CRIMINAL JUSTICE POLICY

August 2007

Home Affairs Department

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 Minister for Home Affairs dated 30th August 2007 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 26;

(ii) criminal justice statistics on page 35;

(iii) looking after victims on page 44;

(iv) joint working on page 47;

(v) early intervention on page 57;

(vi) enforcement on page 70;

(vii) dealing with offenders on page 87;

(viii) rehabilitation on page 101;

(b) to agree the policy statement in the section entitled 'Prosecution' on page 73.

MINISTER FOR HOME AFFAIRS

CRIMINAL JUSTICE POLICY

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FOREWORD BY THE MINISTER FOR HOME AFFAIRS

This document details Jersey's first formal Criminal Justice Policy and marks an important contribution to modern government by the Home Affairs Department. Once the States had agreed departmental responsibilities under Ministerial government, I resolved to bring policy proposals forward at the earliest opportunity.

The timetable for delivery contained in the document shows that a significant amount of research and consultation was carried out in 2003/4 which enabled the initial policy to be lodged for debate in October 2005. In the event, the States decided, rightly, that such a major policy should be debated by the new Assembly after the 2005 elections and following review by the Council of Ministers which had recorded the Policy as an existing priority in its Strategic Plan 2006-2011. This did mean, however, that statistics needed to be updated, information and policy proposals re-validated with stakeholders, and further consultation conducted in 2006.

It would be easy to under-estimate the complexity of the policy formulation task. To many, criminal justice is a concept which revolves around crime and punishment with the courts at its centre. Important though the courts are to the criminal justice system, it is not the purpose of this policy to enter into any form of judicial services review or to interfere directly in sentencing policy. The former is beyond both the remit and resources of my Department. The latter is for the Royal Court to decide, but this does not preclude sensible dialogue between the executive and the judiciary where sentencing policy has wider implications for the society in which we live.

The debate about the causes and consequences of offending behaviour is constantly with us. Thus the decision as to whether someone who committed an offence did so due to unfortunate circumstances, psychiatric problems or is considered as having no excuse has implications for the criminal justice system. Practical help may try to remedy unfortunate circumstances; treatment and training is provided by, for example, the Probation and After-Care Service, and at Greenfields; punishment of more serious crime usually results in a custodial sentence. Probation, Community Service and suspended sentences are examples of alternatives to prison programmes to address offending behaviour. Reparation and restorative justice have been achieved through the Parish Hall Enquiry system working with the Probation and After-Care Service. Some important changes towards reform and rehabilitation are long overdue. I hope they will begin to be addressed by this new policy.

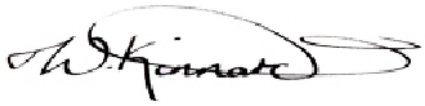
The objectives of this criminal justice policy have been developed within a framework of evidence and principle. The evidence is growing about the nature and extent of crime, the characteristics and risk factors of criminality and patterns of criminal careers, methods of preventing crime and criminality, the effectiveness of policing and sentencing options and the management of prisons. Principal strategies of this policy include increased effectiveness and value for money, early intervention, crime prevention and reduction, further opportunities for community sentencing, imprisonment as a last resort, development of supervision schemes in the community to reduce re-offending and due consideration being given to victims. Thus this policy looks at criminal justice in its widest context: from the risk factors that give rise to offending; early intervention measures designed to help prevent offending; prosecution and enforcement; and finally how we deal with offenders and how we rehabilitate them. The last chapter – Rehabilitation – proposes major improvements to the education and training of prisoners and their supervision after release.

At every stage, I have actively sought the views of others and taken into account contributions received. At the outset, the former Committee commissioned an independent review by Professor Rutherford, Dean of Law at Southampton University. Detailed focus group work followed with main stakeholders which led to public consultation documents being published in 2005 and 2006. The Education and Home Affairs Scrutiny Panel has signalled its support in principle save for 'Pillar 7– Prosecution'. The Panel has taken a particular interest in the role of the Magistrate but their review does not interfere with the policy as drafted.

Finally, it is most important that this policy is `joined-up' effectively with other policies, none of which exist in isolation. Indeed, other Home Affairs initiatives underpin the Criminal Justice Policy, especially those promoting intervention and partnership working such as Building a Safer Society (accessible at www.gov.je/CommunitySafety) and Safer St. Helier. Furthermore, I am particularly pleased that the policy dovetails with emerging policies such as the Social Policy, 'Every Person Counts' and `New Directions' from the

Health and Social Services Department. The same principles of early intervention, encouraging behavioural change and taking responsibility for one's actions apply throughout.

I am grateful to all those who have contributed to the development of this document and I must mention in particular the exceptional work undertaken by my Chief Officer, Steven Austin-Vautier, from its genesis to fruition. His extensive knowledge and previous experience in the criminal justice field has been invaluable and his dedication to meticulous detail has resulted in a policy document in which I and my department are justly proud. I believe this first criminal justice policy provides a significant contribution to the important States strategic obligation of a safe, just and equitable society and will provide a firm foundation for future policy development for some time to come.



Senator Wendy Kinnard **30th August 2007**

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 Services. 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 Home Affairs Department.

1.2 In 2002, the then 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. The Committee took an early decision not to pursue Recommendation 4 because of the potential cost implications and the impact on the traditional role of the Honorary Police. The other recommendations were taken forward into policy design and are referred to in the relevant part of the policy document.

1.3 As a backdrop to policy development, the Department has taken 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. Moreover, the highest regard is paid to human rights issues in all policies.

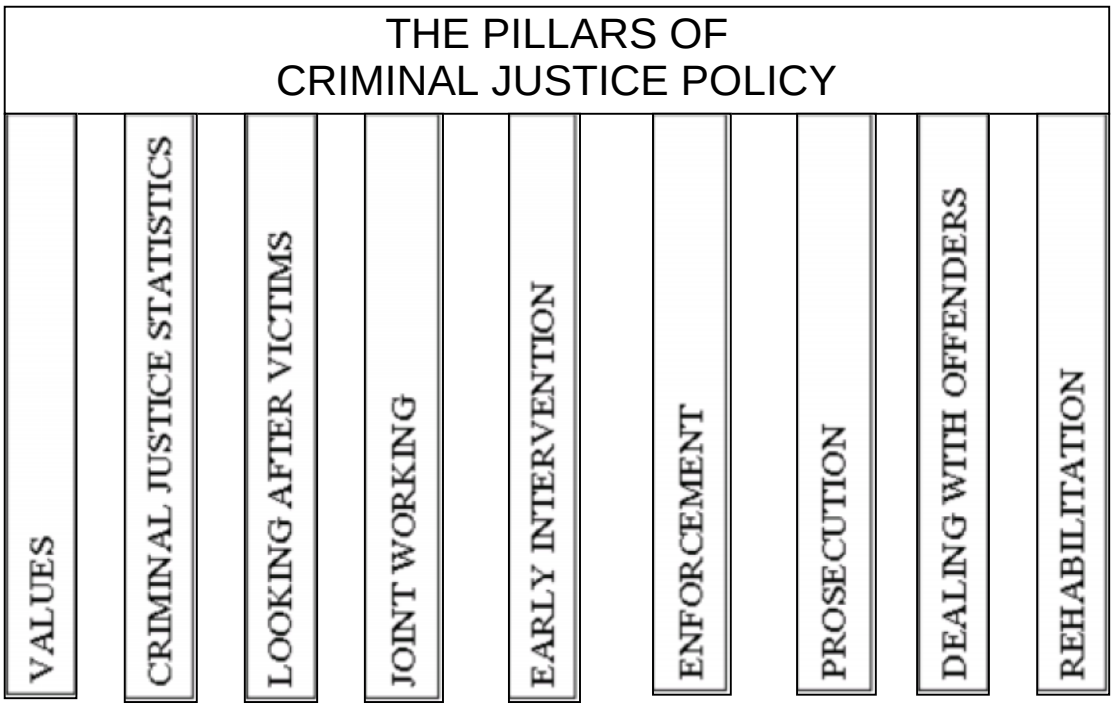
1.4 Given the action plans detailed in this document, the criminal justice policy will have a 5-year life between the years 2007 – 2011. The policy is a key component in delivering Commitment Three of the Strategic Plan 2006 to 2011 in promoting a safe, just and equitable society.

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 Department'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 and is detailed in the 'Policy Context' chapter.



POLICY STATEMENTS AND ACTION PLANS

Pillar 1 – Criminal Justice Values

1.8 I, together with my Home Affairs Department, 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 and more peaceful society; 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.

To achieve this aim, the Department 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 its policing duties.
- Reduce the risk of bias or prejudice based on race, ethnicity, class, gender, sexual orientation or age.
- Rehabilitate and re-educate offenders to change their attitude and behaviour.
- Reduce the fear of crime.

- Help to protect the Island from threats such as terrorism, money laundering, corruption, people trafficking and other organised crime. Support the enforcement agencies in the execution of their statutory duties.

Pillar 2 – Criminal Justice Statistics

1.9 Criminal justice policy development needs to be evidence-led in order to take account of trends in offending. Additionally, in order to support Recommendation 9(5) of the Social Policy Framework, corporate data collection and analysis should monitor the `signal offences' that impact on fear of crime; measure outputs and outcomes of the criminal justice process; and evaluate the effectiveness of intervention strategies. 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 Department envisages a long term and a short-term strategy.

1.10 In the long term, the Department 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 will be taken forward by the Criminal Justice Information Strategy Group.

1.11 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, criminal justice agencies are continuing this work until an integrated solution is in place.

Action Plan

1.12 The Home Affairs Department will –

- Implement the recommendations of the Integrated Criminal Justice Scoping Study.

- In the meantime, continue to produce co-ordinated criminal justice statistics annually using current systems through joint working between criminal justice agencies.

Pillar 3 – Looking After Victims

1.13 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, Jersey Domestic Violence Forum, Citizens Advice Bureau and Crimestoppers. We also have statutory provision for the Criminal Injuries Compensation Scheme and Compensation Orders. A Victims' Charter was developed in 1996 and the present Victim Support Service set up to carry on the work started in 1989. 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 Department 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 exert undue influence over 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 U.K. 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. In order to improve safeguards for children and vulnerable persons, we will consider how the Island can access the Vetting and Barring Scheme being set up under the Safeguarding Vulnerable groups Act 2006.

Action Plan

1.14 The Home Affairs Department 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 U.K.'s experience in developing the 'New Deal' initiative.

- Carry out a Crime Victimisation Survey every 3 years, subject to resources being available, 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.

- Lead a cross-departmental working group reviewing the arrangements for vetting and barring in the Island to take account of the Vetting and Barring Scheme being introduced in the U.K. in a phased roll-out from autumn 2008.

Pillar 4 – Joint Working

1.15 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 to 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

1.16 I and the Home Affairs Department will –

- Promote 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 a forum for criminal justice policy and planning involving the executive, the judiciary and the prosecution.

Pillar 5 – Early Intervention

1.17 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'.

1.18 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 Department embraces fully the work carried out by the Children's Executive in recommending changes to the youth justice system.

1.19 Finally on rehabilitation, I and my Home Affairs Department are committed to the philosophy of harm

reduction and have carried this forward into the Building a Safer Society Strategy.

Action Plan

1.20 The Home Affairs Department will –

- In partnership with the Health and Social Services Department, take the lead in implementing the Building a Safer Society Strategy and monitoring its progress.

- Implement the appropriate recommendations of the Bull Report approved by the States of Jersey.

- 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.

Pillar 6 – Enforcement

1.21 The Home Affairs Department has a prime responsibility for enforcement through the States of Jersey Police and the Customs and Immigration Service. A close working relationship will be maintained with other enforcement agencies, notably the Honorary Police and the Viscount's Department. The Department endorses the six operational priorities that the States of Jersey Police have identified and will continue to survey the public regularly, through the Annual Social Survey, 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 with in excess of £7 million worth in 2004 and just under £4 million worth in 2005. With regard to imported crime, additional powers of detention for 'wanted' migrants and the introduction of a dangerous persons register is being investigated. A Sex Offenders Law is also being progressed.

Action Plan

1.22 In order to address the enforcement issues and challenges ahead, I and my Department will –

- Develop the framework and law drafting instructions for a police authority for establishment during 2008.

- Support the States of Jersey Police in the achievement of its Policing Plan priorities.

- Plan for anticipated changes in crime levels according to the predicted population profile and any effects of migration policy.

- During 2007, 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.

- Having regard to Recommendation 9(4) of the Social Policy Framework and agreed Safer St. Helier initiatives, analyse the nature and effect of anti-social behaviour in Jersey and, in consultation with other agencies and the community, seek appropriate solutions.

- Maximise intelligence collecting and sharing with other jurisdictions in order to combat imported crime, particularly drug trafficking and, where appropriate, seek to have criminals arrested and drugs seized before they arrive in the Island.

- Subject to the legal position, introduce additional powers of detention for 'wanted' migrants.

- Introduce a Sex Offenders Law in 2008.

Pillar 7 – Prosecution

1.23 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.

1.24 Having taken advice at an early stage in the policy setting process, the Home Affairs Department 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.

1.25 Regarding the future development of Parish Hall Enquiries, I and the Home Affairs Department support 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 Department 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

1.26 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. Jersey has a demonstrably effective and efficient Probation and After-Care Service which is trusted by the Courts, and which deals with some 400 offenders per annum who would otherwise serve short prison sentences.

1.27 I and my Department are particularly concerned about the growth in Jersey's prison population is of particular concern to the Home Affairs Department and which 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 in view of the current 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 Department is to create the conditions in which punishment, deterrence and rehabilitation can be brought to bear in the most cost-effective way. The Island has not been 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. We have 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. Consequently, our strategy will focus on closer dialogue with the Royal Court over sentencing policy and the use of community penalties; growing and improving the Prison estate; introducing discretionary supervised release; and continuing to develop the use of electronic monitoring and temporary release.

1.28 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 fixed site, automated enforcement cameras to Jersey in relation to motoring offences. The Department 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

1.29 The Home Affairs Department 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') as part of the proposals for post-custodial supervision.

- Enter into discussions with the Bailiff over sentencing policy.

- 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.

- Support the proposal to give the Royal Court greater flexibility in sentencing by increasing the maximum level of community service to 480 hours as an alternative to 3 year's imprisonment.

- 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 fixed site, automated 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 with the aim of introducing, in the first instance by 2008, legislation to assist other jurisdictions to recover such assets.

Pillar 9 – Rehabilitation

1.30 Whilst in some 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. 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. Since July 2006, as part of the Service's Through-Care Policy, all newly sentenced prisoners serving six months or more have been allocated a Probation Officer to work with them through their sentence and to offer voluntary contact after 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. Prisoner through-care provides a further step towards the

implementation of this. The Home Affairs Department's aim is to improve prisoner rehabilitation in order to reduce recidivism rates. Currently, approximately 50% of adults and 70% of young offenders are reconvicted within 12 months.

1.31 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 Department has been careful to study the provisions of the U.K.'s Criminal Justice Act 2003 in which the U.K. system of parole has been reformed. The Department sees no need to replicate those provisions precisely; however, it will be important to adopt a system which can operate with that in the U.K., not least so that the Island can continue to transfer the majority of prisoners with demonstrable links with England and Wales. Prisoners may 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.

1.32 An important part of this policy will be for the Department to introduce a system of discretionary supervised release but there will be a cost to introducing such a system. An additional 3 Prison Officers will be needed for sentence planning during the custodial part of the sentence, and an additional 3.5 Probation staff have been recruited to take on the heavier supervisory role whilst prisoners are released on licence. However, better value for money over the whole criminal justice system should be achieved in terms of lower re-offending rates.

1.33 In the Home Affairs Department, we recognise the link between poor educational ability/attainment and high rates of recidivism. Having adopted Senator Perchard's amendment to the Strategic Plan, the States supports the creation of a Prison Education Unit to deliver a range of educational services including basic skills, national vocational courses, distance learning and careers guidance. This is an integral part of the overall Prison Performance Improvement Plan (PPIP) which was presented to the Council of Ministers in October 2006. The full cost of implementing the PPIP will be in the region of £1.25M. Growth funding has been approved to facilitate a phased implementation.

Finally on rehabilitation, I and the Home Affairs Department are committed to the philosophy of harm reduction and have carried this forward into the new 'Building a Safer Society' Strategy.

Action Plan

1.34 The Home Affairs Department will –

- In 2007, seek approval for new post-custodial supervision legislation in order to introduce a system of discretionary supervised release.

- Subject to the approval of new legislation, introduce a system of discretionary supervised release during 2008.

- 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 Department and the Skills Executive.

- Implement the Prison Performance Improvement Plan in accordance with available resources and a timetable agreed by the Council of Ministers.

CONSULTATION

1.35 Consultation with the main stakeholders in the criminal justice process was a pre-requisite for policy development. Consequently, focus groups on each of the criminal justice pillars met over a 9-month period in order to inform policy setting. The composition of these focus groups is given at Appendix 2. Subsidiary focus groups were held where specific matters were highlighted for examination, i.e., parole and dealing with young people. Focus group work led to the preparation of a Consultation Document.

During a 5-month period from April – August 2005, opinion was sought from States Members, the Shadow Scrutiny Panel, the judiciary, criminal justice professionals, the private and voluntary sector and the general public. During September and October 2005, a number of briefings were held for the public in selected Parish Halls, and there were two separate briefings for States Members. The media's assistance was also sought in gaining wider coverage. The final policy document was lodged as P.201/2005 Criminal Justice Policy for debate on 25th October 2005. However, the States decided to postpone the debate so that the policy could be considered by the new Assembly following the 2005 elections. The Council of Ministers considered the matter in February 2006 and decided that the policy should be made available for further comment and review as necessary in accordance with the new framework outlined in R.C.82/2005 Public Consultation. To prepare for a further consultation period, the information was updated and validated by stakeholders to produce a new draft policy document which was circulated in July 2006. The consultation period was extended until December 2006 to allow time for the Royal Court to comment. With the exception of the Royal Court's comments and those of other stakeholders, other comments concerned points of detail rather than anything which would affect the overall policy direction. This includes those received from the Education and Home Affairs Scrutiny Panel who supported the draft policy in principle. The Royal Court's comments concerned post-custodial supervision and are reviewed in Pillar 9. The milestones and timetable for delivery can therefore be summarised as follows:

Milestones/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 P201/2005 Criminal Justice Policy. Debate deferred for consultation by new States Assembly.
√	Feb 2006	Council of Ministers consider P201/2005 – agree to further review and consultation.
√	Mar – Jun 2006	Policy document update period.
√	Jul – Oct 2006	Circulate Draft Policy Document for consultation.
√	Nov 2006	Extension for Royal Court comments
√	Dec 2006/Jan 2007	Collate consultation comments
√	Feb – Mar 2007	Informal review by Education and Home Affairs Scrutiny Panel.
√	May 2007	CMB/CoM approval.
√	Aug 2007	Lodged au Greffe

DELIVERING THE POLICY

1.36 It will be apparent from paragraph 2.7 that the draft policy was subject to extensive consultation and lodging in 2005. As a result of the postponed debate, which led to updating and further consultation in 2006, there has been time for many aspects of the Action Plans to be progressed, particularly those which

do not require States approval or new legislation. Appendix 3 gives a summary of Action Plan progress to date. Objectives are divided into short and long-term objectives rather than the order in which they appear in the subsequent pillars.

FINANCIAL AND MANPOWER IMPLICATIONS

1.37 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 and the formation of a Prison Education Unit. Funds have already been provided for the introduction of post-custodial supervision, including an additional 3 Prison officers and 3.5 Probation staff. However, these staffing levels, together with the associated cost, will need to be reviewed once the scope of the post-supervisory task can be assessed properly in the light of experience. The States has given its agreement in principle to the Prison Education Unit which forms part of the Prison Performance Improvement Plan. Some policy measures are already funded, the most significant being the 'Building a Safer Society' Strategy. A summary of the existing funding and implementation costs is given at Appendix 3. This identifies total revenue growth of approximately £240,000 from 2009. The Minister for Treasury and Resources has made the following statement via ministerial decision dated the 21st May 2007: *"The Council of Ministers has not recommended any additional funding in the draft 2008-2010 States Business Plan in respect of the £240,000 revenue growth identified as required in this policy. These initiative will therefore need to be funded from within the relevant Departments' proposed cash limits."*

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), H.M. Prison (Prison Board), Customs (Finance and Economics Committee) and Probation and After-Care Service (Probation Board). With the exception of the Probation and After-Care Service, these services were drawn together under the Home Affairs Committee shortly after its creation in December 1999. 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 Home Affairs Department.

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. The Committee lodged P.201/2005 Criminal Justice Policy for debate on the 25th October 2005; however, the States decided to defer the debate until after the elections to allow new Members the opportunity to vote on the policy proposals. Inevitably, this caused a delay to enable the policy to be updated and for consultation to follow. Given the action plans detailed in this document, the criminal justice policy will have a 5-year life between the years 2007 – 2011. The policy is a key component in delivering Commitment Three of the Strategic Plan 2006 to 2011 in promoting a safe, just and equitable society.

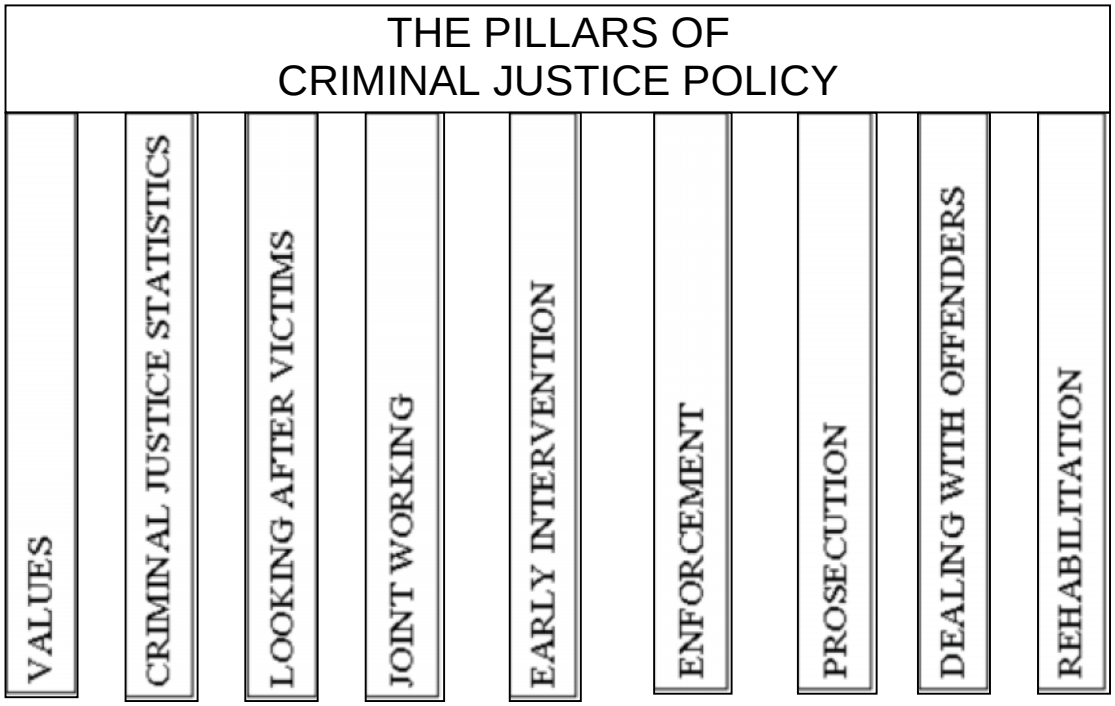
2.3 It is acknowledged that, in developing this first Criminal Justice Policy for Jersey, many of the objectives are of Island-wide significance. This is particularly true of Pillar 5 which deals with early intervention. Within this Pillar, strategies to positively impact upon risk factors will require considerable further exploration and consultation encompassing the States sector, voluntary partners and the public. It is therefore important to recognise that I and my Department are 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 Department 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 former 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 potential 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, our 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, we have 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, I and my Department have 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 simply contend that 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 there are 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 Department to found its criminal justice policy on nine specific 'pillars' which are represented diagrammatically below and covered in the remaining chapters.



CONSULTATION

2.7 Consultation with the main stakeholders in the criminal justice process was a pre-requisite for policy development. Consequently, focus groups on each of the criminal justice pillars met over a 9-month period in order to inform policy setting. The composition of these focus groups is given at Appendix 2. Subsidiary focus groups were held where specific matters were highlighted for examination, i.e.: parole and dealing with young people. Focus group work led to the preparation of a Consultation Document. During a 5-month period from April – August 2005, opinion was sought from States Members, the Shadow Scrutiny Panel, the judiciary, criminal justice professionals, the private and voluntary sector and the general public. During September and October 2005, a number of briefings were held for the public in selected Parish Halls, and there were two separate briefings for States Members. The media's assistance was also sought in gaining wider coverage. The final policy document was lodged for debate as

P.201/2005 Criminal Justice Policy on 25th October 2005. However, the States decided to postpone the debate so that the policy could be considered by the new Assembly following the 2005 elections. The Council of Ministers considered the matter in February 2006 and decided that the policy should be made available for further comment and review as necessary in accordance with the new framework outlined in R.C.82/2005 Public Consultation. To prepare for a further consultation period, the information was updated and validated by stakeholders to produce a new draft policy document which was circulated in July 2006. The consultation period was extended until December 2006 to allow time for the Royal Court to comment. With the exception of the Royal Court's comments and those of other stakeholders, other comments concerned points of detail rather than anything which would affect the overall policy direction. This includes those received from the Social Scrutiny Panel who supported the draft policy in principle. The Royal Court's comments concerned post-custodial supervision and are reviewed in Pillar 9. The milestones and timetable for delivery can therefore be summarised as follows:

Milestones/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 P201/2005 Criminal Justice Policy. Debate deferred for consultation by new States Assembly.
√	Feb 2006	Council of Ministers consider P201/2005 – agree to further review and consultation.
√	Mar – Jun 2006	Policy document update period.
√	Jul – Oct 2006	Circulate Draft Policy Document for consultation.
√	Nov 2006	Extension for Royal Court comments
√	Dec 2006/Jan 2007	Collate consultation comments
√	Feb – Mar 2007	Informal review by Education and Home Affairs Scrutiny Panel.
√	May 2007	CMB/CoM approval.
√	Aug 2007	Lodged au Greffe

DELIVERING THE POLICY

2.8 It will be apparent from paragraph 2.7 that the draft policy was subject to extensive consultation and lodging in 2005. As a result of the postponed debate, which led to updating and further consultation in 2006, there has been time for many aspects of the Action Plans to be progressed, particularly those which do not require States approval or new legislation. Appendix 3 gives a summary of Action Plan progress to date. Objectives are divided into short and long term objectives rather than the order in which they appear in the subsequent pillars.

FINANCIAL AND MANPOWER IMPLICATIONS

2.9 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, and the formation of a Prison Education Unit. Funds have already been provided for the introduction of post-custodial supervision, including an additional 3 Prison officer and 3.5 Probation staff. However, these staffing levels, together with the associated cost, will need to be reviewed once the scope of the post-supervisory task has been assessed properly in the light of experience. The States has given its agreement in principle to the Prison Education Unit which forms part of the Prison Performance Improvement Plan. Some policy measures are already funded, the most significant being the 'Building a Safer Society' Strategy. A summary of the existing funding and implementation costs is given at Appendix 3. This identifies total revenue growth of approximately £240,000 from 2009. The Minister for Treasury and Resources has made the following statement via ministerial decision dated 21st May 2007: *"The Council of Ministers has not recommended any additional funding in the draft 2008-2010 States Business Plan in respect of the £240,000 revenue growth identified as required in this policy. These initiative will therefore need to be funded from within the relevant Departments' proposed cash limits."*

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 transferred to ministerial government at the end of 2005. Business conducted through the new Departments is 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 was mainly through the work of operational departments, in particular the States of Jersey Police, H.M. Prison, the Customs and Immigration Department and the Probation and After-Care Service. However, the Home Affairs Department is now 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, governmental transformation requires the Home Affairs Department to take responsibility for the future shape of criminal justice policy, in consultation with the Attorney General, 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 U.K. policy. The U.K. 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 U.K.'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 U.K. 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 expects stringency in public spending whereby departments have been required to make efficiency savings and provide cost-effective services to the public. There is little scope for drastic savings in the criminal justice area, particularly in operational departments delivering front-line services. This is due to the lack of economies of scale; wide statutory responsibilities; 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 U.K.'s experience with extended opening hours as they try to address the problems associated with `binge drinking'. It is vital that policies interact; consequently, the policy and its action plans complement the emerging Social Policy Framework. On 1st May 2004, the EU acquired ten more member states predominantly from Eastern Europe. This has had a bearing on the rise in our Polish community. Romania and Bulgaria became member states on 1st January 2007 which may also have an impact on Jersey

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 as a rehabilitation measure. 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 U.K. 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 Department is working jointly with the Jersey Legal Information Board (JLIB) to review 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. Similarly, levels of public disorder are often associated with the concentration of hostelries and nightclubs in the Weighbridge area. The Safer St. Helier Project aims to reduce alcohol-related crime and nuisance in the vicinity of drinking venues, the town centre and other public places by working with businesses and the community to seek lasting solutions.

Legislative

3.8 The Rehabilitation of Offenders (Jersey) Law 2001 was brought into force on 1st December 2002. The Police Procedures and Criminal Evidence (Jersey) Law 2003 requires all 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. On a wider front, the Human Rights (Jersey) Law 2000, which was brought into force on 10th December 2006, has required other legislation, procedures and

facilities in the criminal justice area to undergo a rigorous compliance check. 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 U.K. 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 and more peaceful society; 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 its policing duties.

- ❖ Eliminating the risk of bias or prejudice based on race, ethnicity, class, gender, sexual orientation 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 and supporting enforcement agencies in the execution of their statutory duties.

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 Department. For example, effective policing clearly exerts an influence 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 Department 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 and more peaceful society; 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 Department 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 its policing duties.
- Reduce the risk of bias or prejudice based on race, ethnicity, class, gender, sexual orientation or age.
- Rehabilitate and re-educate offenders to change their attitude and behaviour.
- Reduce the fear of crime.
- Help to protect the Island from threats such as terrorism and support enforcement agencies in the execution of their statutory duties.

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. Services have tended to develop information systems to meet their own needs rather than for wider benefits. In so doing, services 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 services 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 service 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 I and my Department have given in-principle support for the vision of an integrated CJS and agreed to take this forward in partnership with JLIB. Other jurisdictions are further ahead in the quest to make greater use of technology.

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. An integrated CJS is 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 Information Services Department. The Study Team concluded that the implementation of a sophisticated, fully integrated criminal justice system was not achievable at this point, but recognised that this would be a desirable aim for Jersey in the longer term. Though benefits to integration were identified, the Study Team did not consider them sufficient to outweigh the costs, difficulties, and risks of integration at this time. Looking to the longer term, a Criminal Justice Information Strategy Group has been established under the joint chairmanship of the Attorney General and the Chief Officer Home Affairs with the aim of achieving an integrated and unified criminal justice information system by 2015.

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 Department 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 joint working 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. The Home Affairs Department has also published the results of the Jersey Crime Survey 2004.

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. It is acknowledged, however, that different crime counting rules have some impact on the data. Moreover, unreported crime tends to occur in offences of a trivial nature or in areas such as domestic violence where considerable effort is invested in encouraging victims to break their silence.

Chart 1

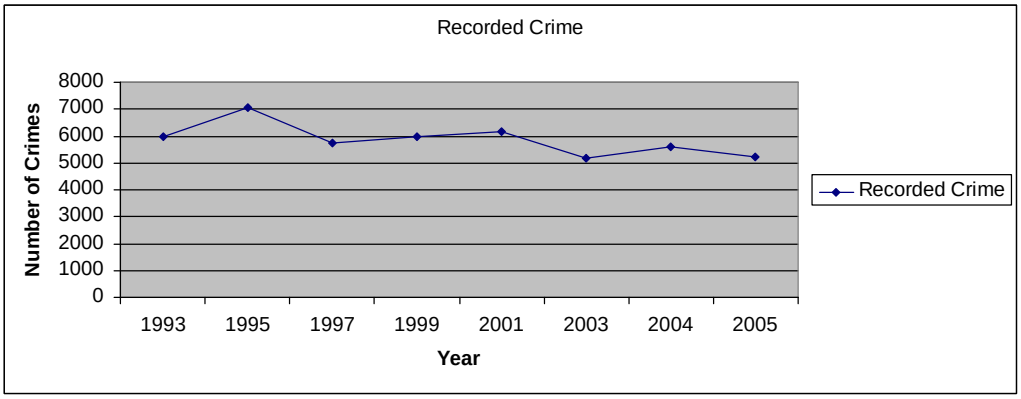


Chart 2

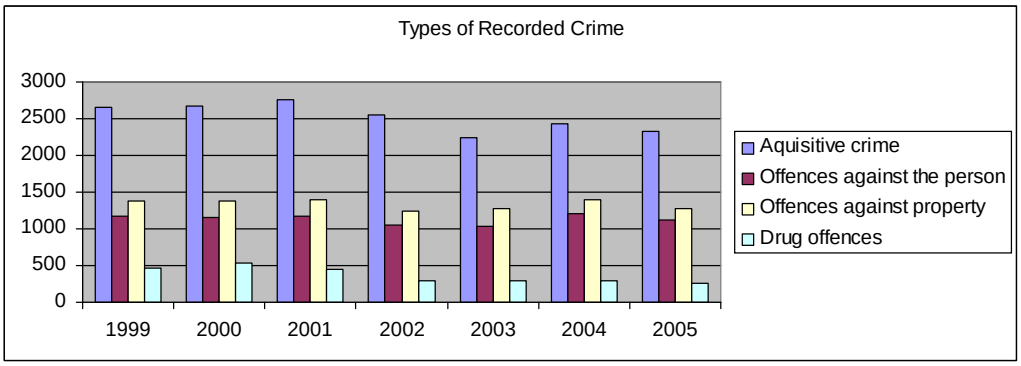
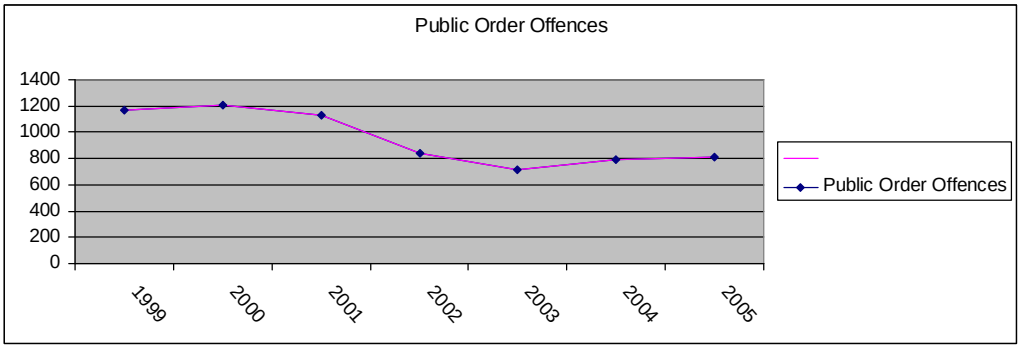


Chart 3



Magistrate's Court – Trends in Appearances and Sentencing

5.10 Data for the Magistrate's Court has been obtained from an analysis of all charge sheets and the LiveLink database. 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 community penalties as an alternative to custody. This probably accounts for a higher incidence of breaches of Court orders. The overall rise in committals to the Royal Court possibly reflects an increase in serious 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

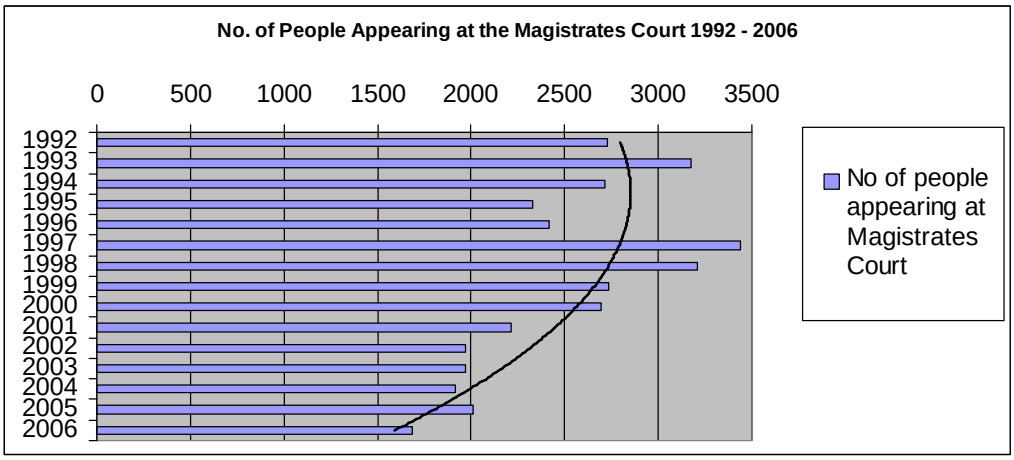


Chart 5

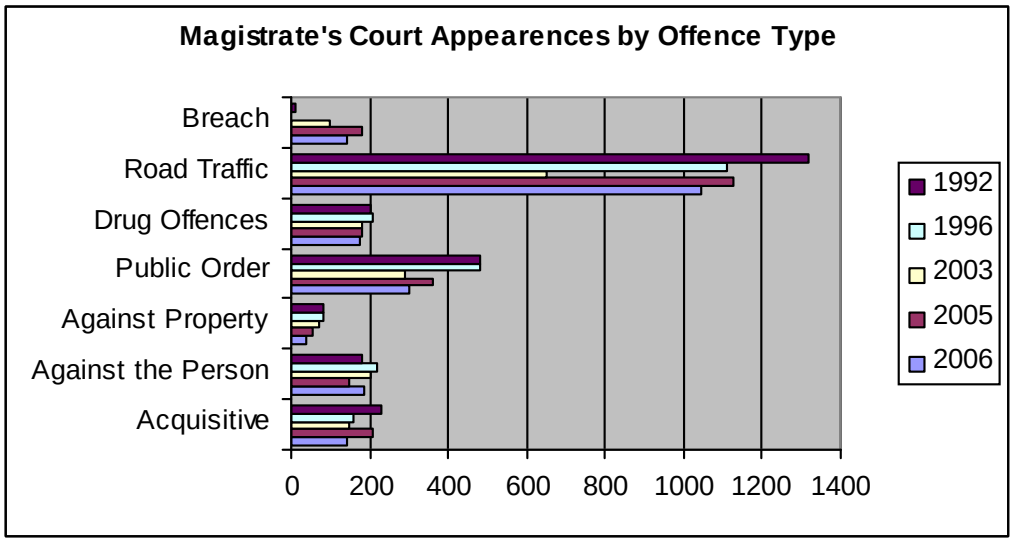
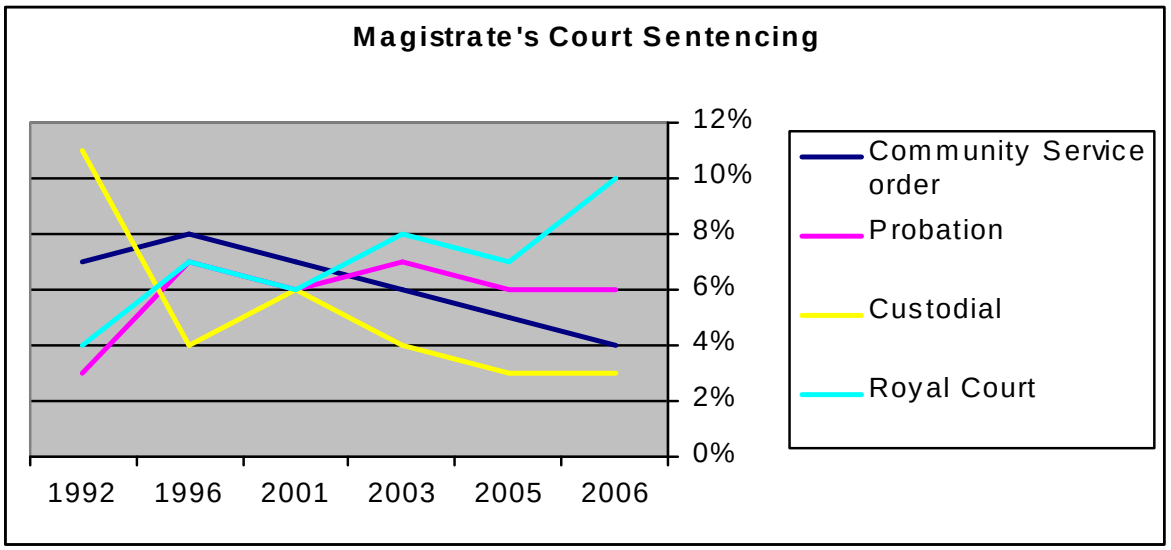


Chart 6



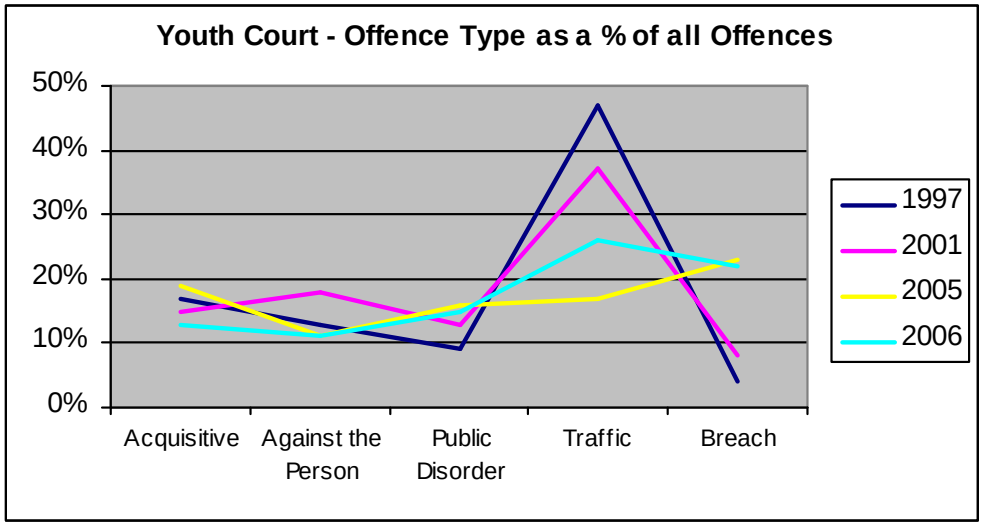
Youth Court

5.12 In 2004, statistics from the States of Jersey Police[1] showed 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 was only a small increase in the number of youths appearing before the Youth Court indicating that the majority of additional offending was dealt with at Parish Hall Enquiries.

5.13 Chart 7 shows trends in the categories of offences being dealt with by the Youth Court. The most significant factors are –

- Breaches of orders account for the largest percentage of offences dealt with in the Youth Court in 2005. In 1997 breaches accounted for 4% of all cases dealt with. In 2005 this had risen to 23% although there has been a small reduction in 2006.
- Traffic Offences, which traditionally have made up the bulk of offences dealt with at the Youth Court only accounted for 17% of all cases in 2005 but rose to 25% in 2006.
- Drug abuse problems that might be affecting the young are not generally resulting in court appearances.

Chart 7

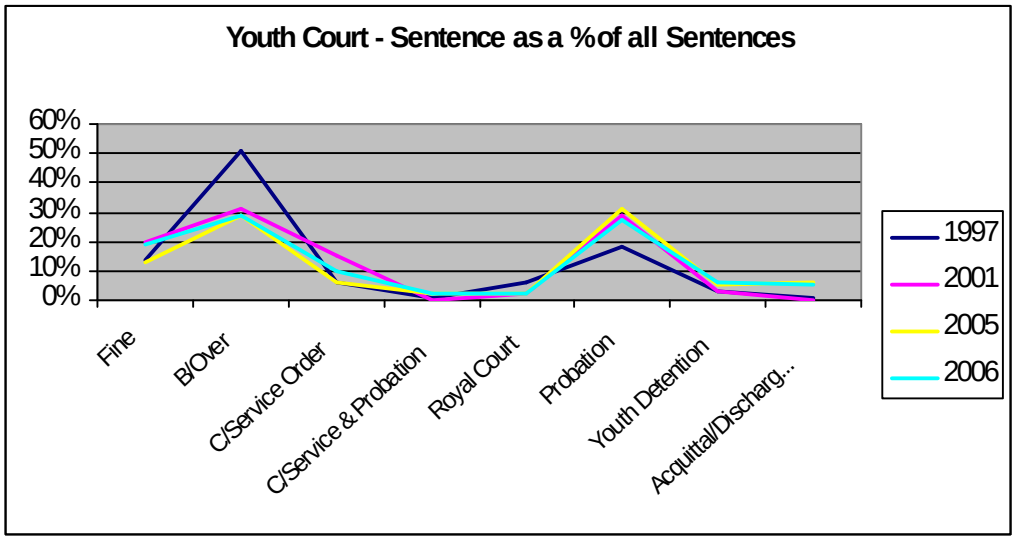


5.14 Chart 8 analyses Youth Court offences from Chart 7 in terms of how they were dealt with. Rather than focus on the total numbers and types of offences, this chart enables an analysis of the changing pattern of sentence/disposal over the period. However, it must be recognised that numbers are relatively small and therefore changes can appear more significant than they are. The most significant features are:

- Probation Orders and Binding Over Orders are the most prevalent sentences.
- Probation is used 7% more than in 1997.

The use of Youth Detention has doubled since 1997 whilst the proportion of cases remanded to the Royal Court has actually reduced by two-thirds since 1997 probably reflecting the change in jurisdiction. In both cases, the actual numbers are relatively small.

Chart 8



Probation and After-Care Service – Trends in Rehabilitative Sentencing

5.15 The Probation and After-Care Service's Statistical Report 2006, which can be accessed via www.gov.je/Probation/Publications/ contains a wealth of useful statistical information. In particular, it details the following trends in rehabilitative sentencing:

1. The number of social enquiry reports prepared for the courts in 2006 decreased by 17% when compared with 2005. Officers prepared 250 reports for the Magistrate's Court together with a total of 64 verbal or stand down reports. Similarly, the Youth Court showed a 25% reduction in reports prepared. However, the Royal Court has seen a 31% increase in reports prepared which is directly attributable to the rise in drug offences dealt with by the Court. These offences are the most frequently dealt with by the Royal Court with a 34% increase in 2006. Reports for cases of assault and driving whilst impaired continue to represent the most significant offence category in the Magistrate's Court. The reduction of reports for the Youth Court reflects a 50% reduction in offences of breaking, entry and larceny. Reports for offences of violence remain at the 2005 level.

2. In line with the decrease in social enquiry reports, there continues to be a reduction in the overall level of Probation Orders made by the Youth and Magistrate's Courts. Conversely, in the Royal Court, there was a 39% increase in Orders imposed mainly for drug offences. Across all courts, there was a 20% decrease in the imposition of Probation Orders.

3. The trend towards the increased use of Community Service Orders slowed in 2006 with a reduction of 19% on the Orders made in 2005. As with Probation Orders, there was a 23% decrease in Orders made by the Youth and Magistrate's Courts. Conversely, the Royal Court increased its use of community service by 25%.

4. During mid-2006, the Probation and After-Care Service began to offer a supervision service to prisoners serving a custodial sentence as part of its Through-Care Policy. In total, 89 prisoners are receiving through-care supervision, 20 of whom are young offenders.

5.16 The Probation and After-Care Service Annual Report 2004 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.

Jersey Crime Survey 2005

5.18 In 2004/05 the Home Affairs Department carried out a crime victimisation survey. The main results of the survey show that:

- **Feelings of safety in own neighbourhood**: 77% of respondents felt 'very' or 'fairly' safe whilst out walking alone in their own neighbourhood, although this did vary according to gender and the area in which people lived. People who had been a victim of crime tended to feel less safe than non-victims.

- **Feelings of safety in own home:** 97% of respondents felt safe in their own home at night. Once again, this varied according to gender with considerably fewer females saying they felt 'very' safe. Respondents who had been victimised tended to feel less safe in their own home.

- **Perceptions of Crime Rates:** Respondents were over three times more likely to say that the crime rate was rising in Jersey than in their own neighbourhood. This could be due to the fact that respondents were basing their perception of crime in Jersey on second hand information (i.e. the media) rather than on personal experience.

- **Impact of fear:** People who said the crime rate in Jersey was rising were more likely to avoid St. Helier after dark and stay away from activities such as sports events, bars, nightclubs and shows.

- **Anti-social Behaviour:** Speeding/Dangerous Driving was considered to be the major problem residents faced in their own neighbourhood. Very few respondents (8%) considered their neighbourhoods to have any major problems. However, over 50% of respondents considered that Jersey as a whole had major problems with young people hanging around on streets, drunks/rowdiness, people using drugs and people dealing drugs.

- **Sentencing, Sentences and Sentencers:** 47% of respondents felt that the courts were too lenient. However, 66% said that they thought the proportion of offenders being sent to prison had risen over the past two years. Respondents said they would spend more on early intervention than enforcement and stopping re-offending.

- **Victimisation:** Analysis of the post codes of those who reported having a car stolen revealed that approximately 50% misreported the event. It either happened outside of the timescale of the survey or it did not fit the criteria for this type of incident. Nevertheless, we have included victimisation data with a caveat that the survey data should not be compared with official police statistics. Overall:

  - Jersey has a significantly higher reporting rate than those countries measured by the British Crime Survey (BCS) and the International Crime Victimisation Survey (ICVS).

- Jersey has below average (compared with countries participating in the ICVS) levels of victimisation in most comparable types of crime.

CRIME IN JERSEY – WHAT THE STATISTICS SAY

5.19 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; or as research from the Jersey Crime Survey shows, 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.

5.20 Firstly, it is generally perceived that crime is increasing in our Island. The reality is that, over the 12-year period from 1993-2005 there was a 15% drop in recorded crime and a 33% drop in Magistrate's Court appearances. In 2006, 5,030 recorded crimes were committed in Jersey representing a fall in recorded crime of 5.6% compared to the three-year average for 2003-2005. As mentioned in paragraph 5.9, however, different crime counting rules affect the data.

5.21 Secondly, youth offending is seen as a particular problem in Jersey. In 2004, 41% of all offences detected in Jersey were committed by youths aged under 18[2]. The 14-17 year old age group posed the most significant problem, being responsible for 29% of all detected crime. However, after two years in which the actual number of individual offenders aged 14-17 had increased, 2005 saw a reduction of over 23%. As a consequence, the proportion of all offenders who were aged 14-17 years reduced from the 2004 high of 24% to 20% in 2005 and again to 18% in 2006. Youth Court statistics do show a remarkable increase in appearances from 2000 onwards; however, as Chart 8 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 increased significantly 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 two 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.

5.22 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. Moreover, the increasingly successful detection of drug trafficking offences has had a significant effect on the number of prosecutions. Jersey's prison population rate for 2004 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. Additionally, in order to support Recommendation 9(5) of the Social Policy Framework, corporate data collection and analysis should monitor the `signal offences' that impact on fear of crime; measure outputs and outcomes of the criminal justice process; and evaluate the effectiveness of intervention strategies.

Hitherto, services 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 Department envisages a long term and a short term strategy.

In the long term, the Department 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 will be taken forward by the Criminal Justice Information Strategy Group.

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, criminal justice system agencies are continuing this work until an integrated solution is in place.

Action Plan

- Implement the recommendations of the Integrated CJS Scoping Study through the Criminal Justice Information Strategy Group.
- In the meantime, continue to produce co-ordinated criminal justice statistics annually using current systems through joint working between criminal justice agencies.

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. In some 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 2005 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 51% 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. 23% 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.'*

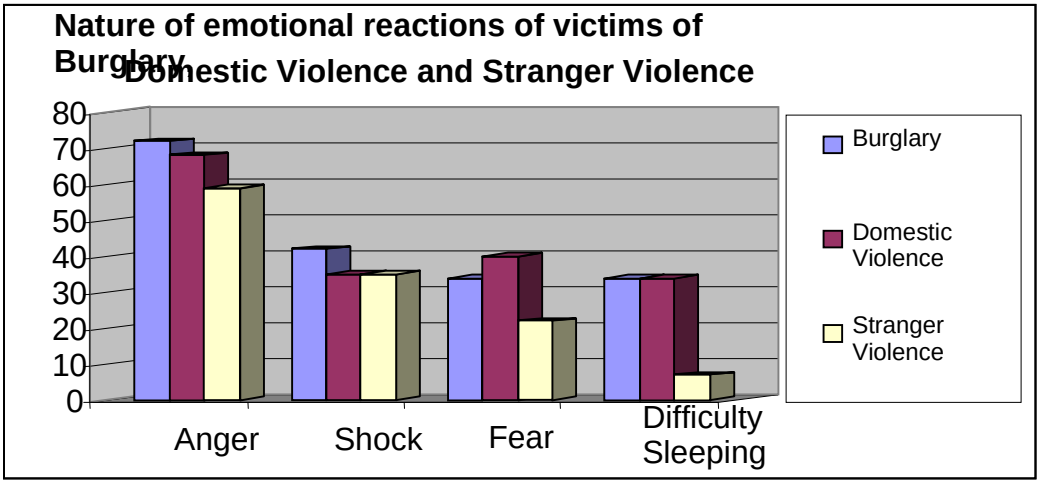
6.6 Central to any discussion on the place of the victim within the criminal justice system is an understanding of the impact that crime has on victims, their friends and family, and society as a whole. In 1988, British Crime Survey (BCS) respondents were asked if they had had any emotional reactions to their victimisation. The following table illustrates the proportion of all victims affected in various ways by their victimisation.

Table 1

	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%
Source: BCS (1988)		

6.7 The table shows that victims' reactions to crime are more or less as would be expected. 66% 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 9



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 Jersey Victim Support, Brook, Citizens Advice Bureau, Samaritans, Shelter Trust, Alcoholics Anonymous, Jersey Addiction Group. Moreover, representatives from Jersey Police (States and Honorary), Health and Social Services, Probation and After-Care Service

and Prison contribute to a multi-agency panel on public protection, called MAPPA, 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. 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 and Family Liaison Officers. Their role is to facilitate information relevant to the family and the enquiry, and for keeping the family updated as to progress of a particular case as part of the two-way flow of information. 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 U.K.'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 (JVS) provides emotional and practical support to victims of crime. The service is both confidential and free. JVS volunteers are trained to the national standard. During 2006, JVS dealt with 298 victims of crime, an increase of 13% over 2005. The Jersey Victim Support Scheme was evaluated during 2005. The main findings were that whilst a minority of victims access the service, JVS is having a positive impact on those that do. Interviews with victims show that the Service is held in very high regard. In 2007, JVS in partnership with the Magistrates' Court, will be introducing a witness service to help support witnesses who are called upon to give evidence in court.

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 free-phone number which is monitored from 9 a.m.– 5 p.m. during the week and is operated by appropriately trained Victim Support staff and volunteers. After hours, weekends and bank holidays the Victim Support line in the U.K. is utilised. This is staffed until 9 p.m. weekdays, 9 a.m.– 7 p.m. weekends and 9 a.m.– 5 p.m. on bank holidays. At other times an answer phone service is in operation.

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.

Jersey Domestic Violence Forum

6.16 The principal objective of the Jersey Domestic Violence Forum (JDVF) is to focus upon abuse and violence in domestic relationships and implement and coordinate action through relevant agencies and concerned individuals with the intention of eliminating abuse and violence in the Jersey community. In 2006, the JDVF entered into a partnership with the Hampton Trust from Hampshire and the Jersey Community Safety Partnership to deliver a programme designed to help male perpetrators of domestic abuse understand and end their behaviour. Participants on the programme can be referred by the courts, other agencies or self-referred.

Compensation

6.17 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. 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. 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 Department and the Department could not, therefore, accede to this.

Reparation

6.18 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 3 years it has beer 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').

6.19 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 U.K. 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

6.20 In 2003, the U.K. published a 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.

6.21 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.

6.22 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.

6.23 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 U.K. 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 has improved matters considerably 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.

6.24 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

6.25 The Victims' Charter contains 11 principles which form 'The Statement of Rights for Victims' –

- The interests of victims should be balanced against those of the defendant.
- 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:

o Respect and recognition at all stages of the criminal justice proceedings;

o Receive information and explanation about the progress of their case;

o Provide information to the court responsible for decisions relating to the defendant;

o Ask for their physical safety and their psychological well-being to be protected;

o Ask for protection from any intrusion into their privacy;

o Receive information regarding their rights and the services available;

o Have access to free victim support services;

o Apply for compensation both from the offender and from the state;

o Have access to health care services.

6.26 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.

6.27 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.

6.28 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.

6.29 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.

6.30 Fourthly, although compensation is available, funding is becoming tighter as budgetary pressures start to bite. Despite this, funding is currently provided to Victim Support through the Building a Safer Society Strategy at a level of approximately £30,000 per annum and the Department 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.

6.31 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

6.32 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 Victimisation Survey and evaluation of the service carried out by Jersey Victim Support.

Vetting and Barring

6.33 This chapter opened with a quote from Soham murder trial. The U.K. Government's response to the systemic failures identified by the Bichard Inquiry into the Soham murders has been the Safeguarding Vulnerable Groups Act 2006. The Home Affairs Department is leading a corporate initiative to provide for the changes to vetting arrangements that are due to come into force in the U.K. as a result of the Act. This Act sets up a 'Vetting and Barring Scheme' which will be managed by the Criminal Records Bureau (CRB). The Scheme will be based on two lists: a list of people barred form working with children (replacing List 99, the Protection of Children Act List and disqualification orders), and a list of people barred from working with vulnerable adults (replacing the Protection of Vulnerable Adults List). The Island needs to respond by putting in place appropriate local arrangements that will enable people to be vetted for employment and voluntary work involving children and vulnerable persons, and to have access to new lists managed by the CRB of persons barred from such involvement. A cross-departmental working group, involving the Home Affairs, H&SS and ESC Departments is considering the implications for the Island, but the early indications are that the CRB will want to work through a 'designated

authority' in Jersey which can administer applications. Although only a best estimate at present, this may require the setting up of a small bureau with around 3 staff, but other ways of responding to these changes will be considered by the working group.

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, Jersey Domestic Violence Forum, Citizens Advice Bureau and Crimestoppers. We also have statutory provision for the Criminal Injuries Compensation Scheme and Compensation Orders. A Victims' Charter was developed in 1996 and the present Victim Support Service set up to carry on the work started in 1989. 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 Department 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 U.K. 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. In order to improve safeguards for children and vulnerable persons, we will consider how the Island can access the Vetting and Barring Scheme being set up under the Safeguarding Vulnerable Groups Act 2006.

Action Plan

The Home Affairs Department 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 U.K.'s experience in developing the 'New Deal' initiative.
- Carry out a Crime Victimisation Survey every 3 years, subject to resources being available, 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.
- Lead a cross-departmental working group reviewing the arrangements for vetting and barring in the Island to take account of the Vetting and Barring Scheme being introduced in the U.K. in a phased roll-out from autumn 2008.

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 a large extent this is being addressed by the Criminal justice Information Strategy Group through the vision of achieving integration of information systems in the public sector.

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 (BaSS) – 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 Departments 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 Community Safety Partnership, which has 13 members and is responsible for implementing BaSS, 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 BaSS.

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 agreed a joint Memorandum of Understanding in the conduct of operations which provides for the deployment of Honorary officers to incidents reported to the States of Jersey Police. Work with the Children's Service involves joint training, case conferences and intelligence sharing. The Customs and Immigration Service 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 Home Affairs, Probation and After-Care, Education,

Sport and Culture and Health and Social Services, are working together to implement 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. 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 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 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 to 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 Department will:

- Promote 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 a 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*** to help prevent 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 as shown in Tables 2 and 3.

Table 2. 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 Poor problem-solving Beliefs about aggression Attributions Poor social skills Low self-esteem Lack of empathy Alienation Hyperactivity/disruptive behaviour Impulsivity	*Parental characteristics:* Teenage mothers Single parents Psychiatric disorder Substance abuse Criminality Antisocial models *Family environment:* Family violence and disharmony Marital discord Disorganised Negative interaction/social isolation Large family size Father absence Long-term parental unemployment *Parenting Style:* 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	School failure Normative beliefs about aggression Deviant peer group Bullying Peer rejection Poor attachment to school Inadequate behaviour management	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 acceptable response to frustration Media portrayal of violence Lack of support services Social or cultural discrimination

Table 3. Protective factors associated with antisocial and criminal behaviour. [9]

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.

Cost-Benefits to Jersey of Early Intervention

8.7 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.

8.8 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

What Works in Early Intervention

8.9 The following section highlights approaches that research has shown are the most effective in reducing risk factors and building resilience amongst young people in order to reduce the likelihood of future offending. It also provides examples of initiatives that have been implemented in Jersey many of them under the umbrella of the Building a Safer Society (BaSS).

8.10 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.

  In Jersey we provide JELLY (Jersey Early Learning Literacy Years) Clubs which are run in partnership between the Children's Executive, the Jersey Library Service and the Department for Education, Sport and Culture. They provide a facility, for pre-school children from 4 months to 4 years old along with their parents or carers, which aims to help children become more confident and prepared for school.

  The Parenting Education and Support Programme starts from the premise that bringing up children is the most important and challenging task that most people embark upon. Its principal aim is to build confidence, self-esteem and inspiration in parents. Demand for these programmes constantly outstrips supply.

- Early childhood, pre-school and early primary school programmes that build particular social, emotional and cognitive capacities in children.

  The Department for Education, Sport and Culture has in recent times, sought to ensure that all children over the age of 3½ have access to free nursery provision. In addition to this the Children's Service runs a project to provide provision for vulnerable young children to access mainstream nurseries. A recent evaluation of the programme found that it was greatly valued by key stakeholders and parents. The report states "There can be little doubt that this project helps to tackle social exclusion. Many of the children come from families who are socially disadvantaged. For instance in *case study 'A' we have a single mother with three children from different fathers. Neither of the two elder children attended nursery and are exhibiting challenging behaviour. Prior to going to nursery, Joe (name changed) was physically aggressive and had poor language skills. As a result of some intensive 1:1 work with Joe and his mother, he is now at a stage where he can be moved to a school nursery class without additional support."* Joe's mother stated that his behaviour had improved appreciably and she lamented the fact that her other two children had not had the same opportunity.

- Programmes which build supportive school environments and provide positive experiences of

schooling.

A 'Quiet Place' is an early intervention programme established in six primary schools. The programme is devised to help individual children feel good about themselves and so enhance their learning potential. Through the work undertaken, it addresses elements of Emotional Intelligence and is designed to meet the needs of children in danger of exclusion from school and to prevent the development of socially unacceptable behaviour or later mental health problems. It aims to provide on-going support and training for school staff and families within the context of the local community. Each child's programme has targeted outcomes based on a theme with data gathered from parents, teachers and children. It consists of three sessions a week with a total of two and a half hours for six weeks and the engagement of the parents is a vital part of the programme. Alternative educational placements are available for those young people whose needs are not met by mainstream schooling. The curriculum is varied and is aimed to meet the individual needs of those attending. There is a commitment to involving the students in community projects.

The Health Promotion Unit has been working with schools to help them to achieve "The National Healthy Schools Standard". Healthy schools programmes are based in education and health partnerships, and provide support to schools on becoming healthier places for staff and pupils to work and learn. Support for schools focuses on planning and delivering effective health-related work and building partnerships with the whole school community. There is a particular focus on developing policy, planning, practice and personal skills. These activities are grounded within supportive whole school approaches and are therefore more likely to have a greater impact on pupils' health, learning opportunities, experience and indeed, their achievements.

- Programmes which deal with aggressive behaviour, oppositional disorder or behaviour disorders at different ages.

The establishment of the Children's Executive (a multi-disciplinary management body designed to oversee the development and implementation of services for children and young people with Social, Emotional and Behavioural Difficulties (SEBD) following the Kathy Bull report into the provision for SEBD in Jersey), will mean that best outcomes for many of our young people will be facilitated by an approach working across many departments. One such initiative is the introduction of Multi-Agency Support Teams (MAST) established in two secondary schools. MAST brings together social workers, educational psychologists, education welfare officers, teachers and school counsellors in order to address the needs of those children identified with SEBD. Initial feedback from those schools involved has been very positive and other schools are keen to adopt the MAST structure.

- Constructive responses to early anti-social or criminal behaviour.

The Youth Action Team (YAT) is now based at The Bridge which has facilities for working with young people and families. The proximity of other professionals in the centre has already proved to be of great benefit and allows the potential for joint working with, for example, the Parenting Team, to ensure that solutions to youth offending are undertaken in partnership.

The YAT works towards the prevention of anti-social behaviour and youth crime with the help of the community and this has been illustrated by the support given to the Motocross Project by a wide range of individuals and organisations. This is hopefully one of many initiatives that the team will introduce to divert young people from offending behaviour. At the other end of the spectrum, the YAT has been able to offer the Youth Court the option of bail support for high risk offenders and early evidence suggests this is reducing

the number of young offenders placed on remand.

'Building a Safer Society' Strategy

8.11 The Crime and Community Safety Strategy, which preceded BaSS, introduced a number of new initiatives aimed at early intervention to prevent criminality. In line with its philosophy of 'Investing in Children', the Children's Service received substantial 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. Until the end of 2006, a total of 316 children had been supported through the Grands Vaux Family Centre and 'after school' groups and 114 vulnerable children had received support in mainstream nurseries.

8.12 In 2005, Jersey introduced BaSS: its first joint crime and community safety and substance misuse strategy. BaSS focuses on the 3 levels of intervention: **primary** – which is aimed at the general public; **secondary –** which is aimed at specific 'risk groups', particularly young people; and **tertiary** – which focuses 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 Approximately £4.5 million (of which £2.5 million will be from the Drug Trafficking Confiscation Fund) will have been invested in BaSS by the end of 2009, to develop 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.

8.14 A key feature in community safety is the involvement of the community in bringing about sustainable interventions to address issues which they feel are important. The 'Safer St. Helier' initiative aimed at reducing crime, disorder and antisocial behaviour in the town centre of St. Helier, has adopted a participative approach which ensures that a wide range of sources are utilised in developing as full a picture as possible and supports genuine involvement of St. Helier residents and other stakeholders in working together to find solutions.

Harm Reduction

8.15 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.

8.16 Harm reduction is put into practice daily by officers on the Community Safety Partnership 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 embraced harm reduction techniques. The Prison has had a heroin detoxification programme for a number of years and has a Prison Drug Education Worker funded by the Substance Misuse Strategy. The Probation and After-Care Service has been at the forefront of promoting harm reduction; for example, the Court Liaison Officer (CLO) 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.[10] Other projects which fulfil the ethos of harm reduction are the Health Promotion Officer (Drugs), the Needle Exchange Programme, the Methadone Programme and the Portuguese Offender Social Worker.

8.17 The courts are now more likely to accept a recommendation for treatment in the knowledge that the CLO would monitor the programme. During 2006, 97% of treatment orders recommended by the CLO were upheld by the Magistrates. Records show that, in 2006, 73% 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. It is important to note that all this rehabilitative work is funded through BaSS. Great strides have been made in addressing the effects of drug misuse through partnership working but, nevertheless, there is 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.

8.18 The Rutherford Report also recommended that consideration should be given to reclassifying ecstasy and cannabis[11]. The Advisory Council on the Misuse of Drugs concluded that the sensible course would be to monitor developments in the U.K. closely. It agreed to reconsider the position after one year as a result of the legislative changes which came into effect on 1st January 2004. At its meeting on 13th April 2006, the Advisory Council decided to recommend maintaining the present classifications. This recommendation has been accepted by the Minister for Home Affairs. Guernsey has also decided not to reclassify cannabis.

Scrutiny

8.19 In October 2004, Shadow Scrutiny Report 1/2004: Responding to Drug Use was published. This contained 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.[12]

Bull Report Implementation

8.20 Of key importance to early intervention in Jersey has been the development of the Children's Executive which oversees the co-ordination of services to children with severe emotional and behavioural difficulties (SEBD) and their families. It is important to stress that the focus of the Bull Report was on provision for children with SEBD rather than any contact that some children may have with the criminal justice system. However, there is a criminal justice connection in that part of the Executive's remit includes working with young people who come into contact with the justice system. The main aims of the Children's Executive are be to –

- Generate a co-ordinated approach to caring for young people whose needs include residence in newly configured care environments or in the Island's first secure facility.

- 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 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.

8.21 Young people can currently be remanded by the courts to Greenfields up to school leaving age. Those young people aged 15 and above who are sentenced by the Court can serve their sentence at La Moye. This position is inadequate and is being changed so that a sentencing option to Greenfields would be available to the courts for young people between the ages of 12 and school leaving age. Sentencing options for young people above school leaving age but under-18 are also being considered. Discussion with the Law Officers is taking place to ensure that proposals are compliant with international conventions.

8.22 The recommendations made by the Children's Executive, which are supported by the Home Affairs Department, 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.

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 Department embraces fully the work carried out by the Children's Executive in recommending changes to the youth justice system.

Finally, the Home Affairs Department is committed to the philosophy of harm reduction and has carried this forward into the Building a Safer Society Strategy.

Action Plan

The Home Affairs Department will:

- In partnership with the Health and Social Services Department, take the lead in implementing the Building a Safer Society Strategy and monitoring its progress.
- Implement the appropriate recommendations of the Bull Report approved by the States of Jersey.
- 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.

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 245 police officers and an additional 83 civilian staff. Their revenue budget for 2007 is £20.8 million. This reflects the fact 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 U.K., the fundamental differences between local policing and that on the U.K. mainland become apparent. As well as the gamut of operational responsibilities undertaken by a U.K. 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 4.

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 has identified six 'Operational Priorities' in

the formulation of the 2007 Policing Plan:

1. To disrupt the supply and distribution of, and demand for, illegal drugs.
2. To reduce levels of key acquisitive crime by bringing prolific offenders to justice.
3. To reduce street violence and disorder associated with the Island's night-time economy.
4. To provide positive policing intervention in neighbourhoods where crime and anti-social behaviour impact on quality of life.
5. To reduce road traffic injury casualties by targeting the offences that pose the greatest threat to the safety of road users.
6. To reduce levels of violence against vulnerable victims by bringing dangerous offenders to justice.

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. As paragraph 9.2 highlights, Jersey has a lower number of officers per 1,000 population which has the effect of increasing the cost per officer. Staffing of the port and financial crime investigations alone add £1.3 million to the budget compared to a U.K. 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. It is relevant to note, however, that only a small proportion are operationally trained and fit for front-line police duties, and that the States of Jersey Police have limited immediate policing resources to draw upon.

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 French Mayor, there being no similarity to a Police Constable either in Jersey or in the United Kingdom. Paid police became necessary, not least because of a changing society and the increasingly complex issues facing police forces as a whole, 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 and bail. The Connétables have generally delegated their role as police chief in their Parishes to a senior Centenier known as the Chef de Police who is appointed by the Connétable.

9.8 All Honorary Police officers are elected by parishioners to serve their Parish. The twelve Connétables are members of the Comité des Connétables and the Comité des Chefs de Police, comprising the twelve Chefs de Police, has been established by law and is responsible for operational policing across the Island. There are, however, plans for the Connétables to relinquish their policing role as they are also members of the States of Jersey and there is a perceived conflict between their roles as law makers and law enforcers. All Honorary officers (with the exception of the Connétables) are 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. In accordance with the Inquests and Post Mortem Examinations (Jersey) Law 1995, Centeniers are advised of the facts and

circumstances relating to sudden deaths in their parish and would normally attend.

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 is usually 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.
- Inviting 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 he cannot give a caution, he/she will inform the offender that the law instructs that such a case must be referred to a Court. In this event, the offender will be 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 continuation training.

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 one evening 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 in 2005 was approximately £289,000[13], 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 Service

9.18 The Customs and Immigration Service, 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 Service has statutory responsibility to control the importation of prohibited and restricted commodities, with illegal drugs being the predominant enforcement interest for the Service. 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, prohibits, subject to certain qualifications, the 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 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[14] 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 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 has paid the price with prison overcrowding and the cost of accommodating the overspill in U.K. 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 Untied 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 two 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 has to deal with persons already in the Island who claim asylum. The last occurrence was in October 2001 when two 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 2003-2005 are as follows –

Table 5.

	2003	**2004**	**2005**	**2006**
Persons refused leave to enter	77	39	30	45
Enforcement cases	7	16	15	13

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 15 enforcement cases in 2005, none were detained. 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 1,600 arrest orders are made by the courts every year with 80% (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 approximately 2,000 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 99% by number and 98% by value. There are approximately 190 compensation orders each year and the enforcement success rate is 96% in number and 92% by value. There are between 100 and 200 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 U.K. 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 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 three 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[15]. This paper also gave options for the way forward. In recent years, it appeared that progress would remain elusive until the future position of the Connétables under Ministerial Government has been decided, the cost implications have been resolved and alternative models researched thoroughly. More recently, the Social Affairs Scrutiny Panel agreed that a police authority, as envisaged by the 1998 States resolution, could no longer be set up. However, in 2006 Gibraltar was successful in developing a viable legislative framework for a police authority in a small state. The 'Gibraltar model' may prove to fit our own requirements and provisions included in the draft Police Force (Jersey) Law 200-. Consultation on the model is currently taking place with stakeholders.

Demographic Bulge

9.32 The 2001 census indicated that the population of 14-17 year olds would rise from 3,738 in 2002 to 4,168 by 2006. This peak would fall away slowly but not reduce to 2002 levels until 2013. By 2009, it is predicted to be 4,054.

9.33 The effect of these demographic changes on crime levels was of concern, particularly as States of Jersey Police data in 2003 indicated that 25% of all detected crime was committed by 14-17 year olds, and that 17% of offenders known to have committed a crime were in this age group. Although the total number of individual offenders in this age group peaked in 2004, and detected crime committed by them had risen to 29%, the number of individual offenders has reduced to virtually 2002 levels. The effects of these demographic changes on crime levels within this age group may have been short-lived; however, new threats could emerge as the population of 18-25 year olds increases, augmented by people in this age group coming to live and work in the Island. The States of Jersey Police is updating its strategic assessment accordingly.

9.34 The likely effects of these demographic changes reinforce 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

9.35 The Jersey Crime Victimisation Survey conducted in 2004/05 showed that people do worry about public disorder and anti-social behaviour. However, Charts 10 and 11 respectively show that, whilst only 8% of respondents felt that anti-social behaviour was a major problem in their own neighbourhood 39% felt it was a problem in Jersey.

Chart 10

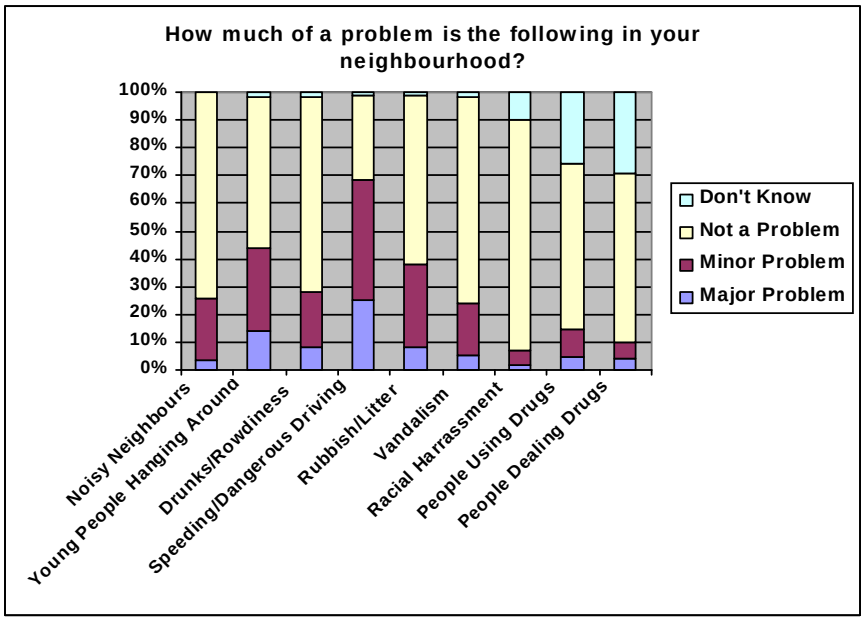
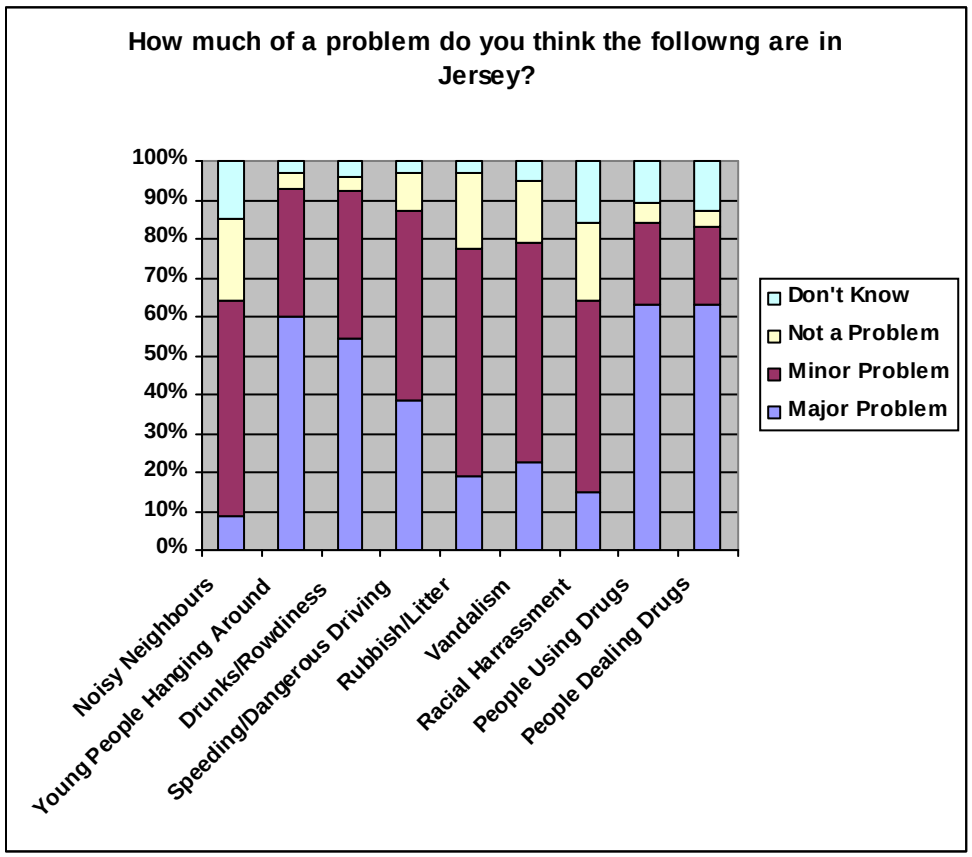


Chart 11



9.36 Working with the communities most affected, ensuring a visible police presence and developing a modern legislative framework are essential tools in combating these problems. The Draft Crime (Disorderly Conduct and Harassment) (Jersey) Law 200-, has been developed in order to augment current legislative powers and fill in the gaps where no provision exists.

9.37 The U.K. government recently introduced a new strategy to tackle anti-social behaviour. The Respect agenda aims to tackle anti-social behaviour and reclaim communities for the law-abiding majority. It aims

to do this by tackling the underlying causes of anti-social behaviour, intervening early where problems occur, and broadening efforts to address other areas of poor behaviour. In summary, the Respect Action Plan has six main strands:

- A new approach to the most challenging families
- Improving behaviour and attendance in schools
- Activities for children and young people
- Strengthening communities
- Effective enforcement and community justice
- Supporting families

There are a wide range of powers available to agencies and local councils. These include initiating alcohol-free zones, Family Intervention Programmes, Dispersal Orders, Individual Support Orders and Parenting Orders.

One of the central planks of the U.K. Government's drive to cut anti-social behaviour over the past few years has been the use of Anti-Social Behaviour Orders (ASBOs). ASBOs are an injunction power in which the test applied is a civil one, although the breach of an ASBO becomes a criminal matter. The latest figures obtained from the Home Office web-site show that between 1999 to the end of 2005 9,853 ASBOs were issued. There is some dispute in the U.K. as to the effectiveness of these orders. A study conducted in 2006 by the Youth Justice Board which researched 137 young people subject to ASBOs in 10 areas, looked at the effectiveness of ASBOs and found:

> "*Most professionals interviewed in this study concurred that the ASBO could be an effective tool when used appropriately. However, there were considerable differences of view about what this meant in practice.*
>
> *YOT (Youth Offending Team) practitioners tended to think that ASBOs were overused and had little positive impact on behaviour. They typically viewed ASBOs as potentially counterproductive, believing they undermine positive interventions that were either already in place, or that could have been offered as an alternative to court action.*
>
> *Police and local authority staff typically considered that ASBOs were used appropriately in their locality and, for the most part, were convinced of their effectiveness.*
>
> *Notwithstanding high rates of non-compliance, and reservations about its effectiveness, most sentencers tended to view the ASBO as a measure 'worth preserving'.*
>
> Source: **Youth Justice Board (2006) "Anti-social Behaviour Orders"**

The report went on to say that the majority of young people subject to ASBOs had at some point breached the order. This finding is supported by research published in the Journal of Regeneration and Renewal which found that in two of the U.K. Governments 'trailblazer' Councils (Councils considered to be models for others seeking to tackle anti-social behaviour) non-compliance with ASBOs was considerably higher than official statistics suggested. For example Sheffield City Council and Westminster City Council had breach rates of 68 % and 61% respectively. These are significantly higher than the U.K. Government figures which claimed in 2003 a 42% breach rate for all ASBOs. The article goes on to show that, in the case of Sheffield, breach rates are rising *"…in 2003, 45.4 per cent of ASBOs issued by the council were breached, rising to 81.8 per cent in 2004, and 100 per cent in 2005"*. A possible reason for the disparity in Official Home Office figures and those of the above research could be because the official statistics are based upon court service returns and not all breaches are reported to the courts, thus leading to a significant under-representation of failure to comply.

9.38 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 unless the Magistrate's Court was given such a power. 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. There are similar provisions concerning behaviour in Jersey Housing contracts although it is accepted that eviction proceedings can take time to implement.

9.39 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 U.K.'s experience with ASBOs also needs to be properly evaluated. In the meantime, the Department is giving officer support to the Constable of St Helier with the Safer St Helier Project which seeks to involve the resident population in developing measures to combat anti-social behaviour. In June 2007, community representatives were instrumental in proposing measures to the Council of Ministers which included a review of the Licensing (Jersey) Law 1974.

Imported Crime

9.40 The Home Affairs Department 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 Department 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.

9.41 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 U.K., it is doubtful whether any controls that might be possible would be effective. British nationals arriving from and returning to the U.K. 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[16] –

- the introduction of immigration or border controls in relation to U.K., 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 U.K. 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 U.K. Immigration Act as extended to Jersey, Article 4 of Protocol 3 and European Court judgments relating thereto.

9.42 The above issues were raised during the States debate on the draft Migration Policy on 22nd June 2005 and were considered by the Migration Advisory Group, with the Attorney General present, in May 2006. The Group noted that U.K./EU nationals with criminal records cannot legally be prevented from accessing accommodation and work using registration/migration policy. However, subject to the legal position, it may be possible to introduce a dangerous persons register similar to that being developed in the U.K.. Furthermore, advice is being taken from the Department for Constitutional Affairs in order to

prepare a drafting brief for a Repatriation of Prisoners (Jersey) Law so that prisoners can be transferred back to the country of which they are a national. Although not specifically an imported crime issue, the introduction of a Sex Offenders Law is also being progressed.

9.43 Where drug trafficking is concerned, there would be a practical difficulty in targeting those who have significant criminal convictions. Some couriers are selected for their absence of criminal convictions for drug offences and all couriers will attempt to present an innocent facade so that they do not draw attention to themselves. It is thus difficult to identify suspects in advance and, where this has not proved possible through intelligence, the vigilance of Customs Officers at points of entry to the Island has often resulted in commercial seizure of drugs. 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.

9.44 As well as vigilance, good intelligence has proved to be most effective in combating the enduring drug trafficking problem. The principle is for the States of Jersey Police and Customs and Immigration effort to be totally 'joined up' in this regard, and particular emphasis is given to maximising the sharing of intelligence with other jurisdictions on the basis that the risk of 'double detection' has a real deterrent effect**.**

9.45 As the Minister for Home Affairs, I am keen to ensure that everything possible is done to prevent illegal drugs coming into the Island by alerting agencies in other jurisdictions, particularly the U.K. 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 and many of the larger seizures have taken place in France. Jersey Customs has developed an excellent working relationship with the French Customs authorities in both Brittany and Normandy, and particularly the DNRED (Direction Nationale du Renseignment 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.

9.46 In such operations the opportunity is taken to effect arrests and seizures where this will have the greatest impact on the drug syndicate itself. In a number of operations this has resulted in the arrests taking place in France and, following the introduction of the Extradition (Jersey) Law 2004, it has also been possible to arrest and extradite local principals behind these drugs syndicates. French Customs are happy with this operational strategy and since 1998 there have been 926 kg. of cannabis seized, 16 persons (generally couriers and suppliers) arrested and imprisoned in France and, more recently, 4 principals arrested in Jersey and extradited to France. It is worth noting that this enforcement action has saved the Island approximately £5 million in prison/investigation/court costs and considered in relation to the current financial and resource issues at HM Prison, La Moye, is regarded as an effective strategy.

9.47 The situation with regard to the U.K. is somewhat different. HM Revenue and Customs prioritise the detection of Class A drugs, but on a completely different scale. The relatively small amount of drugs that come to the Channel Islands is not a priority for them and HMRC 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 targets in relation to all types of smuggling activities. Nevertheless, there are Channel Island led operations where joint working with the U.K. occurs and, depending on the strategy of the operation, there are times when the decision is made to effect seizure and arrests in the U.K.. HMRC have also indicated that where intelligence is available regarding an exportation of drugs to the Channel Islands prior to departure, and they have the capability to seize the drugs, they will do so if that is the wish of the Channel Island enforcement agencies. It has to be noted, however, that in the majority of drug operations that Police/Customs undertake where importations are coming from the U.K., the identity of couriers or the ports they are expected to travel from are unknown. Where specific intelligence is not available any seizures and arrests are achieved by profiling work undertaken by experienced Customs Officers at our frontiers.

9.48 Notwithstanding the opportunities that arise to have drugs seized before they reach the Island there will be circumstances where it is operationally favourable to let the drugs be imported and delivered within the Island. Such controlled deliveries can provide good opportunities for arresting local participants and/or the organisers of drug trafficking enterprises. Great care has to be taken in such circumstances to ensure that the drugs can be controlled and that the risk of losing them in the Island is minimised by the effective use of surveillance allied to detailed intelligence. Only where Police and Customs are satisfied that appropriately resourced controls will be in place, and that there are significant operational advantages, will controlled deliveries be sanctioned by the respective chief officers.

9.49 A recent initiative has been to publish reported cases in the local media where arrested people originate from. These reports indicate how effective our enforcement agencies are at intercepting illegal importations. 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 offenders' home towns is to act as a deterrent by showing the likelihood of being caught. Initially the reporting just related to those offenders who had arrived from the U.K. but, during 2005, this was extended to the media in Madeira when offenders from there were caught. It is difficult to accurately assess the impact 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.

9.50 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. However, because of the potential operational and cost implications, the Attorney General has proposed an alternative solution which remains ECHR compliant and sets an overall time limit of 96 hours on the aggregate time for a person's continued detention without having to be brought before the Magistrate's Court.

Pillar 6 – Policy Statement

The Minister for Home Affairs has a prime responsibility for enforcement through the States of Jersey Police and the Customs and Immigration Service. A close working relationship will be maintained with other enforcement agencies, notably the Honorary Police and the Viscount's Department. The Department endorses the six operational priorities that the States of Jersey Police have identified and will continue to survey the public regularly through the Jersey Annual Social Survey 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 with in excess of £7 m worth of drugs seized in 2004 and just under £4 million worth in 2005. With regard to imported crime, additional powers of detention for 'wanted' migrants are to be investigated. A Sex Offenders Law is also being progressed.

Action Plan

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

- Develop the framework and law drafting instructions for a police authority for establishment during 2008.
- Support the States of Jersey Police in the achievement of its Policing Plan priorities.
- Plan for anticipated changes in crime levels according to the predicted population profile and any effects of migration policy.
- During 2007, 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.

- Having regard to Recommendation 9(4) of the Social Policy Framework and agreed Safer St. Helier initiatives, analyse the nature and effect of anti-social behaviour in Jersey and, in consultation with other agencies and the community, seek appropriate solutions.
- Maximise intelligence collecting and sharing with other jurisdictions in order to combat imported crime, particularly drug trafficking and, where appropriate, seek to have criminals arrested and drugs seized before they arrive in the Island.
- Subject to the legal position, introduce additional powers of detention for 'wanted' migrants.
- Introduce a Sex Offenders Law.

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[17] and need not be repeated here.

RUTHERFORD REPORT RECOMMENDATIONS

10.2 There were, however, particular observations 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 Department'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*"[18].

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 former Home Affairs Committee agreed 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 do not seem to be significant advantages to this, and Centeniers would understandably see no justification for losing their right to present cases in court. The decision not to pursue this recommendation with the Court and the Attorney General was taken at an early stage by the former Home Affairs Committee and is endorsed by the Minister for Home Affairs.[19]

10.7 Nonetheless, it is right that the Court and the prosecution should keep their respective procedures under review in the light of developments both domestically and internationally, and the Minister is confident that they will do so.

10.8 More recently the Education and Home Affairs Scrutiny Panel has been considering the rôle of the Centenier in the Magistrate's Court. This review does not interfere with the policy as drafted; however, should any concerns arise which might have policy implications, they can be considered at a later date.

Recommendation 5

10.9 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 system. 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.

10.10 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[20] 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, the Department 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. Any hint that the Centenier might be sitting as a judge could compromise the right to a fair trial under the Human Rights (Jersey) Law 2000. Such problems are not evident at present because the Parish Hall Enquiry is a prosecution process rather than a judicial one.

10.11 Although the Department agrees with the sentiment expressed in the Rutherford Report in terms of the benefit of enhancing the Parish Hall Enquiry system, this is 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

10.12 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"*.[21]

10.13 In the Department's view – and again having taken advice – 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 Department has benefited from involvement with the Education, Sport and Culture and the Health and Social Services Departments, 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, has greatly influenced 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 in its place in the social and political context. It is not a judicial services review, although the issues which are the subject of crossover responsibility may become the subject for discussion at the new forum envisaged under Pillar 4 – Joint Working.

Having taken advice at an early stage in the policy setting process, the Home Affairs Minister 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 Minister takes not of the fact that the States have adopted legislation which confers on Centeniers through the Parish Hall Enquiry an ability to apply some administrative sanctions, eg: for some offences under the Road Traffic (Jersey) Law 1956. This legislation provides a convenient methodology for dealing with these offences outside the court system but it is essential to recall that the Parish Hall Enquiry is not a judicial body. The Centenier only has the ability to deal with the matter by the application of administrative sanctions if the person to be charged agrees that he may do so.

Finally, the Minister has also noted that detailed guidance about the conduct of Parish Hall Enquiries has been published by the Attorney General and can be seen either by visiting the Law Officers website at www.gov.je/lawofficers/publications or by enquiry at any Parish hall or at the Law Officers Department. It should not be forgotten that the Parish Hall Enquiry is primarily a prosecution process – it provides the mechanism by which Centeniers can decide whether the evidential and the public interest tests have been satisfied such that a charge in Court should be brought. The Minister supports the approach that the Parish Hall Enquiry is a prosecutorial and not a judicial body. To take any other view could compromise its 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 Department has had the benefit of being a partner and 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 system through the Parish Hall Enquiry or, having been charged with an offence, through formal court proceedings. 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. 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 former Home Affairs Committee supports the view that the Parish Hall Enquiry system deals successfully and appropriately with a wide range of offending[22]. 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"[23]. 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[24]. 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[25].

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[26]. 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.[27] A Parish Hall Enquiry re-conviction study was carried out in 2002 which proved the effectiveness of the system.[28]

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 scheme in 2002, a dedicated Restorative Justice Officer conducted 18 face-to-face meetings and 43 indirect initiatives (to December 2006) 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 Paragraph 5.11, Chart 6 gives an analysis of how cases were dealt with in the Magistrate's Court to 2005 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[29]. Probation shows a slight rise whilst community service and custody show larger decreases. When committals to the Royal Court are taken into account, by far the most frequently used sentences in the Magistrate's Court are fines and binding-over orders.

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 £35,000 in 2005. In recent years, we have paid for 25-30 prisoners per year to be held in England and Wales. In 2006, however, considerable efforts were made to encourage and support those prisoners with no links to Jersey to return to their home country such that the numbers for whom the Island is paying has fallen to single figures.

Table 6.

2001	£833,000
2002	£798,592
2003	£1,003,562
2004	£854,500
2005	£598,000
2006	£370,837

11.14 The Prison budget in 2004 was overspent by £2 million. The former 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 was 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. Significant progress has been made in reducing costs, notably by returning prisoners to England and Wales at no cost, and reviewing the need for Prison officer overtime. But, the prison population in England and Wales has now reached full capacity at 80,000 and it is possible 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 to improve rehabilitation and reduce recidivism. In this regard, I and the Home Affairs Department are 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 our 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 Home Affairs Department has been pro-active in seeking ways to deal with the burgeoning Prison population. In December 2003, a new 35-place wing was completed and a new wing of 62 places was ready for occupation in November 2006. In April 2003, the Temporary Release Monitoring Scheme (TRMS, or 'tagging') was introduced. During 2006, a total of 30 prisoners were out on TRMS. The lowest number on tag at any time was five, and the highest 14. The 30 prisoners spent a total of 3,666 days on tag between them, an average over the year of 122.2 days per prisoner. Work on a further wing of approximately 110 places has commenced, and is due for completion towards the end of 2008.

11.16 The unique 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 on 24th May 2007 when the population reached a high of 200. It should be noted that despite the total capacity of the Prison being given as 215, a number of those spaces fall below what are considered to be acceptable standards, including some cells designed for one prisoner being 'doubled up' in the VPU.

Table 7.

	Sentenced	**Remands**	**Total**	**Capacity**
Adult Males	79	27	106	(123)
Vulnerable Prisoners	40	14	54	(41)
Adult Females	15	4	19	(25)
Juvenile Females	0	1	1	
YOI	8	9	17	(26)
Juvenile Males	2	1	3	
Totals	144	56	200	(215)

11.17 In addressing the problem of prison overcrowding, both short-term and long-term measures have had to be considered and some have been implemented. Such is the nature of the problem that there are no easy options; indeed, some will be regarded as unpalatable or politically unacceptable. They can be loosely divided into 'front-door' measures, which address the problem prior to custody, and 'back-door' measures which seek to manage the prison population post-sentence. The following provides a synopsis of the options some of which are considered inappropriate for Jersey.

'FRONT-DOOR' MEASURES

A review of drug sentencing policy

11.18 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 highlighted, 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 and the need to deal appropriately with serious and organised crime, the Island is paying 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 heroin addiction still blights our society. Intelligence would also indicate that imprisoning drug traffickers together can create more powerful and elusive syndicates. Furthermore, our drugs enforcement strategy has, hitherto, resulted in a disproportionate number of couriers being incarcerated. 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 Department will be entering into discussions with the Bailiff over the sentencing policy in respect of drug trafficking in the light of the experience of the last 8 years. This was 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

11.19 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 which are effective in helping offenders change their behaviour for the better. 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. The Home Affairs Department 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.

11.20 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 U.K. 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 U.K. 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, in July 2006, of the prisoner population at La Moye, only 3 prisoners were serving sentences under 6 months and another 6 serving sentences of 6 months to one year. 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. The Home Affairs Department believes that the Courts are making good use of community service as an alternative to custody. To give greater flexibility in sentencing, an increase in the Court's powers has been agreed to raise the maximum to 480 hours as an alternative to 3 year's imprisonment in appropriate cases.

Prohibiting Prison Admissions at a Critical Mass

11.21 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. Introducing such a measure in Jersey would require legislative change.

'BACK-DOOR' MEASURES

11.22 The following options could be considered but the practicality, acceptability 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 their order of likely acceptability, although some will require new legislation, or an amendment to existing legislation, to be capable of being put into effect.

Increasing the Capacity of the Prison

11.23 Perhaps the most straightforward response to overcrowding is to increase the capacity of the Prison estate. A 37-cell block was completed in December 2003 and the cell block occupied in November 2006 has added a further 41 cells (62 places) although the net gain is fewer as older accommodation has been taken out of use. The Council of Ministers has given priority to the Prison in the capital programme; funds have been provided to commence a new accommodation block in 2007 with 105 cells providing 144 additional spaces advancing the Prison Re-Development Programme. However, the net gain in cellular accommodation will be small as the old A, B and C Wings need to be de-commissioned. They do not meet human rights standards, particularly in their lack of in-cell sanitation. Once the new block is completed in 2009, the majority of the prisoner accommodation will meet international minimum standards (including those incorporated in the European Convention on Human Rights). There will remain approximately 20 cellular places that will require refurbishment work to bring them up to minimum standards. At this stage, provided the prisoner population does not increase significantly leading to the need to retain the older accommodation, the prison will be holding prisoners in conditions that meet the minimum international standards for prison accommodation.

Introduction of a System of Parole or Discretionary Conditional Release

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

11.25 Factors to be considered –

- Would encourage U.K. residents to return to the appropriate part of the U.K. 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 by 2008, 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.

11.26 This option enables the creation of a much more robust and effective rehabilitative regime in a custodial setting. Consequently, it is dealt with in greater detail in Pillar 9 – Rehabilitation.

Extended Use of Temporary Release

11.27 Home Detention 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[30].

11.28 The Prison 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[31] of December 2003 such that it is operating very successfully at present. The use of temporary release could be extended, against revised criteria, in order to effect a higher number of immediate releases.

11.29 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 Department 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

11.30 At present prisoners become eligible to apply for tagging during the last 6 months of their sentence. There are two 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’.

11.31 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.

Relaxation in Remission

11.32 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.

11.33 Factors to be considered –

- Could be achieved quickly by the Minister 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 U.K., 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 ¾ of the sentence has been served. If they commit a further offence during the last ¼ 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 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. Some prisoners are not released at this point, e.g. discretionary life sentences, determinate sentences or extended sentences for public protection.

'One in One Out' Early Releases

11.34 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.

11.35 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 prisons in England and Wales unless coupled with one of the other measures involving the immediate release of prisoners.

- May require new legislation to effect.

Amnesty

11.36 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.

11.37 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.

11.38 The Home Affairs Department has opted for a combination of 'front-door' and 'back-door' measures so that it can respond flexibly to the problem, improve conditions at the Prison and, most importantly, maintain public confidence. There will be closer dialogue with the Royal Court over sentencing policy and the use of community penalties; the Prison estate will both improve and grow; a new system of discretionary supervised release is recommended; and the electronic monitoring and temporary release systems will be maintained and developed as necessary.

MENTALLY DISORDERED OFFENDERS

11.39 There will always be a number of people entering the criminal justice system who are experiencing mental health problems. In recent years, the Mental Heath 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 U.K. 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 two 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 Liaison 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.

11.40 Part of the U.K. 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 U.K. Legislation. Inevitably, this is delaying the process of formulating new local mental health legislation.

11.41 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 recommended that secondary health care provision be provided by the Health and Social Services Department with specific emphasis on health promotion, substance abuse and mental health. Her Majesty's Inspector of Prisons report 2005 endorses the recommendations of the health needs analysis.

ADMINISTRATIVE DISPOSAL

Pleading Guilty by Post

11.42 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 could include, for example, payment online.

Fixed Penalties

11.43 Other forms of administrative disposal, such as fixed penalties, have been given serious consideration. In the U.K., 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, although this does require administrative support by the States of Jersey Police which is a hidden cost. 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

11.44 Perhaps the most high-profile form of administrative disposal in the U.K. is through the use of fixed site, automated 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 U.K., 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 was one fatality on our roads in the 4 years from 2000 to 2003 directly attributable to speed. In 2004 there were 5 fatalities on the Island's roads, but only one was confirmed as directly attributable to speed. In 2005, there were 3 fatalities, 2 of which were directly attributable to speed in a single incident. 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 deterring motorists from speeding. Cameras can be used for enforcement in connection with offenders other than speeding, for example, at traffic lights and pedestrian crossings. Whether such enforcement 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 RECOVERY

11.45 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 the U.K. and Ireland, comparable powers have been significantly expanded over recent years. Persons who have a criminal lifestyle, significant wealth, and no legitimate income consistent with their lifestyle, are subject to intensive investigation by specialist teams. Where the required evidential standards are met, assets may be confiscated. Persons convicted by the courts can be subject to a range of forfeiture measures which extend beyond the narrow confines of drugs and terrorism. In addition, assets which fall into the hands of the police, for example, large quantities of cash concealed in the vehicle of a known criminal, can be forfeited through a prescribed legal progress. Whilst the provisions which apply elsewhere may not all be appropriate for the Island, they nevertheless offer the prospect of expanding the measures available to the local courts in a way which could prove cost effective, both in financial terms and in their value as a deterrent to offenders. In some cases forfeiture may provide a course of action which reduces pressure on the Island's Prison. Apart from any local advantages, the Department also has in mind the need to uphold the reputation of the Island by removing any suggestion that it is a comparatively safe environment for persons with criminal wealth. Accordingly, the Department proposes to work with the Law Officers to produce specific proposals for expanding the powers available to the courts in this critical area. Unlike the U.K., Jersey has no system for confiscating through civil means assets suspected of being linked to criminal activity. The U.K. set up the Asset Recovery Agency in 2002 to carry out this work, but this body has been merged with the Serious Organised Crime Agency on cost grounds. In its first three years, running costs totalled £60 million whilst assets recovered amounted only to £8 million. Other methods of achieving asset recovery are being researched in the U.K., such as increasing Police powers under the proceeds of Crime Act 2002. The Council of Ministers has accepted the principle of asset recovery and has allocated law drafting time in 2007.

CRIMINAL PROCEDURE LAW

11.46 The Attorney General has been leading a working party to develop a new Criminal Procedure Law to replace the Loi (1864) Réglant la Procédure Criminelle. As at August 2007, the law drafting brief was in second draft with the aim of having a draft law available for consultation in early 2008.

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 Department 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 in view of the

current 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 is to create the conditions in which punishment, deterrence and rehabilitation can be brought to bear in the most cost-effective way. In the Department'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 Department 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. Consequently, the Department's strategy will focus on closer dialogue with the Royal Court over sentencing policy and the use of community penalties; growing and improving the Prison estate; introducing discretionary supervised release; and continuing to develop the use of electronic monitoring and temporary release.

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 fixed site, automated enforcement cameras to Jersey in relation to motoring offences. The Department 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 Department 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') as part of the proposals for post-custodial supervision.
- Enter into discussions with the Bailiff over sentencing policy.
- 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.
- Support the proposal to give the Royal Court greater flexibility in sentencing by increasing the maximum level of community service to 480 hours as an alternative to 3 year's imprisonment.
- 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 fixed site, automated 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 recovery with the aim of introducing, in the first instance by 2008, legislation to assist other jurisdictions to recover such assets.
- Consult on a new Criminal Procedure Law during 2008.

PILLAR 9 – REHABILITATION

INTRODUCTION

12.1 Offender rehabilitation is not just a moral issue. It is crime prevention activity which aims 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.[32]

12.4 Offenders who live in Jersey have lower reconviction rates for any given profile than in the U.K. or North America. The difference is even greater for female offenders.[33] 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. Criminal 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. Furthermore, few prisoners serve sentences of under 12 months which indicates that the Magistrate's Court in particular makes good use of the alternatives to prison sentences which are available. This is in contrast to the situation in England and Wales where the prisons contain large numbers of prisoners serving short sentences. 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.[34] 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.[35]

- 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.[36]

- 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 Prison (Jersey) Rules 2007 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, although this is one of the major proposals of this criminal justice policy. There are no statutory entitlements to benefit post-release, although generally the Parishes are sympathetic. However, under the Income Support Scheme, upon completion of a custodial sentence individuals will be eligible for income support if they have been continuously resident in Jersey for at least the five years immediately prior to the custodial sentence. Alternatively, an individual receiving income support as part of a household before the custodial sentence, will still be eligible for income support following the sentence. 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. Unfortunately, nearly 40% are unemployed at the beginning of their Order. This usually arises through a combination of factors: some are dismissed as a direct result of their offence; some are remanded in custody prior to sentence; and some have low basic education and work skills and therefore find it hard to maintain secure employment.

ROLE OF THE MAIN AGENCIES

Probation and After-Care Service

12.9 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 not much more than the sum that the Island spent in 2003 accommodating prisoners in prisons in England and Wales. The cost of accommodating prisoners in England and Wales has been reduced considerably since 2003 (see Table 8 at paragraph 11.13).

12.10 Around 600 individual 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.

12.11 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 within and outside of the Probation and After-Care Service. 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.

12.12 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.

12.13 A close working relationship with the Prison has been built up in recent years in an effort to start 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 has proved difficult. 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. From July 2006, as part of the Probation and After-Care Service's Through-Care Policy, all prisoners sentenced to six months custody or more are allocated a Probation Officer to work with them through their sentence and to offer voluntary contact post release.

HM Prison La Moye

12.14 The role of the Prison is to keep in custody those committed by the courts of Jersey and to look after them with humanity. Both morally and in accordance with the Prison Rules, the Prison has a duty to help prisoners to lead law-abiding and useful lives in custody and after release.

12.15 Key factors in prisoners avoiding re-offending once they are released from custody are a stable relationship, a job, accommodation and investment in education and training. There is a significant weight of evidence from the U.K. 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 may 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 has been restricted due to a shortage of resources over many years. In 2006, Jersey spent £172 per annum per prisoner on education (based on 2004 data) compared to the U.K. average of £1,185.

12.16 The inspection in 2005 by Her Majesty's Inspector of Prisons highlighted significant deficiencies in some aspects of the Prison regime that contribute most to the rehabilitation of prisoners: the provision of education and offending behaviour programmes; available work; resettlement strategy; sentence and re-integration planning. On the other hand, the inspectors were impressed by the methodical approach taken by the Temporary Release Assessment Panel where sensible early release decisions based upon detailed risk assessment had resulted in a negligible number of breaches of licence. Similarly, drug and alcohol counselling was delivering the best care available to prisoners within the current resource limitations.

12.17 Regarding work and training, opportunities have been very limited. Towards the end of 2004, a module in a certified City and Guilds training course in horticulture was commenced. As part of the Prison Performance Improvement Plan (PIP) developed in 2006, prisoners will be able 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.

12.18 Some woodwork, construction and renovation work is undertaken and again, as part of the PIP, 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 new kitchen, completed in November 2006, will enable the Prison to offer training to prisoners in catering.

12.19 Education has been provided by one teacher for 25 hours a week with occasional seasonal teachers. The range of education offered includes English as a foreign language, literacy and numeracy, basic computer skills, European Computer Driving Licence, mathematics GCSE, Spanish, yoga and first-aid. Distance learning courses for GCSE and A-level are also available. The HMI report described the education provision as 'impoverished and inadequate to meet learners' needs'. Although it will be an important part of the PIP, the States has given early recognition to these deficiencies by approving in principle Senator Perchard's amendment to the Strategic Plan which provides for a Prison Education Unit.

12.20 The importance of sentence planning as part of a resettlement strategy was recognised prior to the 2005 HMI inspection. The Prison Psychologist and Probation Officer commenced monthly reviews but, again, lack of staff resources prevented this work being rolled out to line management on Prison wings. Fortunately, the former Home Affairs Committee's early vision to introduce post-custodial supervision preceded by effective sentence planning led to a successful bid during the 2005 fundamental spending review for the necessary resources. The sum of £250,000 has been provided from 2006 to enable an additional 3 Prison officers and 3.5 Probation staff to allow this vital rehabilitation work to commence. These additional resources enabled the Probation and After-Care Service to implement its new Prisoner Through-Care Policy in 2006.

12.21 Modern, enlightened thinking about Prison regimes recognises that, rather than being simply incarcerated, prisoners' time in custody can be spent more productively improving their health care and learning the skills necessary to give them the best chance of a life away from crime. However, such a regime needs to be resourced adequately but, hitherto, the Prison's budget has only enabled it to concentrate on providing safe and secure detention. Additional resources will need to be provided if the PIP, in its many facets, is to be delivered successfully to complement sentence planning and post-custodial supervision. The total cost of implementing the PIP, including education and training, is estimated to be £1.25 million per annum. The Prison made a good start in the latter part of 2006 by involving all staff in working groups concentrating on separate parts of the PIP. The Council of Ministers has since approved growth funding which will enable phased implementation of the PIP over 3 years.

PAROLE AND SUPERVISED RELEASE

The U.K. System prior to the Criminal Justice Act 2003

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

12.23 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 were supervised by the Probation and After-Care Service until ¾ of the sentence had been served. If they

committed a further offence during that period of supervision or the last ¼ of their sentence, they were liable to serve the unexpired portion of the sentence in prison. Prisoners serving less than 12 months were not subject to statutory supervision by the Probation and After-Care Service but were liable to serve the unexpired part of their sentence if reconvicted during this period. For both categories, release at half-way would be delayed if the prisoner had to serve extra days for breaches of prison discipline. Powers to release on parole – termed Discretionary Conditional Release (DCR) – applied only to those prisoners sentenced to 4 years' imprisonment or longer. Prisoners deemed by the Parole Board to be unsuitable for parole were released at the two thirds point of their sentence – known as their non-parole date (NPD) – or at a later date if they had added days for prison offences, on ACR.

12.24 The 1991 Act also made major procedural changes. Every prisoner was interviewed by a member of the Parole Board who prepared a report but did not make a recommendation or sit on the Panel deciding the case. Although there was no statutory entitlement for the prisoner to see the parole dossier, they saw all the reports in the dossier prepared about him/her including the Parole Board interviewing member's report, and they were allowed to make representations about any matter contained in the dossier and the report. Reports could be withheld from prisoners if it was judged that matters had been raised which were prejudicial to security and the safety of victims or others. Every prisoner had a right to receive reasons in writing for the decision taken by the Board. Since 1998, the Parole Board had delegated authority to make the final decision whether or not to grant parole for those sentenced to less than 15 years' imprisonment. For longer sentences, the Board made a recommendation to the Secretary of State although this was reviewed following a European Court of Human Rights judgment.

12.25 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.*"

12.26 The risk to be assessed was 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

12.27 In July 2001 the U.K. Government published the Halliday Report entitled 'Making Punishments Work'. This gave rise to the Criminal Justice Act 2003 which introduced a series of new custodial sentences and alterations to the parole system. Amongst the new sentences are 'Custody Plus' which is a short jail term followed by a long period of community supervision which replace current custodial sentences of less than 12 months, and 'Custody Minus', a suspended sentence with supervision and other additional requirements. The implications for the U.K. parole system are that the majority of offenders are released automatically at the half way point of their custody irrespective of the length of their sentence**.** In this way, half of the sentence is served in custody and half served on licence in the community. The Prison and Probation and After-Care Services are 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 before, 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 is an executive decision, but the Parole Board reviews each decision and determines whether, and at what point, the offender should be released.

12.28 The intention is to enable the Parole Board to focus its expertise on those prisoners who present the greatest risk. Offenders who have been assessed as dangerous are not 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 U.K. Government has 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 U.K., carries a maximum sentence of between 2 and 10 years' imprisonment, and who have been assessed as dangerous, are liable to a new Extended Sentence for Public Protection (EPP). Unlike the previous system, release during the second half of the sentence, whether serving 4 years or not, is subject to 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 U.K., presently carries a maximum sentence of 10 years or more 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.

12.29 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 Department's judgement is that the climate is right for reforming the framework within which custodial sentences are served in Jersey from a judicial and rehabilitative viewpoint. From the above, it is clear that the U.K. 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

12.30 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.

12.31 Firstly, 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 on Parole licence for 2 years (in accordance with the rules applicable at the time). Understandably, such disparities led to Jersey prisoners feeling disadvantaged.

12.32 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).

12.33 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.

A Framework for Supervised Release in Jersey

12.34 Having consulted closely with the Royal Court during the first consultation process in 2005, we have agreed that a discretionary release system, rather than one similar to a U.K.-style automatic one, would be more appropriate for the Island. This would provide a release system which recognises the overriding importance of public safety in a small jurisdiction. Furthermore, an automatic system implies that all prisoners are equally ready for release at the half sentence point, and that it is not necessary to exercise judgement over the balance of risk. The reality is that prisoners will react differently to sentence planning, education opportunities and addressing their offending behaviour. The needs of victims are also important, especially as offenders may eventually live in close proximity. These factors weigh in favour of a discretionary system of release. Such a system could contain the following provisions:

- Discretionary supervised release at the half sentence point for prisoners with supervision in the community until the end of sentence.
- The establishment of a system of parole to adjudicate on prisoners' suitability for early release.
- Those prisoners not selected for early release to be released as now at the two-thirds point of sentence, but subject to supervision until the end of their sentence.
- Breach of licence subject to executive recall by the Prison Governor with a human rights compliant system for appeal.
- The Minister to review whether or not the public interest is served by maintaining the practice of restricted transfer to England and Wales.

2006 Consultation – Royal Court Comments

12.35 In formulating important reforms in the custodial system, I and my Department set great store on the opinion of the Royal Court (the `Court'). During the 2006 consultation, the Court expressed its support for proposals to provide supervision following release and additional resources for rehabilitative measures for prisoners. The Court was concerned, however, that such proposals should preserve both public confidence in the criminal justice system and a relationship between the sentenced passed and that served. On the basis of this relationship, the Court's preference would be for release to be maintained at the two-thirds point with compulsory supervision until the end of sentence. However, if the policy of introducing supervised release at the half-sentence point is adopted, the Court considers that there should be reserved to the Court a power to specify a period in custody of up to two-thirds in particular cases involving serious violence or sexual attack. This would be a similar provision to Extended or Indeterminate Sentences for Public Protection as provided in the U.K. by the Criminal Justice Act 2003.

12.36 The Court was also concerned that there should be public confidence in the release panel; that the level of supervision should be adequate; and that the arrangements for post-custodial supervision should be properly resourced. In addressing these concerns, the Department is content with the suggestion that at least one member of the release panel should be a Jurat. Although it will be subject to a human rights compliance check, the purpose of including a Jurat in the Early Release Panel will be for the interests of the courts to be represented in the decision-making process. There would be no more conflict of interest than currently exists with Jurats sitting on the Probation Board or the Prison Board of Visitors. The level of supervision after release would include the full range of services and standards of supervision normally provided by the Probation and After-Care Service with programmes tailored to individual needs. With regard to resourcing, £250,000 has already been provided through the 2005 fundamental spending review process for the establishment of an additional 3 Prison Officers and 2.5 Probation staff. The latter have already been recruited so that the Probation Through-Care Policy could commence. The indications are that staffing levels are adequate at present given the high take-up of voluntary contact upon release. However, resourcing levels will need to be reviewed in the light of experience. It should be noted that sufficient funds have not been provided for the recruitment of the additional Probation Officer which it is estimated will be necessary if the new legislation is agreed. The estimated additional funding required amounts to £58,000 at 2006 levels.

12.37 The Court made some helpful suggestions in relation to community service. The current limit of 240 hours – which is equivalent to 18 months' imprisonment – is considered to be too low and unnecessarily restrictive on the sentencing options available to the Court. Although it would only be used rarely the Court agrees with the Department that it would be desirable to raise the maximum to 480 hours as an alternative to 3 years imprisonment. This measure appears in the action plan at Pillar 8.

12.38 The Court also suggested that consideration be given to a form of 'custody plus' sentence whereby the Court could pass a sentence consisting of a specified length of time in custody followed by a period of community service. The Department considers that there are dangers in creating a dual-track system in which prisoners who have been sentenced on a 'custody plus' basis reside alongside those subject to consideration by an early release panel. First and foremost, under such circumstances, an automatic release system – which runs against the principles of the draft policy – would co-exist with a discretionary one, possibly leading to confusion and accusations of inequitable treatment. Secondly, by virtue of considering a period of probation upon sentence, risk assessment would take place at point of entry to custody rather than continuously as part of sentence planning and ongoing prisoner rehabilitation. Thirdly, there is a possibility – and we put it no stronger than that – of slight increases in short custodial sentences in the belief that this might be beneficial if accompanied by a community penalty. The loss of employment, associated stigma and effect on family ties might outweigh the positive effects of the custodial element. Finally, it could create a belief that the Prison is no longer worth investing in as the perception might be that the custodial element is simply for punishment, and that therefore all the resourcing should go into supervision afterwards. This would cut across the policy's aims of early intervention and rehabilitation. `Custody plus' was brought in as the U.K. transferred from a discretionary to an automatic system of early release. It is therefore consistent with Prison reform in the U.K., but would not sit comfortably with the discretionary system envisaged for Jersey.

Parole and Supervised Release – Does It Work?

12.39 There appears to be no research which compares the impact of post release supervision compared to no supervision following release. This is partly because the various British jurisdictions have a long history of supervision post release. However, there is a considerable body of evidence about what makes post custodial supervision effective. Helen Miles, Information and Research Manager of the Jersey Probation and After-Care Service, and Brian Heath, Chief Probation Officer, have provided the following brief overview.

12.40 Maguire and Raynor (2006)[37] analyses the extent to which the effective resettlement of prisoners can discourage involvement in crime and therefore reduce recidivism and promote social inclusion. It concludes that resettlement can be effective providing services are in place, the work done is valued by both supervisor and prisoner and that enforcement practice is measured and not mechanistic. A Home Office study from 2003 shows resettlement outcomes on release from prison. Positive outcomes are associated with employment, training, education and housing provision upon release. It also recommends that opportunities for involving family in resettlement should be increased.[38]

12.41 A useful statistical summary is found in the Select Committee on Home Affairs First report section 16 resettlement at paragraph 368:

"16 RESETTLEMENT

368. The Public Accounts Committee (PAC) stated in 2002 that "the three key factors to reducing re-offending are work, accommodation and family support".[300] Research conducted by Nacro suggests that ex-prisoners with accommodation are between 20% and 50% less likely to re-offend than homeless ex-prisoners[301] whilst a Home Office evaluation of prison work and training found that employment on release reduces the risk

of re-offending between a third and a half.[302] Yet the PAC reported that four out of ten prisoners were homeless on release, and that over 40% of prisoners lose contact with families or friends in the course of a prison sentence.[303] The Government's National Action Plan states that "only a third of prisoners return to some form of settled accommodation on release". [304] Statistics from our 'Prison Diary Project' completed in June 2004 paint the same negative picture, with 66.6% of prisoners having no job on release and only 19% of prisoners receiving advice or guidance about accommodation and even less (16%) receiving advice or guidance about finding a job."

12.42 All these findings as well as providing evidence about the effectiveness of supervision post release also point to the importance of providing the services in practice as well as theory and the importance of the prisoner being part of the community they are released into. This last point raises a key political question for Jersey: the extent to which transfer of non-local prisoners is pursued and their entitlement for release into what is not their own community.

12.43 The Prison already operates a temporary release scheme for prisoners serving the last 6 months of their sentence, aimed at improving rehabilitation back into society. Since 2004, the Prison has operated a Temporary Release Panel to consider every application from a prisoner on the first occasion that they apply for temporary release.

12.44 The Panel is chaired by the Prison Governor and consists of the Prison Principal Psychologist, the Prison Probation Officer, the Head of Residence and an independent lay panel member as well as the manager from the prisoner's wing. The main task of the Panel is to assess the risk the prisoner poses to the public by breaching any conditions of the temporary release period. This operates in a very similar way to that proposed for the discretionary supervised release scheme.

12.45 The Panel has before them a range of written reports from within and outside of the prison. External reports include those from the Police (both Honorary and States of Jersey) as well as obtaining the views of victims where risk assessment reports indicate that particular attention needs to be paid to the victims of crime and how significant the needs of victims are in individual cases. Internal reports are produced from the various parts of the prison where the prisoner is known as well as reports from psychology and probation.

12.46 Whilst there is clearly a risk every time a prisoner is released from the prison, the results from La Moye in recent years bear testament to the skill of those tasked with making the decisions in relation to temporary release.

12.47 In 2004, when the new system was not in operation for the whole year, there were a total of 6,159 temporary release days granted to a total of 87 prisoners. Of these, 30 were released under the temporary release monitoring scheme for a total of 2,823 days. This scheme is when suitable prisoners are released for up to their last 6 months with an electronic tag and curfew conditions. To apply they must have an address and job in Jersey. This is seen as a significant assistance in keeping a job on eventual discharge and helping to avoid re-offending. In this year there were a total of 83 days worth of breaches of licence (0.45% of releases) for a variety of minor offences such as failing a drug or alcohol test.

12.48 In 2005, the first full year of operation for the new system, there were 6,084 temporary release days granted to a total of 75 prisoners, including 26 prisoners released under the temporary release monitoring scheme for a total of 1,896 days. The number of breaches fell to 19 representing 0.31% of releases.

12.49 In 2006 the comparable figures are: 7,764 temporary release days to 82 prisoners, including 3,659 under the temporary release monitoring scheme to 82 prisoners. Although the number of temporary releases and the numbers of prisoners involved was higher than 2005, the number of breaches fell to 18, representing 0.23% of releases. That represents less than 1 in every 400 temporary release days breached in any way. This may demonstrate the high value that prisoners place on their time outside of the prison and the great care that is taken by the prison in approving every temporary release.

Discretionary Supervised Release – Proposed Policy

12.50 The 21st Century calls for an enlightened approach to the way in which custodial sentences are served which, on the one hand, protects the public and retains their confidence in the criminal justice system, whilst on the other, recognises the symptoms which often give rise to offending behaviour and puts rehabilitative programmes in place, both during and after the period in custody, to treat them. But these measures are not an end in themselves. They build on the notion that bringing positive influences to bear will enable people to change and minimise the chance that offenders will become caught up in the `revolving door' of crime. Moreover, the rehabilitative process is incomplete if offenders are not able to achieve early release, having served a substantial part of their sentence, and shown that they are able to take their place in society. To be given this privilege, they would need to pass a rigorous, risk assessment process which would examine all relevant factors relating to the offender, the offences committed, and any victim.

12.51 The consultation process has shown that there is unequivocal support for a system of discretionary, supervised release. The key decisions to be made are, firstly, what proportion of a sentence should be served in custody, and secondly, who should decide when early release should be granted.

12.52 The draft Policy Document published in July 2006 proposed the broad framework outlined in paragraph 12.34. Having taken into account the overall reaction to these proposals, and particularly the opinion expressed by the Court, the Department's view is that prisoners should not be considered for early release until they have served at least half their sentence. For those that have been convicted of serious crimes of violence or sexual offences, the Court will be able to specify a minimum sentence to be served which will be up to two thirds of that awarded. For the majority of those sentenced for more minor crimes, however, early release will be considered for the first time at the half sentence point. Consideration at this point will enable the Island to align its custodial system with that of England and Wales (albeit that they have now adopted a system of automatic release at the half sentence point for most prisoners), and Guernsey who are also engaged in a similar review. Such alignment is considered to be vitally important as it will facilitate the more efficient transfer of prisoners between jurisdictions in the future. Discussions have already taken place with the Guernsey authorities as it is clear that making our custodial systems more compatible would be to our mutual benefit, particularly when both islands are susceptible to problems of overcrowding which could be alleviated in some circumstances by inter-island transfers.

12.53 The Prison has been operating a Temporary Release Panel since 2003 as described above. The Panel carries out a rigorous risk assessment prior to the early release of prisoners and has been highly successful as evidenced by the figures in paragraph 12.49. Under the new system of discretionary, supervised release, decisions would be taken by a Parole Board, constituted on similar lines to the Temporary Release Assessment Panel, but augmented with a Jurat to represent the interest of the Royal Court.

12.54 The proposed policy for the introduction of discretionary, supervised release is therefore as set out in the section headed 'A Framework for Supervised Release in Jersey', but with the following refinements to take account of the views expressed by the Royal Court:

- A power for the Royal Court to specify a period in custody of up to two-thirds in particular cases involving serious violence or sexual attack.

- A Jurat to be a member of the Parole Board on each occasion that it sits to consider applications for early release.

12.55 The precise legislative framework needed for a new law to facilitate the introduction of discretionary supervised release has been investigated by a joint Home Affairs and Law Officers' Department working group and a first draft produced. There are many factors that have been taken into account, 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.

12.56 In formulating a system of discretionary supervised release and post-custodial supervision, the Department has taken due account of the Shadow 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

12.57 The proposed policy outlined above describes measures which are essentially rehabilitative in nature and, consequently, the States of Jersey has recognised their value and funded the additional resources necessary to commence implementation. There will be a greater emphasis on preparing prisoners adequately for a future life in the community free from crime. Resource requirements will be driven by the forecast additional workload. In a worst case scenario, assuming a retrospective system, all prisoners released at the half sentence point, and that all remain on licence with their latest date of release, it is estimated that around 50 prisoners would be on licence in any one month. However, allowing for those prisoners who are to be deported, choose to settle away from Jersey or are unsuitable for release at the first opportunity, approximately 20 would be a more realistic figure. Furthermore, if the system is not introduced retrospectively, then numbers would grow slowly after the first 6 months as there is likely to be a minimum period in custody before being eligible for consideration for release on licence.

12.58 Based on the forecast additional workload, the current estimate is that 3 Prison staff will be needed for sentence planning during the custodial part of the sentence. An additional 3.5 Probation staff will also be required to take on the heavier supervisory role whilst prisoners are released on licence. These staffing levels, together with the associated cost, will need to be reviewed once the scope of the post-supervisory task can be assessed properly in the light of experience. There may be a running cost saving in terms of the shorter period being served in custody. However, a proportion of prisoners subject to supervision will commit further offences and will be liable to be returned to custody unlike at present where no such liability exists and this may counterbalance the impact on numbers of the earlier release of some prisoners. Furthermore, the overall quality of life for prisoners at the Prison should be significantly better as a result of a modernised estate. The case for these reforms is therefore compelling on humane and social, as well as criminological, grounds.

12.59 The present Temporary Release Assessment Panel operates on an honorary basis apart from the payment of travel expenses. However, to be consistent with other tribunal services and the parole system in Guernsey, it is likely that a session fee will be paid. In Guernsey, the Panel Chairman is paid £120 per half day session and members £48. The total cost of the parole system in 2006 was £7,000. Whilst recognising that Jersey would have a higher case load, costs should be capable of being absorbed within the Prison base budget.

Pillar 9 – Policy Statement

Whilst in some 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. 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. Since July 2006, as part of the Service's Through-Care Policy, all newly sentenced prisoners serving six months or more have been allocated a Probation Officer to work with them through their sentence and to offer voluntary contact after 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. Prisoner through-care provides a further step towards the implementation of this. The Home Affairs Department's aim is to improve prisoner rehabilitation in order to reduce recidivism rates. Currently, approximately 50% of adults and 70% of young offenders are reconvicted within 12 months.

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 Department has been careful to study the provisions of the U.K.'s Criminal Justice Act 2003 in which the U.K. system of parole has been reformed. The Department sees no need to replicate those provisions precisely; however, it will be important to adopt a system which can operate with that in the U.K., not least so that the Island can continue to transfer the majority of prisoners with demonstrable links with England and Wales. Prisoners may 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 Department intends to introduce a system of discretionary supervised release but there will be a cost to introducing such a system. An additional 3 Prison Officers will be needed for sentence planning during the custodial part of the sentence, and an additional 3.5 Probation staff have also been recruited to take on the heavier supervisory role whilst prisoners are released on licence. However, better value for money over the whole criminal justice system should be achieved in terms of lower re-offending rates.

I and my Department recognise the link between poor educational ability/attainment and high rates of recidivism. Having adopted Senator Perchard's amendment to the Strategic Plan, the States supports the creation of a Prison Education Unit to deliver a range of educational services including basic skills, national vocational courses, distance learning and careers guidance. This is an integral part of the overall Prison Performance Improvement Plan (PIP) which was presented to the Council of Ministers in October 2006. The full cost of implementing the PIP will be in the region of £1.25M. Growth funding has been approved to facilitate a phased implementation.

Finally on rehabilitation, the Home Affairs Department is committed to the philosophy of harm reduction and has carried this forward into the new Building a Safer Society Strategy.

Action Plan

The Home Affairs Department will:

- In 2007, seek approval for new post-custodial supervision legislation in order to introduce a system of discretionary, supervised release.
- Subject to the approval of new legislation, introduce a system of discretionary supervised release in 2008.
- 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 Department and the Skills Executive.
- Implement the Prison Performance Improvement Plan in accordance with available resources and a timetable agreed by the Council of Ministers.

APPENDICES

APPENDIX 1

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 46. 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. A co-ordinated set of criminal justice statistics has been produced each year since the Rutherford report, 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 63. The Department will take steps to establish a police authority once proposals in the draft Police Force (Jersey) Law 200-, have been approved. .
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 71. 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 71. 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 97. 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.
8.	Jersey's incarceration rates (including any prisoners held in the U.K.) 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	See Pillar 8 – Dealing with Offenders, page 77. Although it was neither covered nor recommended in the Rutherford Report, the Department is recommending a system of discretionary supervised release as a method of providing more effective

	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.	rehabilitation following a custodial sentence. A side-effect will be a reduction in the prison population, assuming prisoners respond appropriately to release on licence, and alignment with the U.K. system with release at half sentence point albeit discretionary rather than automatic. 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.
9.	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.	See Pillar 5 – Early Intervention, page 53. The harm reduction ethos is now widely embraced and projects funded through the BaSS Strategy follow its principles. The Island will be monitoring closely the U.K.'s experience with the downgrading of cannabis. The Advisory Council on the Misuse of Drugs advised maintaining the current classification in April 2006. An Arrest Referral Worker has been appointed since the Rutherford Report was published.
10.	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.	See Pillar 5 – Early Intervention, page 53. This approach is enshrined in the Building a Safer Society Strategy which encompasses the harm reduction strategy.

APPENDIX 2

CRIMINAL JUSTICE POLICY – FOCUS GROUPS

CRIMINAL JUSTICE POLICY - FOCUS GROUPS

FOCUS GROUP

PARTICIPANTS	CRIMINAL JUSTICE STATISTICS	JOINT WORKING	EARLY INTERVENTION	ENFORCEMENT	PROSECUTION	DEALING WITH OFFENDERS	LOOKING AFTER VICTIMS	REHABILITATION	PAROLE
Senator W Kinnard			Based on consult-ation process leading to States adoption of 'Building A Safer Society' strategy.	√	√	√	√	√	√
Deputy R Le Hérissier									√
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 Caunce							√		
Marisha Carter							√		
Alan Campian							√		

APPENDIX 3

CRIMINAL JUSTICE POLICY ACTION PLAN + PROGRESS AS AT APRIL 2007 AND IMPLEMENTATION COSTS

Definitions:

Short-term: Objectives commenced in 2006, some involving the continuation of work into later years.
May require new legislation.

Long-term: Objectives which involve substantial work in future years.
May require States approval and/or new legislation.

No. (a)	Objective (b)	Action Commenced (c)	Progress (d)	Implementation Costs (£)		Comments on Costs (g)
				Funded/ Funding Stream Available (e)	Growth Requirement (f)	
	Short Term					
1.	Continue to produce co-ordinated criminal justice statistics annually using current systems through joint working between criminal justice agencies.	√	Statistics from Police database ongoing. Magistrate's/Youth Court statistics analysed up to 2006.			
2.	Establish a Victims' Agencies Forum to bring together agencies representing the victims of crime and witnesses.	√	Forum membership established. First meeting to be held in May 2007.			
3.	Promote effective joint working, not only between the criminal justice agencies, but also the partner agencies in the public, private and voluntary sectors.	√	New ways of encouraging joint working emerge continuously, e.g.: joint working party on access to criminal records./vetting arrangements, partnerships through BaSS.			
4.	Establish a forum for criminal justice policy and planning involving the executive, the judiciary and the prosecution.	√	All parties agreed and greater dialogue will commence in 2007.			
5.	In partnership with the Health and Social	√	Ongoing.	4.5M		Total for 2006 – £996k, half funded by

	Services Department, take the lead in implementing the Building a Safer Society Strategy and monitoring its progress.					DTCF
6.	Implement appropriate recommendations of the Bull Report approved by the States of Jersey.	√	Youth Action Team in place since 2006.			
7.	Support the States of Jersey Police in the achievement of its Policing Plan priorities.	√	Policing Plan for 2007 accepted.			
8.	Maximise intelligence collecting and sharing with other jurisdictions in order to combat imported crime, particularly drug trafficking and, where appropriate, seek to have criminals arrested and drugs seized before they arrive in the Island.	√	Regular evidence that this is being achieved, eg: Jan 07 - £48k worth of cannabis intercepted in St Malo by French Customs.			
9.	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.	√	Discussions held with the Royal Court in Dec 2006 in the context of post-custodial supervision, at which an increase of maximum sentence of community service to 480 hours agreed (requires a minor amendment to the Criminal Justice (Community Service Orders) (Jersey) Law 2001 which is in hand).			
10.	Support the proposal to give the Royal Court greater flexibility in sentencing by increasing the maximum level of community service to	√	**Requires amendment to legislation.** Law Draftsman has confirmed that this can be achieved using 'contingency' time.			

	480 hours as an alternative to 3 year's imprisonment.					
11.	Maximise the use of transfers where prisoners can demonstrate links with England and Wales, thereby reducing significantly the cost to the public.	√	Ongoing – the 2003 high cost for prisoners (£1m) has fallen each year with an average of 7 in 2006 (£240k), due to the Prison Governor identifying the right prisoners for transfer at no cost.			
12.	During 2007, 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.	√	**Requires new legislation.** Withdrawn for further consideration during the States debate on 16th January 07. Amendments being considered.			
13.	Explore further life-long learning opportunities for prisoners in consultation with the Education, Sport and Culture Department and the Skills Executive.	√	Being actioned as part of the Prison Performance Improvement Plan.			
14.	Establish a Prison Education Unit in partnership with Highlands College.	√	Additional funding provided in 2007 cash limit.	250,000		Revenue funding from 2008, but 'emerging pressures' funding available from 2007.
15.	Implement the Prison Performance Improvement Plan in accordance with available resources and a timetable agreed by the Council of Ministers.	√	First progress report on the PIP produced in Dec 06.	313,000		Revenue funding from 2008, but 'emerging pressures' funding available from 2007. Total cost of PIP is £1.028M – continuation of funding required from 2009 onwards.

	Long Term					
16.	Implement the recommendations of the Integrated Criminal Justice Scoping Study through the Criminal Justice Information Strategy Group.	√	Strategy Group formed under the chairmanship of the Attorney General.			Scoping Study report indicated no short-term requirement. Strategy Group will consider longer term funding.
17.	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 U.K.'s experience in developing the 'New Deal' initiative.	-	Work to be undertaken in conjunction with the Victim Agencies Forum.	10,000		Drafting and printing costs. BaSS funding.
18.	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.	-	**Requires new legislation.** Work to be undertaken in conjunction with the Victim Agencies Forum.			

19.	Develop the framework and law drafting instructions for a police authority for establishment during 2008.	√	**Requires new legislation.** Although the future position of the Connétables has yet to be decided, the Department is consulting stakeholders on a framework for a type of authority based on the 'Gibraltar model'.		20,000	Revenue growth – admin support costs/rents only anticipated.
20.	Plan for anticipated changes in crime levels according to the predicted population profile and any effects of migration policy.	√	Number of offenders in 14-17 year old age group returning to 2002 levels following 2004 `demographic bulge'. New strategic assessment being carried out by SofJ Police.			
21.	Having regard to Recommendation 9(4) of the Social Policy Framework and agreed Safer St. Helier initiatives, analyse the nature and effect of anti-social behaviour in Jersey and, in consultation with other agencies and the community, seek appropriate solutions.	√	Commenced in 2006 as part of the Safer St Helier project. Proposals agreed by CoM in June 2007, including review of the Licensing (Jersey) Law 1974.			
22.	Investigate whether a more 'customer-friendly' approach to the payment of fines for parking, etc., might be made available through fixed penalties.	-	**States approval for policy proposal sought.**			Detailed investment appraisal required in due course.

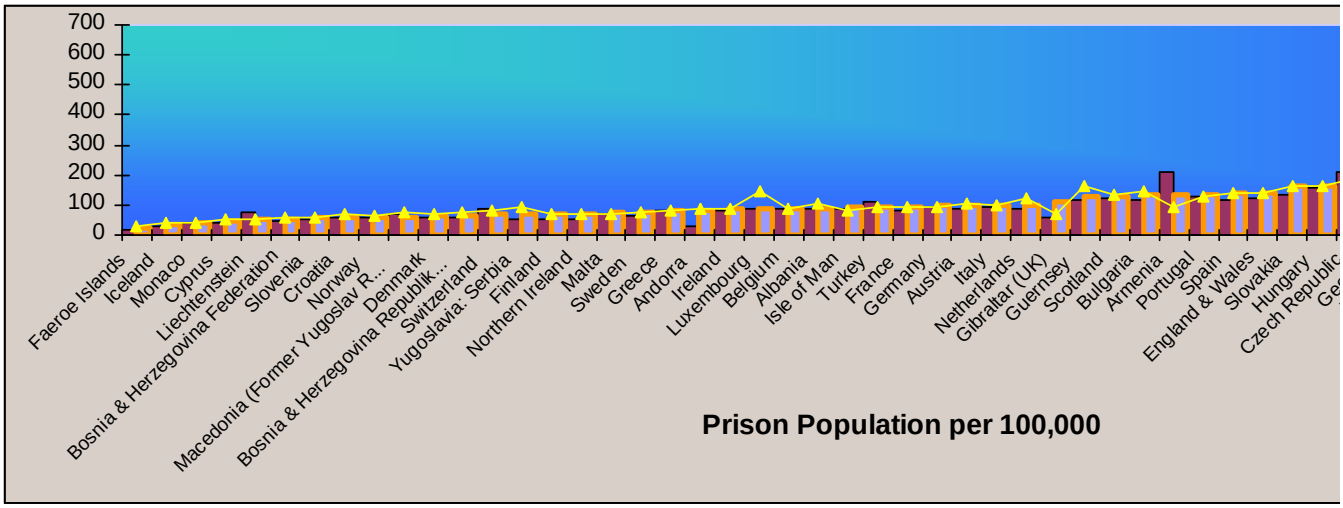
23.	Investigate the suitability of fixed site, automated enforcement cameras for Jersey and whether their introduction would be cost-effective.	-	**States approval for policy proposal sought.**			Detailed investment appraisal required in due course.
24.	In consultation with the Honorary Police, Probation and After-Care Service and others, continue to support the Parish Hall Enquiry system and consider further ways in which it can be strengthened.	-	Home Affairs Department to engage with the Comité des Chefs in 2007 to consider measures.			
25.	Enter into discussions with the Bailiff over sentencing policy.	-	Commencing 2007.			
26.	In conjunction with the Law Officers' Department, investigate ways of expanding powers in relation to civil asset recovery with the aim of introducing in the first instance by 2008, legislation to assist other jurisdictions to recover such assets.	√	**Requires new legislation.** Law to be produced in 2 parts: Part 1 (2007) – to enable other jurisdictions to pursue actions in Jersey, Part 2 (2008) – to enable Jersey to effect recovery. Draft law for Part 1 completed August 2007			Detailed investment appraisal required in due course.
27.	Investigate greater use of the Electronic Monitoring Scheme as part of the proposals for post-custodial supervision.	-	To be considered in conjunction with proposals for post-custodial supervision.	160,000		The Scheme was subject to a value for money audit in April 2005.

28.	In 2007, seek approval for new post-custodial supervision legislation in order to introduce a system of discretionary supervised release.	√	**Requires new legislation.** Precise framework discussed with the Royal Court. Initial draft of new law produced. Probation Through-Care Policy and Prison sentence planning have already commenced having been resourced in the 2005 FSR.	250,000	70,000	Growth funding provided in the 2005 FSR, but Probation may require 1 FTE for an additional Probation Officer from 2009 depending on work load. Cost estimate included as part of the 2008-2010 cash limits review.
29.	Subject to the approval of new legislation, introduce a system of discretionary supervised release during 2008.	-	**Requires new legislation.** This will require the setting up of a Parole Board.	15,000		Cost estimate based on running cost of Guernsey Parole Board. To be absorbed within Prison budget.
30.	Carry out a Crime Victimisation Survey every 3 years, subject to resources being available, 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.	-	Due in 2008.	70,000		BaSS funding.
31.	Subject to the legal position, introduce additional powers of detention for 'wanted' migrants and a dangerous persons register.	-	**Requires new legislation.**			

32.	Introduce a Sex Offenders Law in 2008	√	**Requires new legislation.** Law drafting brief under consideration by the Attorney General			
33.	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.	√	**Requires amendment to legislation.** Corporate Parent proposals for access to Secure Care facility going forward as a law drafting brief to amend the Criminal Justice (Young Offenders) (Jersey) Law 1994			
34.	Lead a cross-departmental working group reviewing the arrangements for vetting and barring in the Island to take account of the Vetting and Barring Scheme being introduced in the U.K. in a phased roll-out from Autumn 2008.	√	**Requires new legislation.** Working group's initial tasks are to establish the legal framework necessary for the Island to access the Vetting and Barring Scheme and to decide what local systems need to be put in place.		150,000	Depending upon the working group's recommendations, it may be necessary to form a central Vetting Bureau from 2009. The cost estimate was included in the 2008-2010 cast limit review. It may be possible to divert resources from user depts/ 'user pays'.
35.	Consult on a new Criminal Procedure Law during 2008.	-	**Requires new legislation.** Drafting instructions in 2nd draft			
			Total revenue growth from 2009:		**£240,000**	

APPENDIX 4

PRISON POPULATION PER 100,000



Source: The Economic & Social Costs of Crime

The first estimates of the economic and social costs of crime in the U.K. were published by the Home Office Research & Statistics Directorate. Study HORS 217 entitled 'The Economic and Social Costs of Crime' was first Published in 2000 and has since been updated in 2005. The publication was the culmination of an extensive body of research on the cost of crime and covered estimates of the cost of:

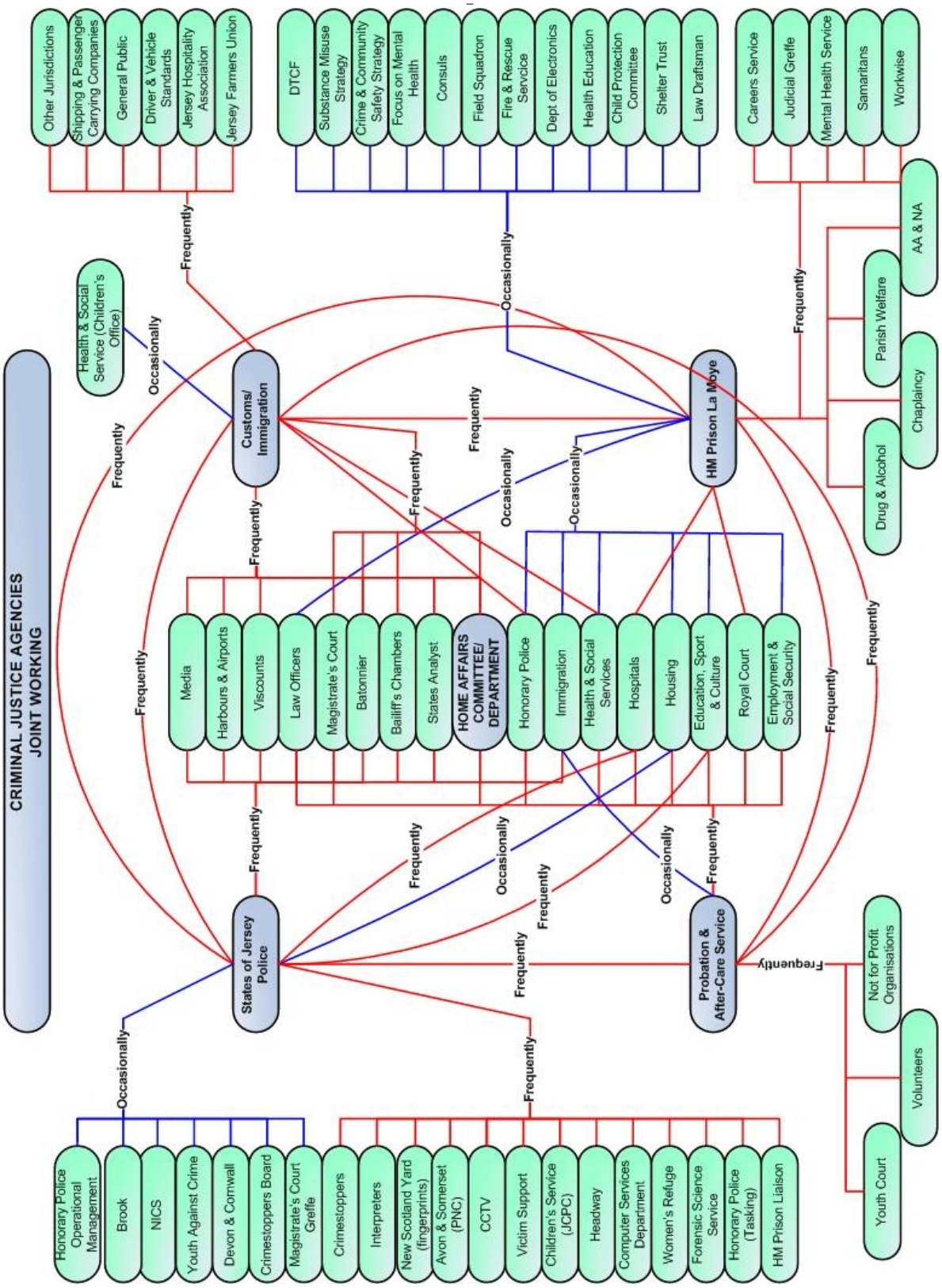
- crime against individuals and households;
- commercial and public sector victimisation;
- fraud and forgery; and
- traffic and motoring/other non-notifiable offences.

For each of the above categories, costs incurred in anticipation of crime, as a consequence of crime and in response to crime were estimated. Using the above calculations the social cost of recorded crime in Jersey was in the region of £16 million pounds in 2006. This figure does not include all types of crime, for example, commercial crimes such as fraud and forgery are not included, nor are public order offences. For a full explanation of the methodology you can down load the 2003/04 report at http://www.homeoffice.gov.uk/rds/pdfs05/rdsolr3005.pdf.

For the purpose of this exercise, the 'average costs per crime' have been indexed linked from 2004 at 2.5% p.a.

APPENDIX 6

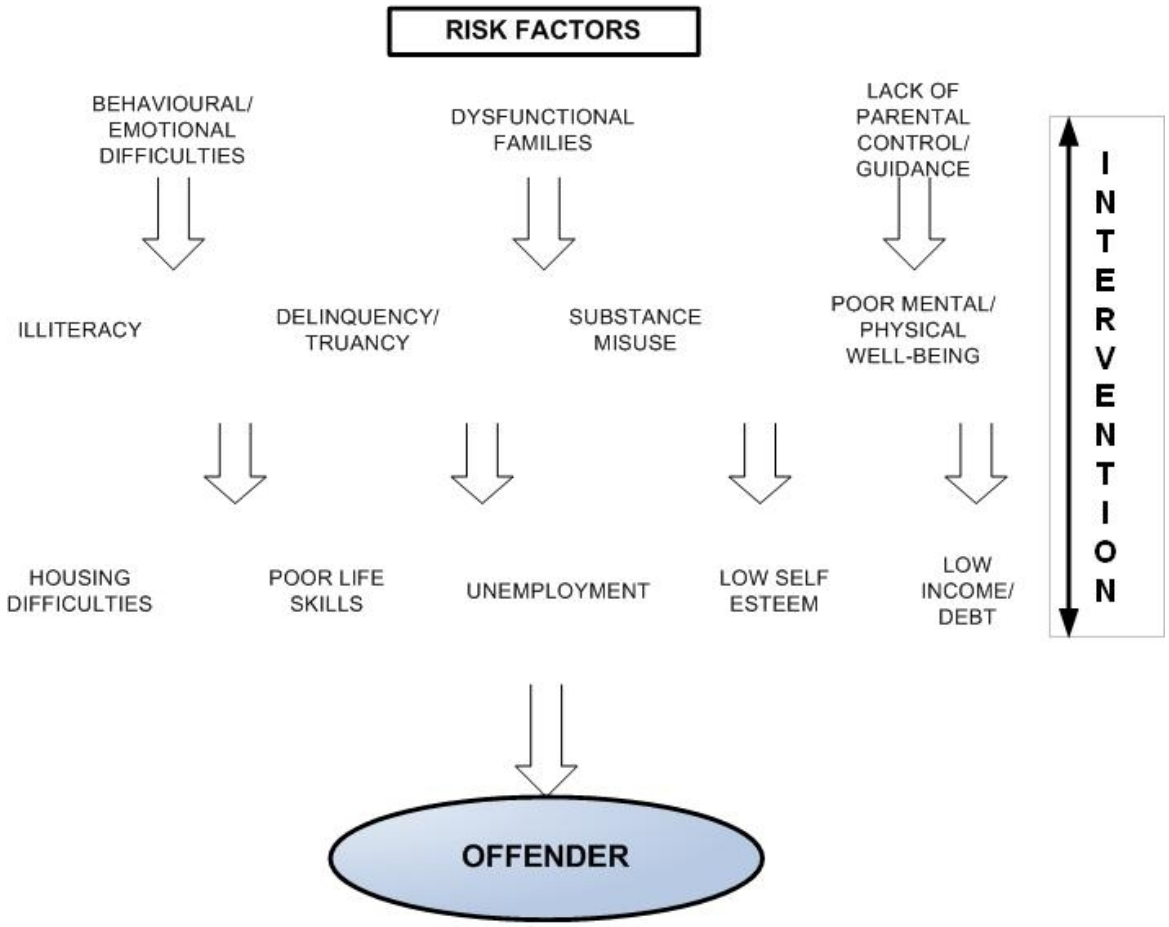
CRIMINAL JUSTICE AGENCIES JOINT WORKING



APPENDIX 7

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

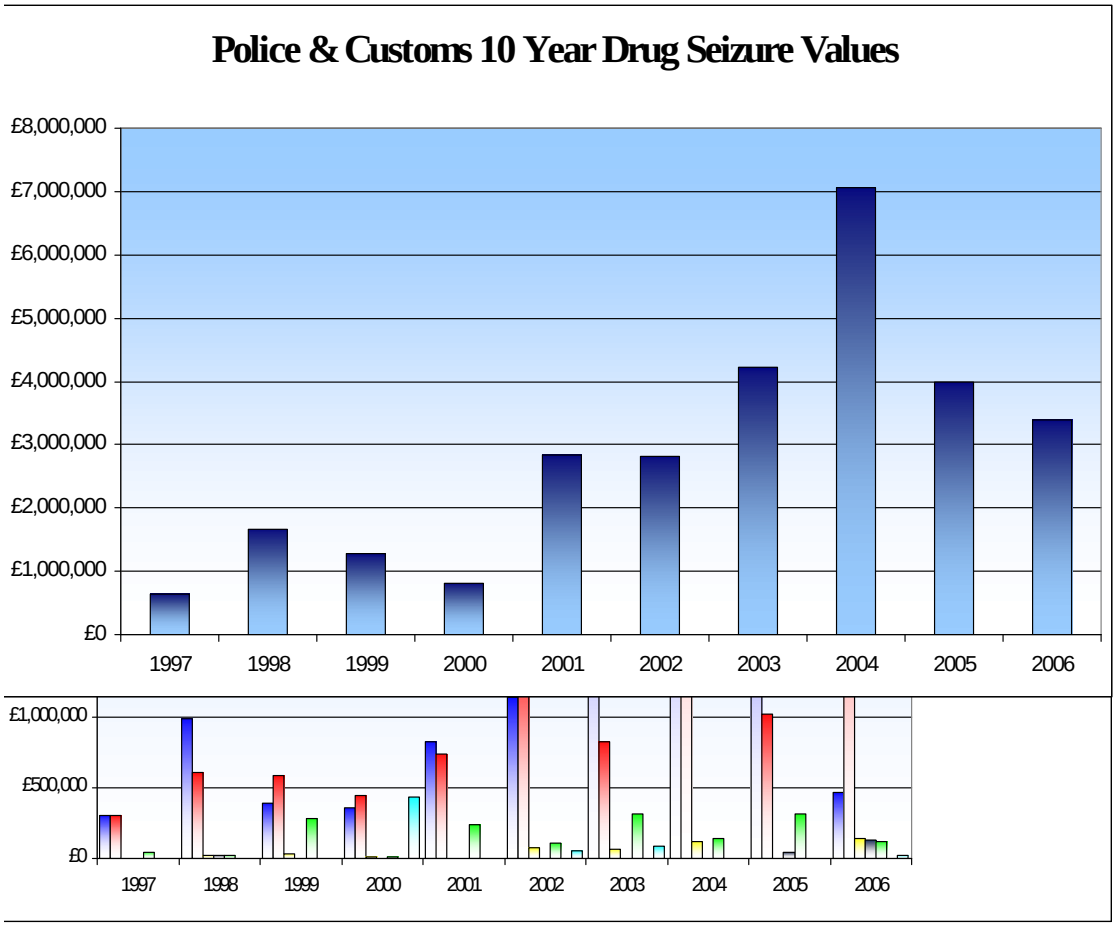
Fine

Binding-Over Order (+ conditions, can include attendance at ADS)

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

APPENDIX 8

POLICE & CUSTOMS 10 YEAR DRUG SEIZURE STATISTICS



APPENDIX 9

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.

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

[2] *States of Jersey Police Annual Report 2005.*

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

[10] *Rutherford Report, page 107.*

[11] *Ibid, page 107.*

[12] *Home Affairs Committee Act B8, dated 10th March 2005.*

[13] *Parish Accounts 2003/2004.*

[14] *The Future for Drugs Enforcement in Jersey, Chief Officer, States of Jersey Police and the Agent of the Impôts, October 1994.*

[15] *Home Affairs Committee paper, R.C.35 dated 22nd July 2003.*

[16] *P.25/2005, Migration: Monitoring and Regulation, paragraph 3(c).*

[17] *Rutherford Report, pages 40-54.*

[18] *Ibid, page 98.*

[19] *Home Affairs Committee Act B9 of 22nd May 2003.*

[20] *Rutherford Report.*

[21] *Ibid, page 102.*

[22] *Raynor, P. and Miles, H., February 2004, 'Evaluating the Role of the Parish Hall Enquiry', pages 27-28.*

[23] *Clothier 1996:16.*

[24] *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.*

[25] *Raynor, P. and Miles, H., February 2004, 'Evaluating the Role of the Parish Hall Enquiry', pages 27-28.*

[26] *Raynor, P. and Miles, H., February 2004, 'Evaluating the Role of the Parish Hall Enquiry', page 29.*

[27] *Probation and After-Care Service Annual Report 2004, page 25.*

[28] *Probation and After-Care Service Annual Report 2004, page 27.*

[29] *Rutherford Report, page 62.*

[30] *David Davis MP, Shadow Home Secretary, Policy Review Magazine, September 2004.*

[31] *Dr. D. King, HMP La Moye: Report on the Temporary Release of Prisoners, December 2003.*

[32] *Raynor and Miles 2001, Raynor and Miles 2004.*

[33] *Heath et al 2002; Raynor and Miles 2004.*

[34] *Miles 2004.*

[35] *JPACS 2003 and 2004; Northern Ireland Office 1998.*

[36] *Raynor and Miles 2004.*

[37] *How the resettlement of prisoners promotes desistance from crime: Or does it?, M Maguire and P Raynor, Cardiff University.*

[38] *Home Office Finding 248, 2003, Resettlement outcomes on release from prison in 2003*