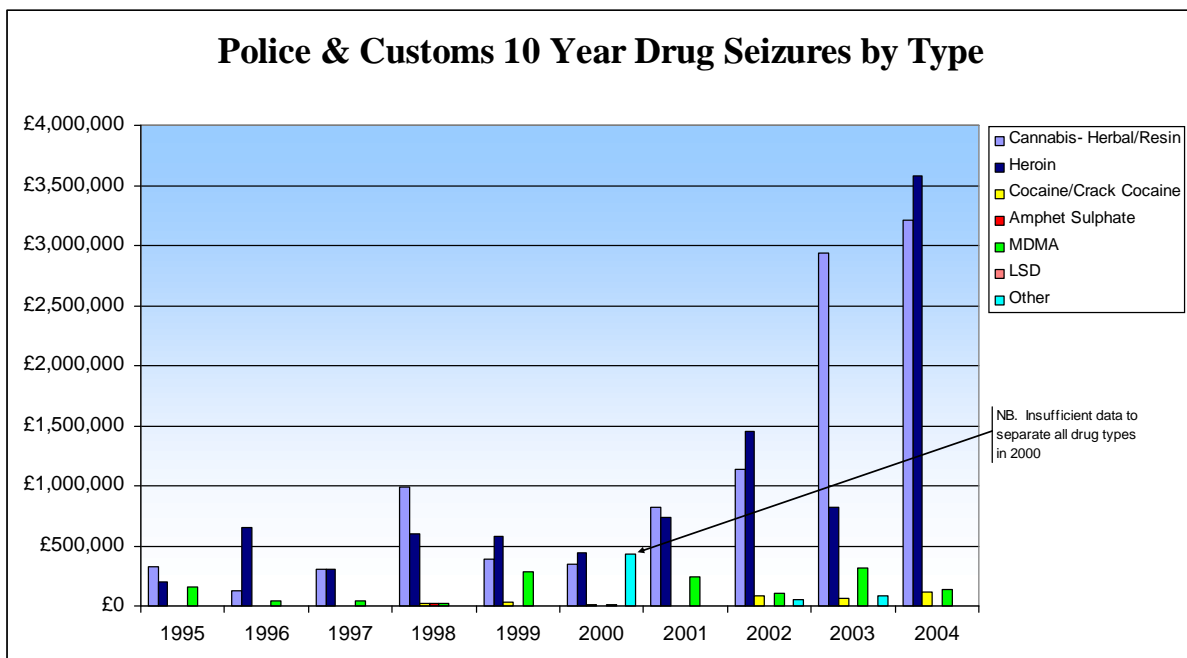
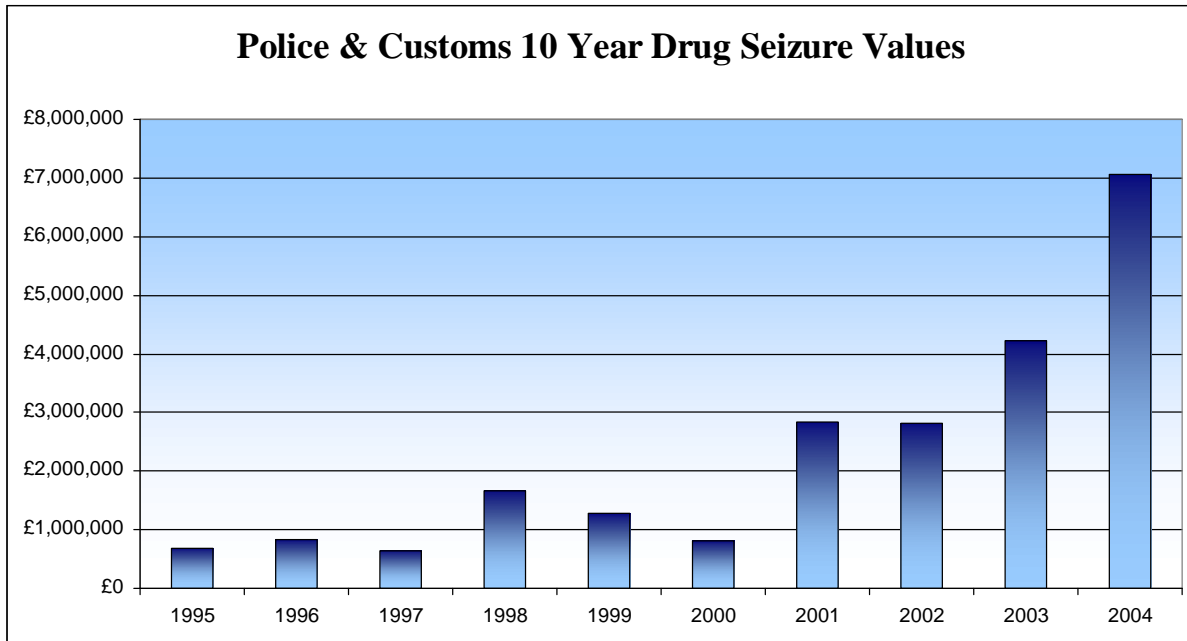
- Parish Hall Enquiry
- Fine
- Caution
- Words of advice
- Restorative justice

COURT SENTENCE

- Custody
- Community Service
- Probation Order (+ conditions)
- Suspended Sentence
- Fine
- Binding-Over Order (+ conditions, can include attendance at ADS)

[NB: sentences can have a punitive and/or rehabilitative element]

POLICE & CUSTOMS 10 YEAR DRUG SEIZURE STATISTICS



RESTORATIVE JUSTICE CONFERENCE CASE STUDY

(All names have been changed for the purpose of this review)

- A9.1 One of the most successful restorative justice conferences involved a youth who had stolen £469 from the till and several phone cards from the supermarket where he worked at weekends.
- A9.2 John participated well during the conference and had brought with him a letter of apology for the Supermarket Manager. He had already paid back the money that he had stolen from an account that his grandparents had set up for him. He agreed to take part in a conference as he was deeply remorseful to everyone involved especially as he had let down his family; this was particularly apparent when his father told him how much they all loved him and did not want him to start going down a criminal path. John assured his father that nothing like this would ever happen again and, if he could turn the clock back, he would.
- A9.3 The Security Manager explained how the whole investigation process had affected all the staff as they were all under suspicion and hidden cameras had to be used. He stated that it was very unsettling knowing that a trusted member of staff was abusing the system and it was not pleasant for the staff to have security officers observing them whilst trying to identify the culprit.
- A9.4 John agreed that he would work for 3 months of Saturdays without getting paid. The Security Manager said that this would give John a chance to get his job back and to obtain a good reference in the future. John's father thanked him for giving his son a second chance.
- A9.5 At the end of the 3-month period, the Supermarket Manager stated that he was extremely pleased with John's progress. The Centenier involved in the case was delighted with the reports regarding John. The supermarket staff were astounded that John had kept his word and had attended every week. They all admired him for having the courage to carry out mundane tasks that nobody enjoyed doing without complaining once and, even more, for not getting paid. The supermarket agreed to re-employ John on the counters instead of the tills, and were very impressed with the whole restorative justice initiative.
- A9.6 The Centenier involved stated that, in cases like this, a written caution would be issued usually; however, because he had been so impressed with John's input from the start, he gave him a verbal warning instead.
- A9.7 Both John and his family were delighted with the outcome and appreciated that he now had a clean slate and a fresh start with an opportunity to put this incident behind him.

[1] *States of Jersey Police Annual Report 2004, page 12.*

[2] *States of Jersey Police Annual Report 2004, page 13.*

[3] *Miles. H. and Raynor. P., Community Sentences in Jersey: Risk Needs and Rehabilitation, Jersey Probation and After-Care Service, 2004, page 20.*

[4] *States of Jersey Police Annual Report 2004.*

[5] *Brand, S. & Price, R. (2000) The Economic and Social Costs of Crime. Home Office.*

[6] *Home Office, July 2003, 'A New Deal for Victims and Witnesses'.*

[7] *Bull, K. (2003) Review of the Principles, Practices and Provision for the Children and Young People with Emotional and Behavioural Difficulties and Disorders in the Island of Jersey 2002. States of Jersey.*

[8] *Source: South Australian Crime Prevention Unit Early Intervention in Crime Prevention Programme.*

[9] *Rutherford Report, page 107.*

[10] *Ibid, page 107.*

- [11] *Home Affairs Committee Act B8, dated 10th March 2005.*
- [12] *Parish Accounts 2003/2004.*
- [13] *The Future for Drugs Enforcement in Jersey, Chief Officer, States of Jersey Police and the Agent of the Impôts, October 1994.*
- [14] *Home Affairs Committee paper, R.C.35 dated 22nd July 2003.*
- [15] *Police Reform Act (2002).*
- [16] *Metropolitan Police Authority website, 28th February 2005.*
- [17] P25/2005, Migration: Monitoring and Regulation, paragraph 3(c)
- [18] *Rutherford Report, pages 40-54.*
- [19] *Ibid, page 98.*
- [20] *Home Affairs Committee Act B9 of 22nd May 2003.*
- [21] *Ibid, page 100.*
- [22] *Ibid, page 102.*
- [23] *Raynor, P. and Miles, H., February 2004, 'Evaluating the Role of the Parish Hall Enquiry', pages 27-28.*
- [24] *Clothier 1996:16.*
- [25] *Miles, H., Probation Journal Vol 51 (2) 2004, 'The Parish Hall Enquiry: A community-based alternative to formal court processing in the Channel Island of Jersey', page 141.*
- [26] *Raynor, P. and Miles, H., February 2004, 'Evaluating the Role of the Parish Hall Enquiry', pages 27-28.*
- [27] *Raynor, P. and Miles, H., February 2004, 'Evaluating the Role of the Parish Hall Enquiry', page 29.*
- [28] *Probation and After-Care Service Annual Report 2004, page 25.*
- [29] *Probation and After-Care Service Annual Report 2004, page 27.*
- [30] *Rutherford Report, page 62.*
- [31] **Normal accommodation is that level representing decent, uncrowded accommodation.*
- [32] *David Davis MP, Shadow Home Secretary, Policy Review Magazine, September 2004.*
- [33] *Dr. D. King, HM La Moye: Report on the Temporary Release of Prisoners, December 2003.*
- [34] *Raynor and Miles 2001, Raynor and Miles 2004.*
- [35] *Heath et al 2002; Raynor and Miles 2004.*
- [36] *Miles 2004.*
- [37] *JPACS 2003 and 2004; Northern Ireland Office 1998.*
- [38] *Raynor and Miles 2004.*