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FILE TITLE: CRIMINAL JUSTICE POLICY Annex A: A review of the Crown Prosecution service Annex B: STREET CRIME ACTION GROUP Brief for meeting of 26/3/02	SERIES: HOME AFFAIRS PART: 7
PART BEGINS: 17th FEBRUARY 2002	PART ENDS: 24 MARCH 2002
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Labour Administration

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DATE CLOSED	24 MARCH 2002

Series : **HOME AFFAIRS**

File Title : **CRIMINAL JUSTICE POLICY**

Part : **7**

Date	From	To	Subject	Class	Secret
18/02/2002	PD(ER)	PM	IT and the Criminal Justice System	R	
19/02/2002	AG	PM	Organised crime	C	
22/02/2002	PD(OM)	PM	Mode of trial	C	
22/02/2002	LCD	PD(CS)	Legislation on Auld and Halliday	U	
22/02/2002	PD(JN)	chief of staff	SR2002 - Target Architecture and Target Delivery	U	
22/02/2002	DelivDir	PM	Delivery Update - Robbery	U	
25/02/2002	HO	PD(OM)	Proceeds of Crime Bill	U	
25/02/2002	PD(OM)	PM	Mode of Trial	C	
26/02/2002	PD(JR)		HM Prison Service: No10 Lecture	R	
27/02/2002	DelivDir	PM	Robbery	R	
27/02/2002	HS	PM	National Law Enforcement Agency	C	
28/02/2002	PD(OM)	PM	Mode of Trial	R	
28/02/2002	DCMS	HO	Ministerial Group on Community Cohesion	U	
28/02/2002	HO	PD(JR)	Natinal Crime Reduction Taskforce	U	
28/02/2002	SS/DTLR	DPM	Drink-drive blood alcohol content concentration (BAC) limit	U	
01/03/2002	SS/DoH	MS/HO	New London Youth Crime Task Force	U	
01/03/2002	LCD		Assoc of Chief Police Officers: Auld review summary of responses	U	
01/03/2002	FA/APS	NIO	Criminal justice review	C	
02/03/2002	LC	MS/HO	New London Youth Crime Task Force	U	
04/03/2002	FCS	HS	Organised crime emanating from Turkey	C	
06/03/2002	HS	LC	Criminal justice white paper	C	
06/03/2002	PM	LC	(PM) - Auld	C	
07/03/2002	NIO	FA/APS	Criminal justice review	C	
07/03/2002	PD(JR)	HO	(M) - Mode of trial	C	
07/03/2002	PPS	HMT	(M) Organised Crime, Prime Minister's discussion with the Chancello	C	
08/03/2002	DelivDir	PM	Robbery Review	U	
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12/03/2002	HS	CST	PSX meeting on delivering effective criminal justice	C	
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18/03/2002	HS	CST	Street Crime Action Group	U	
18/03/2002	LP	MS/HO	private members bill: criminal evidence (prohibition of sale)	C	
19/03/2002	CST	HS	Auld/CJS White paper	C	
19/03/2002	DPM	SS/DTLR	Drink-drive blood alcohol concentration limit	C	
19/03/2002	AG	HS	Street crime	C	
19/03/2002	DelivDir	PM	Street crime action group meeting	C	
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22/03/2002			Crime Script - MEN Interview	U	
24/03/2002	LC	HS	Criminal Justice White Paper	U	

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FROM THE RIGHT HONOURABLE THE LORD IRVINE OF LAIRG

HOUSE OF LORDS,
LONDON SW1A 0PW

24 March 2002

The Right Honourable David Blunkett MP
Home Secretary
Home Office
50 Queen Anne's Gate
London SW1H 9AT

Dear David,

CRIMINAL JUSTICE WHITE PAPER

Thank you for your letter of 6 March regarding the Criminal Justice White Paper. I have also seen Andrew Smith's letter of 19 March highlighting the difficulties of making an early announcement in advance of the conclusion of the Spending Review.

Like you, I am anxious to ensure the earliest announcement of our plans to make the courts, and the rest of the Criminal Justice System, more effective. Therefore, we must press ahead urgently with the necessary policy development. But I recognise the force of Andrew's reasoning on timing and, indeed, my earlier letter emphasised the need for careful drafting of anything that was due to appear before the SR2002 settlement. Also, we all recognise that some of our proposals will be controversial. Particularly in these areas, we must have well developed proposals, that we can defend confidently, and which will command the support of at least some of the principal stakeholders. We will need to consider these carefully together, on the basis of full advice, before coming to decisions capable of clearance with DA and subsequent announcement.

In the light of these factors, I am ready to accept that a wider trilateral White Paper, in which the Auld proposals for an effective criminal justice system are given their rightful prominence, should be published in July, immediately after the conclusion of the Spending Review. This would allow us to resolve fully the outstanding policy issues, and to announce final policy decisions backed up by firm spending commitments. I would expect the financial allocations for Auld and other criminal justice reforms to be worked up in detail, ready for an announcement immediately after SR2002. Therefore, our officials would need to work closely together, and with the Treasury, on drafting, so that the consequences of SR2002 for the package of Auld-related and other reforms are fully understood and spelt out. It would also be important to establish well in advance a clear "slot" for the White Paper amidst the other announcements that will doubtless follow rapidly on SR 2002.

The modest delay from our present announced expectation of a White Paper "in the Spring" could be justified on grounds of wider focus, but we would face severe criticism if we delayed past July

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in the Autumn. That would also prejudice the introduction of legislation early in the 2002/03 Session, which we all wish to see.

There are some aspects of Auld on which decisions have already been taken and where an early announcement, soon after the local government elections in May, is in my view essential. I am thinking mainly of the conclusions of the Prime Minister's meeting of 7 March concerning right to elect and the intermediate tier, subjects on which there is great outside interest; and also of the intention to introduce a unified court administration, where it is important to get people from the Court Service and from the magistrates' courts service working together on the practicalities as soon as possible. I recognise that the latter, in particular, would have to be handled without prejudice to spending decisions.

Andrew's letter refers to the need for supporting cost benefit analysis. The Implementation Analysis Team has, of course, delivered advice on this, worked up trilaterally, and it is incorporated within our respective bids and in the paper I have circulated to the CJS Ministerial Committee. We can provide further analysis, in the areas where policy is not yet fully worked up, as soon as this is done.

We also need to consider the content of our respective legislative bids. We have LP Committee's agreement to two Bills in the next session to implement Auld. We need to reflect how best to parcel our proposals to deliver our overall package of reform. The decision to reject the intermediate tier and retain the right to elect jury trial will inevitably turn the spotlight on our alternative proposals. If these are not presented as a readily comprehensible package of measures, we could appear simply to be bowing to external pressures. To ensure that our intention is clear, the proposed "appropriate tribunal" measures, including the increase in magistrates' sentencing powers and abolition of their power to commit for sentence, need to be seen in the context of the other jurisdictional and organisational changes to the criminal courts, despite their being mostly Home Office policy leads. I believe that this makes them most naturally presented in the Courts Reform Bill, rather than the rather differently focused Criminal Sentencing etc Bill.

I am sending copies of this letter to the Prime Minister, the Attorney General, the Chief Secretary, and to Sir Richard Wilson.

Yours ever,

Derry.

CRIME SCRIPT – MEN INTERVIEW

- Street crime is of great importance to your readers. **I believe that Manchester can take the fight to the hard-core street criminals who are causing these problems.**

- In the next few weeks you will see fresh action taken in the Greater Manchester area to tackle youth robbery and speed up the court system to fast-track offenders.

- While there are undoubtedly problems with street crime equally we should not let people think that everything out there is bad. Recorded crime in Manchester is down. The last available figures show down 4% to March 2001. **Domestic burglary is down 4%. Car crime down 8%. Violent crime is actually falling although we need to do more (down 0.8%). Police numbers have hit an all time high in the Manchester area of over 7100 – rising by 400 in the last 18months**. But we know we must get the investment in to get more.

- The challenge in our urban areas like Manchester are clear. 10 police forces account for 82% of all robbery. **The Greater Manchester area accounts for 10% of all robberies in this country.** That is unacceptable.

- We need to find new ways to stay a step ahead of the robbers. **Longsite in Manchester** along with Hackney in London will lead the way in piloting a new approach. What we will be doing is:
  - Police will use overt & covert methods to identify and target hotspots;
  - Juvenile robbers will be fast-tracked from arrest to sentence. Whether they are 1st offenders or not;
  - Police,CPS and other agencies to give robbery cases priority;
  - Robbery cases will be tracked and monitored to ck for where the bottle-necks in the system so they can be removed.

- To tackle the bottle-necks we need to build greater capacity into the system. Manchester City Magistrate's Court will be at the forefront of an experiment to extend court hours – to make sure

we bring criminals to book quicker. They will sit from 9am and involve extra sittings between 4pm and 8pm.

- This is on top of the 75% increase to £13.2m in the Crime Fighting Fund allocation for Manchester for next year. Money which has helped pay for the new CCTV in New East Manchester, main Commonwealth Games area and for Manchester University's campus at Fallowfield. And through Police operations to tackle the drug markets, like those taking place on the Anson estate [deprived multi-cultural area] which has particular problem with drugs. Or the crackdown on the gang problems of South Manchester through the 'Operation Chrome' project.

- But to tackle street crime needs a focussed, co-ordinated approach across Government and those on the front-line. That is why the 10 Force Robbery Reaction initiative the first meeting of which I chaired with David Blunkett on Wednesday is so important to making sure we have a united approach.

- (DfES)So schools will be working with police to identify problems and to back them up through such measures as support for truancy sweeps. (DTLR)Local authorities will work with police to help tackle robbery and improve security on transport systems. (DoH) Will be putting in place the drug provision they need. (DCMS) Using targeted sport and art schemes to turn young people off getting involved in crime.

- We must make sure every part of the criminal justice system is working together. From using video ID parades through to improved witness protection.

- ***On attack that Manchester police not have enough money because of Commonwealth Games/Oldham***? I know this was a very strong issue locally. We do realise the very real costs involved. And we have acted – special grants over and above the budget for £3m against the cost of the Games and £1.4m for Oldham.

THE ASSOCIATION OF CHIEF POLICE OFFICERS
OF ENGLAND, WALES AND NORTHERN IRELAND

President: Sir David Phillips Q.P.M., B.A.(Econ)
Chief Constable, Kent County Constabulary

MATRIX 2/66

21st March, 2002

F: Criminal Justice

C 2613

CJR

Dear Miss Mcleod,

Reform of Hearsay Laws

I enclose a paper prepared by Tim Crosland which you should take to express my views on this subject. I hope you will continue to involve us in this and any other matter relating to reform of the laws of evidence and pre-trial procedures.

I am sorry my commitments prevent me from signing this letter personally.

Yours sincerely,

Shirley M Thurgood

pp. **President of ACPO**

Miss O. Mcleod,
Policy Unit,
No. 10 Downing Street,
London SW1A 2AA

KENT POLICE HEADQUARTERS, SUTTON ROAD, MAIDSTONE, KENT. ME15 9BZ

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- Reform of hearsay evidence

Submission on behalf of ACPO regarding the Law Commission's proposals on hearsay evidence.

Introduction

From an academic standpoint the Law Commission's Report reads beguilingly well, particularly in its analysis of the present state of the law. Its recommendations for reform, however, retain the complexity that currently bedevils actors throughout the system (not to mention Professor Spencer's Cambridge undergraduates) and will do little to advance the inclusionary approach to relevant evidence urged by Lord Justice Auld[1]. Further, because of the common law and statutory discretion to exclude prosecution evidence the 'automatic admissibility' exception proposed for certain categories of witness unavailability will in practice work only to benefit the defence.

The mischief of unnecessary complexity

The confusion the law of hearsay is capable of creating in the House of Lords[2] is the rarefied tip of a substantial iceberg. From the moment a crime is reported the actions of those investigating are bound up with the laws of evidence. Misunderstanding of the law of hearsay may lead to a false impression of the strength of a case causing flawed decisions on reasonable lines of inquiry and charge. The vast majority of criminal trials take place before lay magistrates who will usually be familiar only with the rudiments of the laws of evidence[3]. In causing decisions in which principle is cast aside (because the law is not understood) or in which common-sense is displaced by a paralysing deference to the subtlety of counsel's argument, over-complexity leads to injustice.

Complex laws of evidence alienate observers and protagonists alike from the machinations of the criminal justice system. Victims, police officers and the public are left baffled by decisions of the Crown Prosecution Service and the Courts, causing resentment and mistrust.

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[1] A similar point has already been made by Professor Spencer in Crim. L.R. 1996, JAN, 29-33 Criminal Law Review 1996 Article LAW COMMISSION CONSULTATION PAPER NO.138 ON HEARSAY: PART 3 - HEARSAY REFORM: A BRIDGE NOT FAR ENOUGH; and Adrian Zuckerman in Crim. L.R. 1996, JAN, 4-15 Criminal Law Review 1996 Article LAW COMMISSION CONSULTATION PAPER NO.138 ON HEARSAY: PART 1 - THE FUTILITY OF HEARSAY

[2] See, for example, the 3:2 split in *Kearley* [1992] 2 AC 228, ruling against the admissibility of implied assertions.

[3] Consultation with eminent judges or practitioners can be misleading since their experience tends to derive from arenas far removed from the most common criminal forum.

The restrictions of the law of hearsay are quite capable of causing injustice to defendants[4]. For two reasons, however, legal complexity tends to work against the prosecution:

- It is only the prosecution that has to disclose its evidence. As a result it is principally the prosecution case that is vulnerable to complex, arcane submissions on admissibility. Such points are frequently taken by the defence without notice to court or prosecutor. By contrast the prosecutor may hear much of the substance of the defence case only as the evidence is presented at trial leaving little opportunity to consider subtle arguments of law (assuming such a thing were desirable).

- Generally it is only the defence that has a right of appeal. While the defence has nothing to lose by raising complex, technical arguments of dubious merit, the prosecution is bound to be cautious when potential 'appeal points' arise.

It was apparent from the seminar of 28th January, as well as the Report, that the Law Commission assume an elaborate legislative framework for hearsay evidence to be the best means of ensuring predictability and consistency in decision-making. More law is seen as the antidote to misuse of discretion. We consider this approach to be flawed. Consistency of outcome is not a meaningful goal given the infinite variety of factual contexts in which hearsay evidence occurs. There will be as many dissimilarities as similarities between any two cases. What is needed is a flexible regime that results in decisions made according to principle rather than semantics and technicality.

The example of the *Criminal Justice Act 1988*[5] illustrates the way in which elaborate legislation, designed to produce clarity and certainty, has in practice the opposite effect. The Act (in sections 23-26) creates two major exceptions to the hearsay rule as it affects documentary evidence. Inevitably its terms have given rise to semantic dispute detached from fundamental principles forcing judges into 'regrettable decisions'. An example is the confusion over whether 'the maker of the statement' for the purposes of s.24 is the individual supplying the information or the individual committing it to paper[6]. Such technicality produces bad decisions which in turn perpetuate injustice by acting as precedent.

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[4] See for example the case of *Sparks v R* [1964] AC 964 where the law prevented a white man accused of assaulting a three-year-old girl, who was not called as a witness, from leading evidence that she had initially described her attacker as "a coloured boy".

[5] See p. 9 *infra*

[6] See Brown v Secretary of State for Social Security (1994) (unreported) in which Collins J ruled at 10E of the transcript: *Section 24, as I have indicated, draws a distinction between the supplier of the information and the maker of the statement. Thus, in section 24(1)(ii) there is reference to the information contained in the document being 'supplied by a person whether or not the maker of the statement'. In subsection (2) there is reference to the information contained in the document being supplied directly or indirectly. Section 24(3) talks about the person who made the statement. It seems to me in those circumstances that it is inescapable, as a matter of construction of section 24, that the person who made the statement is in the circumstances of this case Mr Pawlett or Miss Devoy. It is not the persons referred to who produced or supplied the information which got on to the computer or got on to the manual records.* The effect of this decision (as opposed to the decision itself) was heavily

The inherent obstacles to 'consistent' decision-making in relation to hearsay evidence

(i) the assessment of what is relevant or probative

The relevance or probative value of an item of evidence can not properly be determined in the abstract. Meaning and relevance come from context. A seemingly minor point may turn out to be critical because it corroborates, undermines or makes sense of other items of evidence. Clearly defined categories of evidence will never do justice to the infinite variety of factual circumstance on which relevance depends. In this context one must question the intended reference points of 'consistency': there is no virtue in seeking consistent results in respect of the admissibility of items of evidence of differing probative value.

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criticised by Buxton LJ in the Court of Appeal in R v Derodra [2000] 1 Cr App R 41: *That interpretation, however much forced on the court by the terms of the statute, causes manifold inconveniences, especially in a case such as the present, where the person assumed to be the "maker" of the statement is a mere conduit pipe or amanuensis for the recording of information given by another: something that was not wholly the case in Brown. We venture to mention some of these objections.*

1. As the present case shows, it is wholly artificial, when considering whether the statement should be admitted, to address whether the writer, rather than the provider of the information, is dead, abroad, or unable to remember the details.

2. The construction renders impossible, or at least nugatory, the application of section 26(ii), which requires the court to consider the effect on the fairness of the proceedings if the maker does not attend to give evidence. In the present case, the presence or absence of P.C. Gable would seem to be absolutely irrelevant to the fairness of the proceedings. It is the availability of Mr Baloyi that matters.

3. Somewhat similarly, by Schedule 2to the 1988 Act, evidence affecting the credibility of "the person making the statement" may be called when the statement is admitted under section 24. That provision takes into account the absence of cross-examination, by permitting, contrary to the normal rule, evidence of character to be given in chief rather than merely be put to the testifying witness. On the construction that the Court felt forced to adopt in Brown there could be available the most cogent evidence that Mr Baloyi had a deep-seated grudge against Mr Derodra but it could not be put before the jury because Mr Baloyi was not the "maker". We hasten to say that there is no reason at all to think that that was in fact the case: but it is the possibility of such injustice occurring that matters.

4. As Mr Shepherd suggested, it would be possible on this construction for the police not to have witness statements signed by the witness (which formal act would constitute him the maker) but by the police officer taking the statement. The officer, who would not have an intermediate record such as we have suggested might exist in the present case, could then entirely truthfully say, at the trial two years later, that he had no recollection of what he had been told: it being assumed that "recollection" cannot be based on the disputed document itself. The written statement would then be admissible, however fit, well, available and able to remember the actual witness was. Such a policy, if deliberately adopted, would of course be very vulnerable under section 78 of the Police and Criminal Evidence Act 1984; and in any event the evidence would be subject to a strong warning by the judge to the jury that it had not been cross-examined and therefore was less reliable than original testament would have been. Nevertheless, the fact that this construction of the Act renders such evidence even prima facie admissible shows the surprising paths down which it leads us. In consequence of such concerns the Court of Appeal arrived at the opposite result to the court in Brown. Practitioners and tribunals are left to grapple not only with the legislation but the resulting jurisprudence.

Example 1: *A child sees a significant part of the registration number of a vehicle passing his house at speed, as well as noting its colour and a dent to its side. This is shortly after an unsophisticated bomb has detonated in the nearby town centre. The child tells his mother what he has seen. She later contacts the police. By the time the police attend it is only the mother who can remember the registration number and a statement is taken from her. Police attend the address of individuals linked to a car matching that described. Parked outside is a vehicle exactly matching the description. The suspects admit ownership of the vehicle, but deny having driven past the child's address (a point on the most direct route between the explosion and the suspects' address). Subsequent to the first interview forensic analysis of the vehicle as well as one of the individuals' clothing identifies minute traces of an unusual substance used in making the bomb. The defence allege this is the result of contamination.*

Result under present regime: The evidence of the registration number is inadmissible hearsay. Even if the forensic evidence is deemed sufficient to proceed the case to trial, deprived of the complete picture the jury will be puzzled about the chain of events and susceptible to argument about the danger of convicting on uncorroborated forensic evidence.

Result under Law Commission's regime: The Law Commission are plainly alive to the difficulty restrictions on hearsay evidence cause in the context of vehicle registration numbers. They state:

> **There have been several cases where a witness ("W") saw a car registration number and called it out to another person ("X") who wrote it down, but W did not check Xs note for accuracy. Strict application of the hearsay rule would mean that neither W nor X may give evidence of the number noted by X. However, if W tells X a car registration number, who then writes it down in Ws presence, and W checks it, then W could use it, not as evidence of what he or she told X, but to refresh his or her memory. We regard this state of affairs as showing, in Diplock LJs words, "a lack of logic".** [7]

At 10.21 they suggest their proposals will remove the difficulty:

> **Thus, where it is sought to establish the registration number of a car involved in an incident, and an eye-witness A, who saw the incident, related the number to B, who did not, it is inadmissible hearsay for B to tell the court what the number was for the purpose of proving which car was involved. Our recommendations 35 and 38 are designed to address this problem.**

These recommendations are translated into the Draft Bill at paragraph 8, subsections (1) and (4)-(6):

> **8(1) This section applies where a person (the witness) is called to give evidence in criminal proceedings ...**
>
> **(4) A previous statement by the witness is admissible evidence of any matter stated of which oral evidence by him would be admissible, if -**

[7] Law Commission Report, para. 4.18

(a) any of the following .... conditions is satisfied, and
(b) while giving evidence the witness indicates that to the best of his belief he made the statement , and that to the best of his belief it states the truth.

(5) The first condition is that the statement identifies or describes a person, object or place.

(6) The second condition is that the statement was made by the witness when the matters stated were fresh in his memory but he does not, and can not reasonably be expected to, remember them well enough to give oral evidence of them in proceedings.

Do these provisions solve the problem? The first point to note is the difficulty in answering this question (which does not bode well for consistency of application). The second point is that the provisions will usually (and arguably always) depend on both originator and recorder of the statement giving live evidence at trial[8]. In the scenario hypothesised the child may be too young to give evidence or to answer the section 8(4)(b) qualifying questions appropriately. Even where an adult originator of a statement does give evidence he may omit reference to the fact of having made the statement, either because he has forgotten having made it.or because he believes he will not be allowed to give evidence about what he has previously said (a problem because of the prohibition on leading questions). Alternatively he may become confused or irritated by the artificiality of being asked to declare under oath that the contents of a statement he has forgotten are to the best of his belief true.

A closer look at the provisions suggests some of the technical argument they might generate. It might be argued, for example, that a partial registration number neither 'identifies' nor 'describes' a car; or that it is impossible to assert that one has 'made *the* statement', and that 'it states the truth' without knowing the content of the statement (which has been forgotten). Contrary to the Law Commission's stated aim of limiting judicial discretion the phrase 'can not reasonably be expected to ... remember' will no doubt be interpreted with at least some reference to the widely varying memory capacities of different tribunals and tribunal members.

The Law Commission explain that section 8 renders admissible X's note of W's oral statement of a registration number, even if not verified by W[9]. To reach this result, however, requires a certain amount of mental juggling: in order for X's written note to be 'evidence of any matter stated of which oral evidence by him would be admissible' under s.8(4) it is necessary to apply s.8 simultaneously to the oral statement of W.

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[8] See below for the Law Commission's assertion that the receiver's written not might be admissible even in the absence of the receiver via the unavailability exceptions (sections 3 and 5 of the Bill).

[9] Report 10.76: 'Where the statement was oral and was recorded in a document by X, but W did not verify and acknowledge it, we believe it should be possible to rely on the document as proof of what she said. Under our draft Bill this result would be achieved by treating Xs record as a statement by X, and therefore admissible subject to the conditions set out in paragraph 10.74 above *[equivalent to s.8(4)(b) in conjunction with 8 (6)]*. In other words X must have made the record when Ws statement was fresh in *his* memory; it must not be reasonable to expect him to remember it well enough to give oral evidence of it; and he must confirm that, to the best of his belief, the document is an accurate record of what W said.'

The true complexity of this Bill is most strikingly demonstrated by an analysis of the Commission's assertion that '*If X fell within the unavailability exception his statement would be automatically admissible, without having to prove that it was made when Ws statement was fresh in Xs memory. Although his statement is multiple hearsay (being evidence of Ws hearsay statement), and in general we do not believe that multiple hearsay should be admissible merely because the declarant is unavailable to testify, the fact that W is available for cross-examination seems to us to justify admitting Xs statement of what W said*'[10] adding in a footnote that '*Clause 10(2) of the draft Bill would not exclude Xs statement because Ws statement is admissible under cl 8(4), ie otherwise than under cl 3 or a rule preserved by cl 6*'[11]. If such a result is indeed achieved by the interplay of ss. 3,5, 8 and 10 of the draft Bill, it is only through impressive feats of mental gymnastics. It is, however, at least arguable that the Law Commission has underestimated the effect of one of these provisions. The first two subsections of section 10 read as follows:

> **10. -(1) If there is a series of statements not made in oral evidence (such as "A said that B said that C shot the deceased") sections 1 and 3 to 9 apply as follows.**
>
> **(2) If a statement -**
>
> > **(a) is relied on as evidence of a matter stated in it, and**
> > **(b) is admissible for that purpose only under section 3 or a rule preserved by section 6,**
>
> **the fact that the statement was made must be proved by evidence admissible otherwise than under section 3.**

The Law Commission's interpretation depends on 'statement' for the purposes of s. 10(2) referring only to the original statement of W. The fact that W's statement was made may indeed be provable under s.8(4) by the testimony of W in compliance with the condition set by section 10(2). However s. 10(2) appears to apply equally to the written statement of X since this is 'relied on as evidence of a matter stated in it' (the fact that W said what he did) and is 'admissible for that purpose only under section 3'. The fact that X's statement was made will not be provable by evidence admissible otherwise than under section 3 (since section 8 applies only where the witness 'is called to give evidence'): X's statement is therefore inadmissible.

Will courts and practitioners be prepared to negotiate such complexities? It seems unlikely. Rather they will make a bee-line for the sweetly simple section 9 of the Bill, the source of the inclusionary discretion. This is worded as follows:

> **In criminal proceedings a statement not made in oral evidence in the proceedings is admissible as evidence of any matter stated if the court is satisfied that, despite the difficulties there may be in challenging the statement, its probative value is such that the interests of justice require it to be admissible.**

The Law Commission express the view that this 'safety-valve' will only be used as a last resort:

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[10] Report at 10.77
[11] Report Ch. X footnote 94

> **A party would only need to turn to the safety-valve where none of the other exceptions could be used. By definition, therefore, the declarant must be unavailable for some reason *other* than death, illness, fear, disappearance, or being outside the United Kingdom. The declarant need not have been competent at the time the statement was made. The declarant need not even be identified. We do not anticipate that there would be a large number of applications to admit evidence via the safety-valve. The Crown Prosecution Service was concerned that there would be a large number of unmeritorious applications, particularly in the magistrates courts. Our view is that all courts would regard the safety-valve as an exception to be used in very limited circumstances, and if it is too freely used, the Court of Appeal or Divisional Court will give guidance.**[12]

The assumptions made in this passage are naive. There is nothing in the Bill to require exhaustion of other possibilities before turning to section 9. Indeed common sense and regard for court time demands that section 9 is considered at the outset. Several hours of legal argument in relation to section 8 (not to mention the preparatory photocopying and reading of authorities) would be quite redundant if the tribunal were inclined from the outset to admit the evidence under section 9. Conversely if a tribunal had formed the view that the interests of justice did not require the evidence to be admitted, it is likely that the evidence will ultimately be excluded (if necessary by reference to the common law discretion).

In the example in question the interests of justice require the evidence of the registration number to be admitted. It is critical to allowing the tribunal of fact a proper understanding of the case. There is no sensible reason for artificially postponing consideration of section 9. Scrutiny of the remainder of the Bill would serve only to confuse and waste time.

Result by application of underlying principles:

The two fundamental principles underlying the admissibility of criminal evidence are probative value and prejudicial effect. The concepts might seem vague in the abstract but they are substantiated by the individual facts of a case.

In this case the evidence concerning the registration number draws its probative value from its correspondence with other items of evidence: a white car with a dent, location of the sighting, the forensic evidence. It all adds up. The various strands of circumstantial evidence are mutually reinforcing, binding together to form a rope (metaphorically speaking). This is how probative value is determined - and that is why attempts to 'refine' or 'tighten' the concept of probative value through abstract principle are destined forever to miss the point.

The content of hearsay evidence may be prejudicial for all the same reasons as direct evidence. But the fact that evidence is hearsay rather than direct is potentially prejudicial to the other party for only one important reason: the inability to cross-examine the maker of a statement. The extent to which concern on this basis is

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[12] Report at 8.143

justified in any one case can be determined only by reference to the particular facts of the case. Disadvantage should not, however, be assumed.

Here the child might in fact be a witness in the case. If so he could be cross-examined about the registration number. The opportunity to cross-examine would not be diminished by his inability to recall the detail of the registration number (on the contrary this should prove an advantage to the cross-examiner).

If the child were not available as a witness it should still be obligatory to inquire whether the disadvantage is real or illusory. What lines of cross-examination were the defence proposing to develop? If the possibility of mistake, it might be pertinent to ask whether (assuming the most favourable answer to the defence) this line of questioning could materially have affected the view of the jury. It is the chain of events rather than the eye-sight of the child that make the possibility of mistake implausible. It is almost inconceivable that the defence would wish to cross-examine on the basis of malicious fabrication. However if any basis for such an accusation came to light so that the jury might draw real benefit from hearing the evidence of the child, then the balance of probative value and prejudice would start to shift.

When, as here, the probative value of the evidence is great, the prejudicial value negligible, the outcome of an admissibility decision founded only on basic principles will be predictable, and in accord with the instinct of lawyer and layman alike. Were the evidence less probative or the loss of opportunity to cross-examine more significant the outcome of the decision naturally becomes less predictable. It would be wrong-headed, however, to attribute such unpredictability to flaws in the regime for determining admissibility. Rather it is a reflection of decisions that are necessarily finely balanced. The main point, surely, is that such decisions (whether of practitioners, magistrates or judges) are likely to be *better* if they result from principles that are both readily comprehensible and adaptable to the particular circumstances of the case.

Example 2: *A murder case hangs on the recognition evidence of two witnesses. Both name a man they saw leaving the victim's flat (where her body was found), minutes after the provable time of death. It subsequently emerges that the defendant had had an affair with the victim which she ended a few days before her death. The defendant gives a no comment interview. Both witnesses had worked in the same office block as the suspect for fifteen years, though neither had exchanged more than a few words with him. Because this appeared to be a case of recognition no identification parade was held. In cross-examination each witness is asked how he knows the defendant's name. Both accept they know it only because others have told them what it is.*

Result under present regime: The evidence of the defendant's name is inadmissible hearsay. If the problem had been detected at the statement-taking stage its impact could have been mitigated with, for example, an identification parade. However in these circumstances, with the witnesses part-way through their evidence, unable to discuss the case until their discharge from the witness box, it will be hard to resuscitate their evidence.

Another possibility is that the magistrates or judge rule the evidence admissible at first instance, leading to the quashing of a conviction on appeal.

Result under Law Commissions proposals: The evidence is hearsay and falls within none of the exceptions. The only way to admit the evidence is via section 9, the inclusionary discretion.

Result by application of underlying principles: The evidence has clear probative value. The witnesses are available for cross-examination. No defence advocate would want to cross-examine the 'originators of the statement' (the individuals who told the witnesses what the defendant's name was). The witnesses' evidence is at least as likely to be reliable as that of someone had been personally introduced to the defendant on one occasion[13]. The defence advocate could choose to suggest that the witnesses were mistaken about the name, that the circumstances of their 'knowledge' of the name were unreliable: this would then be a simple matter for the tribunal of fact to consider (far simpler than assessing, to take one example, the expert evidence of the pathologist).

Careful application of the concepts of probative value and prejudice again produce a result that is predictable, fair and free of technicality.

Example 3: *Four members of staff at a supermarket witness an assault committed by another member of staff on a customer. After the assault the assailant runs from the supermarket and does not return. Each names the assailant as Jean Prideaux, a Frenchman who had taken up employment there a few days previously. In interview the defendant states that he did not commit the assault: it was his friend Jean Probert, another Frenchman who started work at the same time as he did. There is no identification parade because it appears to be a recognition case. In cross-examination witness 1 accepts there were two Frenchman who had started work together (neither of whom had been seen after the incident), that he didn't know them well, and that they were both called Jean. He remembered the name Prideaux but could not be sure he that it was the assailant who was called that rather than the other one. He had been introduced only by first name. Witnesses 2,3 and 4 all accept in cross-examination that they had not been sure of the assailant's surname and had used the name Prideaux only as a result of what the witness 1 had said to them.*

Result under present law: The evidence of surname from witnesses 2,3 and 4 is inadmissible hearsay. In the light of his uncertainty and the circumstances of the case the evidence of witness 1 (as it relates to the surname) has no probative value.

Result under Law Commission's proposals: The evidence of surname from witnesses 2,3 and 4 is inadmissible hearsay, subject to any argument that inclusionary discretion should be exercised.

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[13] If X tells Y that his name is X, Y's knowledge of X's name is hearsay· however since it has come from X himself it is an 'admission' and therefore an exception to the prohibition on hearsay.

Result through application of underlying principles: The evidence of the witness 1 concerning surname is by his own admission uncertain. Since the evidence of the other three witnesses is parasitic on that of the first witness they offer no probative support.
The contrast between Example 3 and Example 2 highlights the difficulty that would be encountered by any attempt to address specifically 'the problem of proper names': probative value can not be divorced from the particular facts of the case, it can not be approximated by abstract categorisation.

(ii) the 'residual' discretionary element

It may be suggested that the examples given above reflect extremes: that much of the time the balancing of probative value against prejudice will not produce such clear results; and that it is for the more difficult examples that refined legislation becomes important as an aid to consistency. It has already been pointed out that difficult cases are properly difficult: the eradication of such difficulty through hard and fast rules will inevitably lead to injustice. However even on its own terms the stated aim of certainty and predictability in the law is wholly undermined by the existence of overriding discretion. The clue to the Law Commission's ultimate (and inevitable) failure to draft a comprehensive Bill on hearsay evidence is the necessity they identified of introducing a new inclusionary discretion[14]. Contrary to the Law Commission's assertion, this discretion is not at all limited. It is every bit as wide as the residual exclusionary discretion. Since all 'difficult' decisions (as well as many that are not) will revert to the exercise of the tribunal's discretion, for all the huff and bluster the Law Commission's regime brings no more certainty or consistency than that offered by the terms for the exercise of the discretionary powers to include and exclude.

Example 4: *A night-time burglary culminates in a multiple shooting of members of the resident family. Only the eldest daughter is left alive, having been left for dead by the perpetrator of the crime. She gives a compelling account of the incident to the police including identification evidence which includes a description of a distinctive arm tattoo. A suspect matching the identification, recently released from prison for offences of armed robbery, has his house searched. A watch inscribed with the deceased father's initials and wedding date is recovered from his bedroom. The daughter is suffering from post-traumatic stress syndrome and commits suicide shortly after picking the suspect out of an identification parade. Will her statement be admitted in evidence?*

Under the present regime: *The Criminal Justice Act 1988* (sections. 23-26) is a piece of legislation purporting to bring certainty and consistency to the admissibility of

[14] See Report at 8.136: *'Three respondents pointed out that it was hard to reconcile our criticisms of judicial discretion with our proposal of the creation of a judicial discretion. We recognise that we are introducing the risks of inconsistency and unpredictability which accompany judicial discretion, but believe that without such a discretion the proposed reforms would be too rigid: some limited flexibility must be incorporated.'*

statements in documents. Applied to the facts outlined above one begins at s. 23[15] which suggests that the girl's statement will be admissible. Nowhere does s. 23 direct the reader to sections 25 and 26, so that one needs a certain amount of experience, good fortune or available time if they are to be considered. S. 25 provides a discretion to exclude evidence if the court is of the opinion that 'in the interests of justice a statement which is admissible by virtue of section 23 ... above nevertheless ought not to be admitted'. In exercising this discretion the court is obliged to have regard to the likely authenticity of the document, the difficulty of obtaining equivalent evidence by alternative means, relevance, and prejudice. There is no guidance on whether the availability of equivalent evidence points towards or against admissibility. S. 25 makes no reference to s. 26, a fact which is only surprising once you read s. 26. This creates a presumption *against* the admissibility of statements prepared for the purposes of criminal investigations or proceedings. The court may nevertheless give leave for the evidence to be admitted if it considers it would be in the interests of justice to do so, taking into account 'the contents of the statement', the risk of unfairness, and 'any other circumstances that appear to the court to be relevant'. There is no obvious explanation for why the mandatory considerations relevant to s. 26 are expressed differently than for s. 25.

To summarise, there are three different sections, each one, read in isolation, appearing to determine the admissibility of the same piece of evidence. Yet in the end they do next to nothing to illuminate the process of how to weigh probative value against prejudice. Nor do they bring consistency of approach; rather, by muddying the waters, they militate against transparency and predictability. For all our pains in working out the relationship between the sections, we are none the wiser concerning whether the girl's statement is likely to be admitted[16].

Result under Law Commission's proposals: The evidence of the girl's statement is 'automatically admissible' pursuant to sections 3 and 5(2) of the Draft Bill. In practice, however, 'automatic admissibility' would only be meaningful in the context of defence evidence. Prosecution evidence remains subject to the exclusionary discretions of PACE section 78 and the common law (where evidence is more prejudicial than probative)[17]. Since the admission of this statement would prevent the defence from cross-examination of a key witness the defence would inevitably call on the judge to exercise his discretion to exclude. The judge is returned to the same basic principles that would influence his decision under the present regime.

*** Nb. The real beneficiaries of the Law Commission's proposals on automatic admissibility will be defendants. Where they produce witness statements from individuals 'unfit to be a witness because of bodily or mental condition'[18]; who are 'outside the United Kingdom' where 'it is not reasonably practicable to secure his

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[15] This reads, in pertinent part: ' ...a statement made by a person in a document shall be admissible in criminal proceedings as evidence of any fact of which oral evidence would be admissible if ... the person who made the statement is dead ...'.

[16] In a recent case in Kent a senior investigating officer contacted the legal unit understandably baffled by these provisions.

[17] Such exclusionary discretion is now an inevitable consequence of compliance with Article 6 of the European Convention of Human Rights.

[18] Draft Bill s.5(3)

attendance'[19] or who 'cannot be found although such steps as it is reasonably practicable to take to find him have been taken.'[20] the statements will be automatically admissible since there is no discretion to exclude. With no obligation to disclose the evidence, no obligation to seek the leave of the court before adducing it, the defence will be able to read such statements at the conclusion of the defence case giving the prosecutor no opportunity to decide how to respond in closing. There is no evidence from their report that the Law Commission appreciated this consequence of their recommendation.

Result through application of basic principles: There can be no denying the competing interests surrounding the admission of the girl's statement: its high probative value, its centrality to a case likely to have appalled the whole country is set against the defendant's inability to cross-examine the key witness against him when at risk of life imprisonment. Such a conflict will best be resolved by a regime that encourages lawyers and tribunals to grasp the nettle and focus on the particular facts of the case. These alone determine the proper balance of probative value and prejudice. In considering probative value weight should be placed on the sequence of events which tends to confirm her account (it is highly improbable, for example, that an inaccurate account would have led to the discovery of her father's watch). The possibility of prejudice should not remain abstract. Defence counsel should be asked what lines of cross-examination he would have explored had the girl been able to give evidence. Was he going to suggest she was mistaken about the tattoo she had seen, and the identification? Or that she was lying? If the defence consider they are at risk of prejudice it is not too much to ask that they outline the form this prejudice takes[21]. Only if her statement reveals live issues requiring exploration through cross-examination should her statement be excluded. By focusing attention on the facts of this case (rather than demanding a voyage through a maze of statute and jurisprudence) decisions made through careful application of basic principles are reasonably likely to be sound.

The relevance of the Human Rights Act

We see the Human Rights Act as a valuable means of developing the criminal law in an enlightened and progressive manner. However a one-sided approach to any matter of public policy is likely to be dangerous; and too much of the discussion in relation to human rights is based on the false assumption that the *only* humans worthy of consideration are defendants.

It is misleading to stress the rights of a defendant in the context of hearsay evidence without reference to the rights of victims and witnesses. Let us return for a moment to Example 4: suppose the girl did not kill herself but remained to ill, too traumatised to

[19] Id. s. 5(4)
[20] Id. s. 5(5)
[21] In this particular case it seems likely that a jury would have been influenced by their emotional reaction to listening to the live evidence of the girl. Anything but the most gentle cross-examination would risk alienating the jury. The non-attendance of such a witness may in such circumstances be highly beneficial to the defence.

give evidence. Should her rights be ignored in seeking to secure those of the defendant? It may be apposite to quote from the case of Doorson v The Netherlands[22]:

> *It is true that Article 6 does not explicitly require the interests of witnesses in general, and those of victims called upon to testify in particular, to be taken into consideration. However, their life, liberty or security of person may be at stake, as may interests coming generally within the ambit of Article 8 of the Convention. Such interests of witnesses and victims are in principle protected by other, substantive provisions of the Convention, which imply that Contracting States should organise their criminal proceedings in such a way that those interests are not unjustifiably imperilled. Against this background, principles of fair trial also require that in appropriate cases the interests of the defence are balanced against those of witnesses or victims called upon to testify.*

Positive obligations deriving from Article 2 (the Right to Life) require that the State has in place:

> *effective criminal law provisions to deter the commission of offences against the person backed up by law enforcement machinery for the prevention, suppression and sanctioning of breaches of such provisions.*[23]

We would place emphasis here on the word 'effective'. As demonstrated above over-complexity in laws of evidence tends to inefficiency in the criminal justice system.

Plainly the admission of hearsay evidence should not be allowed to offend Article 6. Indeed for three reasons the flexible, principled regime proposed is more likely to produce decisions compatible with ECHR jurisprudence that the Law Commission's Draft Bill:

- By focusing attention on the facts the defendant's interests must be carefully considered in every case. This contrasts with the spirit (if not the result) of the Law Commission's proposal for 'automatic admissibility' of statements for certain classes of witness unavailability.

- Article 6 considerations can more readily be read into the general concept of 'prejudice' than the elaborate terms of the Draft Bill.

- There is no risk that the frugal use of the inclusionary discretion envisaged by the Law Commission will result in the defendant being denied the opportunity to adduce relevant evidence.

Conclusions

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[22] Doorson v Netherlands (1996) 22 EHRR 330
[23] see Osman v UK (1999) 1 FLR 198

In obvious cases (where probative value clearly outweighs prejudice, or *vice versa*) a refined law of hearsay evidence is unnecessary and likely only to distort the search for truth. In hard cases (where probative value and prejudice are in direct conflict) recourse to judicial discretion is inevitable: inevitably the exercise of such discretion boils down to an assessment of probative value and prejudice. A complex law of hearsay evidence turns out to be a wasteful and confusing red herring.

In determining probative value courts should be obliged to have regard to the internal coherence of evidence as well as its links to other available evidence. In determining prejudice courts should have regard to the nature of the cross-examination denied the party against whom the evidence would be adduced. If the non-availability of a witness is the result of the conduct of the party against whom their evidence is to be adduced, that party can not be allowed to benefit from the witness's absence. On similar lines, a party seeking to rely on hearsay evidence should generally not be allowed to do so if they were free to call direct evidence to the same effect.

An approach to probative value structured on such lines would allow for careful scrutiny by appellate courts. Arguments in relation to the admissibility of evidence should be determined at pre-trial review with opportunity for appeal by either side (before trial).

Generally reliability should be a matter for the tribunal of fact. If juries and magistrates are incapable of disregarding manifestly unreliable evidence that is a serious indictment of the system as a whole, and inconsistent with the trust invested in them. By contrast tribunals can not reasonably be expected to arrive at the right decision in the absence of all the relevant evidence, in the absence of as full as possible a picture of what has taken place.

Tim Crosland
tim.crosland@kent.police.uk

From: Olivia McLeod
Date: 22 March 2002

PRIME MINISTER

cc: Jeremy Heywood
Andrew Adonis
Justin Russell
Clare Sumner

CJS WHITE PAPER

CJS Ministers want to publish a white paper in May setting out our proposals for CJS reform in advance of legislation next session. Initially intended to focus on the courts (Auld) and sentencing (Halliday), David is now proposing a much broader white paper which put these measures in the context of a vision for a reformed CJS (proposed outline at **Annex A**).

The difficulty is one of timing – publishing a wide-ranging white paper in advance of the SR2002 means either leaving the text so bland as to be meaningless, or raising expectations which might not be met. The CST has written (**Annex B**) strongly opposing for that reason the publication of a broad white paper in advance of SR2002.

We are not wedded to a May white paper per se and see the advantage of waiting until we know the outcome of SR2002 (if only to avoid another damaging row between DB and GB). What is crucial is that arguments about scope and timing of a white paper do not delay work on the drafting of a strong legislative package to introduce at the start of next session. We have asked for an issue-by-issue situation report on the legislative measures for your Easter box, which we will use to monitor progress.

If we do postpone the full white paper until July, we could still announce those parts of the package which do not involve significant spending commitments at an earlier date. This could for example include setting out our proposals for reform of rules of evidence, which you could announce in a speech to an international conference on the CJS which we have pencilled in for mid June.

Are you content for David to publish a broader WP, along the lines of that proposed (we will come back to you with further advice on content)?

Given the CST's position are you content for this to await the outcome of SR2002?

Olivia

ANNEX A

CRIMINAL JUSTICE WHITE PAPER

Theme – effective justice, effective punishment

CHAPTER 1 INTRODUCTION - PURPOSE OF THE CRIMINAL JUSTICE SYSTEM

Successes

- Fall in time from offence to completion for indictable offences in magistrates courts
- Persistent young offenders pledge

Weaknesses

- Delay
- Attrition
- Victims /witnesses
- Offending on bail
- Persistence
- Reoffending rates
- Public confidence

CHAPTER 2 MORE EFFECTIVE JUSTICE

Government action already taken

- Crime prevention
- Persistent offenders
- Probation Service restructuring
- Drug related crime
- Police reform

Effective case management

- Charging
- Joint police/CPS working – CJU etc
- Bail
- Pre-trial case management including disclosure
- Presentation of issues to juries
- Judicial training
- Reducing delay measures

Appropriate tribunal

- Intermediate tier
- Right to elect
- Magistrates' sentencing powers
- Advance indication of sentence and sentence discount
- Trial by judge alone

- Serious fraud trials
- [Possible other cases suitable for judge alone trial]

Confidence in justice

- Evidence – previous convictions and hearsay
- Prosecution appeals and double jeopardy
- Jury service and composition
- In court culture/dress/presentation of material

Increasing effectiveness of criminal courts

- Unified criminal administration
- Specialist courts
- Better joining up and performance management
- Attrition and persistent offenders

Ideal – CJ Boards

Criminal justice system for the community

- Victims and witnesses
- Restorative justice
- Better use of court estate
- Codification of criminal law

→ Paper for SB on 18th April

CHAPTER 3 MORE EFFECTIVE SENTENCING

Principles of sentencing for new system – punishment, reparation, crime reduction

Who should be in prison?

- Development of new Community Custody Centres as distinct third option between prison and community punishment

Reform of short term sentences – legislation will introduce:

- Custody Plus
- Custody Minus
- Intermittent custody

Generic community sentence

- Longer custodial sentences (over 12 months) – to be served in full, half in custody, half in the community
- Dangerous offenders - extend circumstances in which discretionary life sentence can be given; special sentence for repeat dangerous offenders with extended supervision
- Persistent offenders – emphasis on the "dose" of punishment rather than the length of sentence

— Victims/victimes

— dessins nets

— Scène enfant

Guidance for judges and magistrates

- creation of Sentencing Guidelines Council

Information to sentencers on outcomes

- more informed decision-making

CHAPTER 4. PUNISHING AND REFORMING OFFENDERS

Dealing with offenders in the community:

- Creation of National Probation Service
- MAPPPs – and to be extended to the Prison Service
- Accredited offending behaviour programmes
- New risk and assessment tool, OASys
- Partnership working with other agencies

Custodial sentences and community reintegration:

- Development of offending behaviour programmes
- More resources to be used to fund corrective work on the causes of offending
- New models of integrated case management to be developed
- Partnership working with DWP, DfES, DH etc to help prisoners access mainstream services on release
- Development of new incentives to participate in beneficial programmes and make reparations to victims

CHAPTER 5. JUVENILE OFFENDERS

The present reform programme

- Social inclusion strategy – neighbourhood renewal, Sure Start, Connexions, tackling drugs and alcohol misuse etc.
- Establishment in 1998 of the YJB
- Child Safety Orders and ASBOs, reparation and action plan orders, parenting orders, referral orders; curfew orders with electronic tagging
- DTOs
- Faster youth justice procedures

Building on the improvements

- Pre-crime risk panels
- Police in schools
- Closer working between the police and YOTs
- Development of Youth Inclusion Programmes and Splash programmes
- Early intervention
- Parenting – parenting programmes, extension of Parenting Orders
- Restorative Justice
- Extension of referral orders

More serious offenders

- Tagging on bail available from June 2002
- ISSPs to be available nationally by the end of 2002
- Piloting of intensive fostering
- Hostels with supervision
- Supported accommodation
- Custodial tagging
- Custodial accommodation for young offenders

Organisation

- YJB to take over funding of YOTs

Effective justice process

- Enhanced youth court, and new youth court time targets
- Semi-secure juvenile bail hostels
- Victims – including restorative justice, establishment of YOT victim liaison officers

CHAPTER 6. IT

Joined up IT policy

- IT is the thread running through the White Paper
- A key enabler in delivering joined-up CJS

What is the problem?

- General overview of CJS systems – aim to provide a brief picture of the situation
- Develop picture further eg complex organisations, diverse systems, large number of people (both staff and customers)
- Processes/methods diverse across CJS
- Little end-to-end performance management information
- Brief link to Auld (more on this later)
- Outline of current position/where we are now
- Lack of common reference number across CJS

CJS IT Solution

- Role of CJS IT + complexity eg 3 Ministers to report to
- Encouraging joined-up working/collaboration
- Based upon 3 responses:
    - Web-based technology
    - What we must do/what we must avoid
    - Standards eg e-Gif

Future improvements

- Where we will be in the future
- Paint pictures of improvements eg police attending court

Technical improvements

- Secure emails
- Common document store
- Online web forms
- Virtual case file
- Managing processes
- Requirements analysis
- Priorities for IT; knock-on effect of process change
- development of Common Reference Number (CRN)

Timeline graphics on improvements

- Summarise future vision through timeline

ANNEXES / PARALLEL PUBLICATIONS

- Item by item response to Auld
- SEU report
- Audit of delivery of Way Ahead commitments?

ANNEX B

OHC

cc JR
JJH
JN

Treasury Chambers, Parliament Street, London, SW1P 3AG

The Rt. Hon. David Blunkett MP
Secretary of State
Home Office
50 Queen Anne's Gate
London SW1H 9AT

19 March 2002

Dear David,

AULD/CRIMINAL JUSTICE SYSTEM (CJS) WHITE PAPER

I have seen Lord Irvine's letter to you of 1 March 2002 and your response of 6 March 2002 on the scope, content and timing of the White Paper on Auld and the CJS. I thought it would be useful to write to set out my views.

2. I can see that a comprehensive White Paper on the CJS may be useful in allowing a thorough assessment of system wide pressures and the best policy mix to meet our objectives of establishing a modern and effective CJS.

3. I am, however, strongly opposed to the publication of such a broad White Paper before the conclusion of the Spending Review. With the

CJS struggling to deliver on existing commitments, despite significant additional resources since SR2000, it would be wrong to add more policy commitments without knowing if the resources to fund them will be available. A May White Paper would either have to be so bland that it achieved little purpose or would raise expectations that could not then be delivered on.

4. As you are well aware, the overall resource position is going to be much tighter in this spending review than the last. I am concerned that public expectations may already have been raised by the White Papers on the police and asylum, which cannot be met within the sort of settlements, which are likely to emerge from the Review. A further White Paper of the sort you envisage would exacerbate that situation further.

5. Without any knowledge of the detail of what you propose, I cannot comment on the likely content of a paper. I should be grateful if you could ensure that my officials are involved in developing it. I understand, however, that the paper is likely to cover a number of initiatives, which have yet to be cleared by DA. That will also add pressure to a May timetable. I will also need to see a full cost benefit analysis of any new proposals, including the evidence underpinning them.

6. I believe that publication of any widely based White Paper should be delayed until after the Spending Review. For the same reason, I would

prefer that any White Paper on the Government's response to the recommendations of the Auld Report should also wait until the conclusion of the Spending Review.

7. If, in the light of commitments already made, however, an earlier publication is deemed essential, then a very narrowly defined and tightly focussed White Paper – that is, one addressing the recommendations of the Auld Report alone – is vital. It must also avoid pre-empting decisions in the Spending Review or raising public expectations in any way. I will also need to see a full supporting cost benefit analysis for the Auld proposals as part of the policy clearance process.

8. It could still place the Auld reforms in the wider context of the CJS, but need not pre-empt publication of the broader sort of White Paper you propose after the Spending Review.

9. Copies of this letter have been sent to the Prime Minister, Lord Irvine, Lord Goldsmith and Sir Richard Wilson.

Best wishes,

ANDREW SMITH

CONFIDENTIAL

From: Michael Barber
Date: 21st March 2002

JEREMY HEYWOOD

FUNDING FOR THE ROBBERY INITIATIVE

I worry about the position we in No.10 are taking up on funding for the robbery initiative.

The PM's position is in effect "do whatever is necessary and I'll sort out the funding later." In one sense this is admirable, giving clear priority to the task and ensuring people focus on solutions. However, if that approach is really to be followed, then the implication must be that, if necessary, there will be a draw on the reserve. You and I know there is no question of the Treasury allowing that but Justin's email of 19th March makes clear that that is what David is expecting.

In other words, unless we put together some kind of package, we are heading inexorably for a massive row in which the Treasury say the Home Office should pay for the robbery stuff out of their existing resources and the Home Office refuses, simultaneously feeling betrayed by us. This could seriously undermine the capacity of the new programme to deliver as it unfolds and poison still further the spending review climate.

Has any progress been made with the Home Office in putting together a package to support at least the first stages of the initiative, drawing on the CJS Reserve (I think David committed this yesterday), the Innovation fund, the CMF etc and some of the Home Office's own funds redeployed?

And if so, have we established the ground rules for spending it since, as you say, we shouldn't fund 100% of the additional police overtime?

No doubt in the end we're due to face a major row on the spending review given the depths of Treasury cynicism (which was so apparent yesterday and, given the history, not entirely unjustified) about Home Office delivery and their spending review proposals. But it would be good to insulate the robbery initiative from it as far as possible.

Clearly, the initiative in putting the package together should be with the Home Office but the reality is that without our support they won't get anywhere. Would it help you if I got actively involved in this or shall I continue to leave it to you? And would there be any benefit in the negotiation in saying that the Delivery Unit is actively involved in driving the initiative and ensuring that it meets the criteria of deliverability?

MICHAEL BARBER

RESTRICTED: POLICY

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From: Michael Barber
Date: 21st March 2002

Cc: Jonathan Powell, Andrew Adonis, Jeremy Heywood, Justin Russell, Alastair Campbell, Olivia McLeod, Sally Morgan, Peter Hyman

PRIME MINISTER

ROBBERY

The COBRA-style meeting you chaired on street crime on Wednesday has at last injected the necessary energy and urgency into Whitehall. That afternoon, John Gieve chaired a meeting attended by senior officials from all the relevant departments and by senior police officers, including David Phillips.

For each action agreed at the morning meeting, we asked for:

- a named minister and senior official responsible;
- a progress report by Monday which will then inform the second meeting you are chairing on Tuesday.

I see the Delivery Unit's role as securing for each key step in the process (from arrest to sentence) action which is urgent, rigorous and really impacts at street level. The initial response of the departmental civil servants who attended was certainly positive but the extent of priority and urgency required needed and will continue to need reinforcement. Justin and I attended John Gieve's meeting yesterday and took this robust approach. I will attend both the meetings chaired by

you and David Blunkett and the Gieve-chaired meetings to ensure momentum is maintained.

After the meeting, I talked to John Gieve about the organisation of the initiative. I offered him (and he gratefully accepted) the support of one of the Delivery Unit's excellent secondees from McKinsey to help plan the operation. I also suggested (on the basis of Jeremy's experience of foot and mouth disease and mine of intervening in failing LEAs) that he would need Home Office staff on the ground in each of the 10 Force areas who would be able to report progress day-to-day, take instructions from the central team and build the necessary relations at local level.

Are you happy with this approach? yes

Meanwhile, the Home Office has begun its follow-up meetings in each of the ten areas, starting with London this afternoon. The others will follow thick and fast.

Finally, the police are delighted by the initiative and by the commitment you have made to it. I said I'd pass their gratitude on to you and suggested that in return you'd expect them to deliver. They were confident that they would.

Michael

MICHAEL BARBER

02072733965

file

MATRIX

JR

cc: OMC
VCS

Home Office

Home Secretary
50 Queen Anne's Gate, London SW1H 9AT

The Rt Hon Robin Cook MP
President of the Council and Leader of the House
Privy Council Office
2 Carlton Gardens
London
SW1Y 5AA

21 MAR 2002

Dear Robin

OUTLAWING THE REPROGRAMMING OF MOBILE PHONES: PROPOSAL FOR STAND ALONE BILL THIS SESSION

This letter seeks your approval to a very short stand alone Bill this session to create a new criminal offence of reprogramming mobile phone handsets. The new offence should help tackle the increase in mobile phone robberies, which is currently the fastest growing crime. Such an offence will be welcomed by the mobile phone industry and the police as well as by the public. It will also be an important contributor to our Reducing Robbery Initiative.

I should be grateful for urgent agreement to proceed by 3 April.

There has been significant public, Parliamentary and media concern in recent months about the rise in street robbery. Whilst other types of crime have been falling, street robbery continues to rise at an alarming rate, especially in our metropolitan areas. The police in our principal cities are clamping down hard on street crime. The recent call by Lord Chief Justice Woolf for sentences of 18 months and upwards for mobile phone robbers, regardless of age or previous convictions, shows that the judiciary now regard this as a very serious offence.

A Home Office Research Report on *Mobile Phone Theft* published in January showed conclusively that mobile phone theft is fuelling the rise in street robbery. Nearly a third (26,300) of all robberies now involve mobile phones, as compared with 8% three years ago. This increase is partly due to 600% increase in mobile phone owners since 1995, but the figures also show that robberies involving mobile phones are increasing at a much greater rate than robberies in general. Tackling mobile phone theft is therefore a key to driving down robbery.

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The Home Office has been working with mobile phone network providers to address mobile phone theft, and has made significant progress. By the summer all of the five main network providers will have in place the technology to disable a phone across all networks once it has been reported as stolen. They can do this by reference to a unique serial number on each handset, the International Mobile Equipment Identity (IMEI) number, which appears on their records each time the phone is used. Barring handsets in this way should act as a strong deterrent to thieves, preventing them from being able to use the phones they steal.

However, it is relatively cheap, easy and - at present - legal to change the IMEI number of a mobile phone (by using software to reprogramme the handset), making it impossible for the operators to track and disable it. The mobile phone industry and the police have asked us to outlaw this activity, as part of the wider package of measures and actions which they are taking to help tackle the problem of mobile phone robbery. We have established with them that there is no legitimate reason for reprogramming a handset.

I am extremely keen to legislate in this area as quickly as possible, to build on the momentum that we have developed with the mobile phone industry to tackle the alarming increase in mobile phone robbery. We must do everything within our power to stem this crime which is doing so much to fuel the increase in robbery and the general fear of crime on our streets. Such a provision falls outside the scope of the Police Reform Bill and there is no other Home Office legislative vehicle this session. Patricia Hewitt has offered to include a provision in her draft Communications Bill to be published later this spring. However, that will not be introduced until next session, and I would prefer to proceed more quickly than that if the legislative timetable will allow.

The creation of this new offence will send out a strong signal that we are not prepared to tolerate the activities of those who seek to derive financial benefit from preying on their fellow citizens and abusing the lawful trade of mobile phones in this way. We are of course also pressing the manufacturers to stop the problem at source, by making it more difficult to change the identity of a handset.

The new offence of changing the unique equipment identifier of mobile phones will close this loophole and will carry a maximum penalty of a level 5 fine.

Resource implications

There are no resource implications for the industry. Resource implications for the criminal justice system will be minimal as the offence will not be imprisonable.

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02072733965

I am copying this letter to the Prime Minister, the Lord Chancellor, the Attorney General, Denis Carter, DA colleagues, Sir Richard Wilson and First Parliamentary Counsel.

Best wishes,

David

DAVID BLUNKETT

509db

STREET CRIME ACTION GROUP

Meeting of 20 March 2002

held in Cabinet Office Briefing Rooms, 70 Whitehall SW1

(Prime Minister in the chair)

ACTION POINTS

1. **No 10** to convene a further meeting of the Street Crime Action Group, to be chaired by the Prime Minister, for Monday or Tuesday next week

2. Departments (identified in bold) to present reports and proposals for action to that meeting on the following short-term priority issues:

   (a) Improving liaison between schools and the police – **DfES** in consultation with the **Home Office**

   (b) Improving liaison between the police and other local agencies, including an assessment of whether the Pre-Crime Panels operating in Nottingham should be rolled out more widely – **Home Office** in consultation with other departments

   (c) Expediting the use of video identification of offenders in the ten police force areas most affected by street crime – **Home Office**

   (d) Ensuring that bail is not granted by the police or courts for street criminals judged likely to reoffend; ensuring that magistrates and the police are briefed and ready to use this power – **Home Office** in consultation with **CPS** and **LCD**

   (e) Broadening and tightening the range of conditions that can be placed on bail for those accused of street crimes; rolling out Intensive Surveillance and Supervision if this approach works – **Home Office**

   (f) Ensuring that sufficient drug testing and treatment capacity is available to deal with those arrested for, on bail or remand for, or convicted of, street crime offences, especially in the ten police force areas worst affected - **DH**

   (g) Increasing the availability of secure accommodation, particularly for juvenile offenders, in the ten worst affected police force areas; examining alternative forms of secure accommodation; investigating

whether other departments than the Home Office have estate that could be used for this purpose – **Home Office** in consultation with **DTLR, DfES, DH, DWP** and other departments

(h) Improving case preparation through joint working by the CPS and the police – **CPS and Home Office** to investigate how far the CPS' ideas for a 'premium service' could help in this area

(i) Filling staff vacancies for prosecutors in the CPS in London, and targeting resources where they are most needed – **CPS**

(j) Ensuring that the courts are ready to cope with an increase in street robbery trials (and deal with them expeditiously) in the 10 areas worst affected by street crime, without damage to other criminal justice priorities; ensuring that courts in these areas have suitable separate facilities for victims and witnesses to reduce the risk of intimidation – **LCD**

(k) Improving liaison between the Metropolitan Police Service and the British Transport Police on robberies committed on the transport network in London – **DTLR** in consultation with the **Home Office**

3. Home Office to work with other departments to provide a report to the Prime Minister by the time of his meeting next week on how it is planned to take forward work on the following longer -term issues:

(a) Crime and disorder partnerships and their role in a strategy on street crime

(b) The role of schools and the care authorities in dealing with excluded children; children at risk of exclusion; children who are missing from the system

(c) The use of technology in identifying and convicting street criminals

(d) Drugs and street crime; in particular, whether changes will be necessary to ensure that the drugs treatment system will be able cope with anticipated demand

(e) Drug gangs: how to deal with them, and how to prevent gang culture becoming embedded among urban youth

4. **Permanent Secretary, Home Office** to chair regular meetings of senior officials to oversee work on both short and long term issues, commencing with a first meeting at 5pm today, 20 March.

Cabinet Office
20 March 2002

GREATER**LONDON**AUTHORITY

For the attention

of

Sally Morgan.

(Copy will be posted tonight).

Simon Fletcher

GREATER**LONDON**AUTHORITY
MAYOR'S OFFICE

Romney House
Marsham Street
London SW1P 3PY
Switchboard: 020 7983 4000
Minicom: 020 7983 4458
Web: www.london.gov.uk

Our ref: KL/TC
Your ref:
Date: March 20 2002

The Rt Hon Tony Blair MP
Prime Minister's Office
10 Downing Street
London SW1A 2AA.

Dear Prime Minister Tony

Today's papers carry a number of reports of Oliver Letwin visiting New York to propose NY-style policing methods. This is clearly opportunism for the benefit of the local election campaign, since the Tories have been the party in power for most of the last century, during which time neighbourhood policing declined.

However, the New York experience does deliver one very strong message which the Conservative Party has totally missed and which you may wish to look at further. Both on my visit to New York to Meet mayor Giuliani and the Commissioner of Police, and in my subsequent discussions with Rudolph Giuliani on his recent visit to London, the mayor emphasised very strongly that the most important lesson of New York under his administration was the accurate appraisal of crime statistics. This is the so-called Compstat system.

Without this it would have been impossible to turn the tide of crime.

Under Compstat, the mayor receives weekly crime statistics for every precinct in the city broken down into daily statistics. This is in sharp contrast to the Metropolitan Police Service, which publishes crime statistics only quarterly. Because the NYPD can track on a weekly, monthly, quarterly and annual basis the trends in crime in their city, they can much more rapidly identify declining or under-performing precincts.

Policing resources are brigaded to focus on particular crime hotspot areas. This enables NYPD to take urgent action to prevent particular precincts from falling over the edge into serious crime including the switching of police resources, management and personnel and so on.

Although the process may appear very technology intensive, in practice police precincts fax their crime stats to a central point and the information is then presented using relatively simple software.

/2

Direct telephone: 020 7983 4006 Fax: 020 7983 4008 Email: Maureen.Charleson@london.gov.uk

I cannot stress to you how important mayor Giuliani regards this reform to have been. He made it clear to me that although London has only 28,000 police to New York's 41,000, he would still regard the implementation of a Compstat-style system as even more urgent in London than getting up to New York policing numbers (although he and I both agreed this was also vital).

Compstat would transform our understanding of crime in London. If you, myself, the Home Secretary and the chair of the Metropolitan Police Authority were able to announce the implementation of such a scheme this would be a major factor in altering the terrain of the policing debate.

Yours ever

Ken Livingstone
Mayor of London

collection DNA.

• who are they.
• how arrested || bail | ID proven.
• how ↓ to court | CPS | Gridlock.
• sentencing
• drugs.
• info hotline
• referral
+ use of their

From: Michael Barber
Date: 19th March 2002

s23. disclosure of evidence.

Cc: Gus Macdonald
Sir Richard Wilson
Jeremy Heywood
Justin Russell
Andrew Adonis
Olivia Mcleod
Peter Hyman

PRIME MINISTER

STREET CRIME ACTION GROUP: MEETING, 20 MARCH

As we discussed this morning, you are chairing this meeting. An annotated agenda is attached.

You will want to express determination and inject a powerful sense of urgency about turning around the street crime trend. You will need to emphasise that you want the problem tackled in 'Cobra' emergency style; that you want David Blunkett and the Home Office to lead the initiative; and that they, with partners, must not let up until the problem is resolved.

Other objectives might include:

- Gaining Ministerial agreement to activities needed across Government and frontline agencies – including short term actions which will have early, visible impact;

1200
724 arrests
370 charged

70% under 17yrs of age.
75% no previous convictions

- Gaining Home Office agreement to generating a clear set of objectives, targets, plans, milestones, and data collection systems for this initiative - and ensuring that results can be sustained and built on in the longer term;

- Exposing key risks/difficulties and how these will be managed.

MICHAEL BARBER

STREET CRIME ACTION GROUP: FIRST MEETING, 20 MARCH (8–10 a.m.)
ANNOTATED AGENDA [based on agenda in David Blunkett's 18 March letter]

Before David Blunkett's introduction, you may wish to make opening remarks, emphasising the urgent need to turn around street crime, and the importance you attach to this group achieving the goal of significant reduction in street crime in major cities.

1. **Introduction -** David Blunkett

2. **Presentation: Nature and scale of robbery problem** (Professor Paul Wiles, Director Research, Development and Statistics, Home Office)

3. **Presentation: Ten force area robbery reduction initiative – the police and criminal justice agency response** (Dr Kevin Bond, Director, Police Standards Unit, Home Office)

4. **Presentation: The Metropolitan Police Safer Streets operations** (Sir John Stevens, QPM, Commissioner, Metropolitan Police)

5. **Presentation: Robbery reduction issues for criminal justice system and beyond** (Michael Barber)

Discussion (you to chair)

The agenda circulated with David Blunkett's 18 March letter lists four items (6 to 9 below) for discussion. Before introducing these items, you may want to invite **Sir David Phillips** (ACPO President and Kent Chief Constable) to comment.

Action by criminal justice system agencies

Invite each CJS Minister in turn:

- David Blunkett/ John Denham [plus police comment]
- Derry Irvine
- Peter Goldsmith

to explain how their Department will contribute (see annex for list of contributions suggested in David Blunkett's 18 March letter; as well as additional suggestions - *in italics* - you may wish to raise). Urge focus on actions that make the most difference – including actions which will have short term visible impact, and ask that:

- each Minister provide a written timetable, immediately after the meeting, of specific action points and (tight) deadlines [e.g. actions by end this week; by next meeting; end March; by budget announcement etc]

- David Blunkett/Home Office coordinate creation (by next meeting if possible) of a joint HO/CPS/LCD data system to track street crime data

- David Blunkett/Home Office use this system and historical data to project workflows through the criminal justice system as a result of the initiative – and pass results to Departments, who should come to next meeting ready to say how they will deliver the extra capacity needed.

Contributions from social and economic departments and agencies

Once again, invite Ministers in turn to explain how their Department will contribute, asking each Minister to provide a written timetable, immediately after the meeting, of specific action points and (tight) deadlines [e.g. actions by end this week; by next meeting; end March; by budget announcement etc]:

- Estelle Morris
- Stephen Byers
- Alan Milburn
- Alistair Darling
- Andrew Smith

8. **Programme management arrangements and future meetings**

Invite David Blunkett or John Gieve to outline future arrangements, emphasising the importance of maintaining momentum and urgency. In response, you may wish to ask:

- when HO-coordinated action plan for the initiative will be available, including (at least) monthly milestones against which to measure concrete and visible progress;
- national and local official-level steering structures, and how these will feed into future Ministerial meetings;
- How quickly will we know whether/which areas of the initiative are working?

9. **Communications – press notice, and concluding remarks**

Invite David Blunkett to speak and sum up.

On communications, you may wish to ask Departments to provide Home Office with plans over the coming month (and beyond) for communications with frontline delivery agents (e.g. individual schools, magistrates, LA chief executives). HO could then work with Departments to ensure that each communication includes something on street robbery and actions for frontline.

ANNEX

STREET CRIME ACTION GROUP: DEPARTMENTS' CONTRIBUTIONS

David Blunkett's 18 March letter lists actions on which Departments should be ready to respond. These are summarised below, with questions on which you may want to probe included *in italics*.

CRIMINAL JUSTICE INTERVENTIONS

Home Office

- Youth Offending Teams (YOTs) to give priority to work on robbery cases, including preparation of pre-sentence reports.
- Prisons and Probation Services to have plans to deal effectively with expected increased numbers of robbery offenders.

  When will you address:
  - ***Witness & victim support:*** *implement best practice to support victims/ witnesses throughout period from offence to Court (and beyond), including use of video ID parades*
  - ***Hotline number*** *for public to give information on street robbers (with 10 Forces)*
  - ***Mobile phones and other attractive products:*** *with DTI, liaise with mobile phone industry over security issues and look at similar actions for other products/services*
  - ***YOT protocols*** *for sharing information with police etc and preventative role in dealing with young people vulnerable to becoming offenders*
  - *Rolling out* ***drug testing provision*** *in 10 Forces for street crime suspects over 18?*

Ten Forces:

- targeting hotspots and making more arrests

*What sort of activities will this include – e.g. higher levels of **visible patrol** in robbery hotspot areas, as well as stronger use of **intelligence**?*

- ensuring evidence is brought to bear swiftly and systematically, whether from forensic analysis, identification procedures, or anywhere else, to enable early charges to be laid.
- ensuring all relevant information is available for first court hearing, and liaising with Crown Prosecution Service and/or Youth Offending Team in order to make cogent recommendations on appropriate remand/bail decision.

*Assume activities above will be part of wider strategic and operational plans. What other areas will police focus on – for example liaison with **local community groups;** disrupting markets for **stolen goods**?*

Attorney General and Crown Prosecution Service

- Crown Prosecution Service to step up priority of robbery case preparation (**'premium service' case management**), in terms of fast-tracking cases, deploying top quality lawyers, and working closely with police

Lord Chancellor's Department and Courts

- courts to give priority to robbery cases, if necessary introducing extra sittings to deal with the increased workload
- judiciary and magistrates to be kept closely informed of nature and extent of the robbery problem in their local areas

When will you:

- *extend opening hours/ use weekend courts*
- *Appoint more District Judges to high crime areas*
- *Provide urgent guidance and training to judiciary/ magistrates on* ***bail conditions*** *(tougher conditions and tighter procedures for defendants who fail to attend/ intimidate witnesses/ breach conditions) and* ***tagging for street crime offenders*** *on bail and as a condition of sentence*

COMMUNITY INTERVENTIONS

Education

- ensure schools welcome police and help identify problems and take early action, e.g. organising safe transport routes to and from schools

  What will you do to address range of ideas for work with police to ***tackle specific issues at/around hotspot schools*** *– for example use of allocated police officers, or even full time police officers on school premises; security warden patrols around high crime schools at end of school day?*
- make sure schools/education authorities exchange information with police, social services, etc on known troublemakers and also on children both at risk of offending and of being victimised.
- make sure that schools implement anti-bullying policies and commitments to safe environments, supported by rigorous high priority inspection

  How can schools deal explicitly with street crime issues – could they, for example, be incorporated into curriculum?
- work with police to keep truants off streets and to identify children not on school rolls
- ensure arrangements for needs of excluded children

*This should include full time provision for **excluded pupils** during school hours – is there scope for action also on after-school provision?*

DTLR/Local Government

- securing commitment from local authorities to work with police to tackle robbery problem through partnership working and information exchange
  How can real ownership and accountability best be impressed on Local Authorities? Specific actions in this area could include:
  - *Remove environmental cues (broken windows etc)/ **improving local environment** and safer public spaces (e.g. better street lighting in crime hotspots; better use of CCTV investment, with police officer in every LA CCTV control room to react immediately to incidents)*
  - *Identify and intervene where **young children at risk of becoming offenders***
  - *Work with **community groups** on crime prevention/ mentoring schemes etc*
  - ***Information protocols**/exchange to reduce crime at Local Authority level*
  - *Provision of **youth services***
- ensuring neighbourhood renewal and Local Strategic Partnership strategies take full account of the need to tackle street crime
  What about identifying a specific (significant) proportion of neighbourhood renewal funding to be spent on crime reduction?
- securing full involvement of the British Transport Police in the initiative
- more generally, encouraging environmental improvements which reinforce a sense of civic pride and involvement in high risk areas

DCMS

- Promoting activities to help deliver young people at risk from crime

DH

- Early diagnosis and remedial action for children with **mental health problems**
- Ensure necessary drug treatment provision is available
- Ensure social services fully engaged in information exchange about children at risk.

DWP

- ensure maximum provision of employment options for young offenders
- make provision for young offenders' training needs

02072733

Home Office

Home Secretary
50 Queen Anne's Gate, London SW1H 9AT

6

JR

cc: OMc
JCM

The Rt Hon Andrew Smith MP
Chief Secretary to the Treasury
Treasury Chambers
Parliament Street
LONDON SW1P 3AG

Dear Andrew

18 MAR 2002

STREET CRIME ACTION GROUP

In view of the mounting public concern about the levels of street crime in our major cities, the Prime Minister has pulled together this week a committee of Cabinet colleagues and others in order to oversee the progress of the major initiative which were are announcing to get on top of this problem. This Street Crime Action Group will be meeting on a regular basis, and I am writing on behalf of the Prime Minister to look forward to you playing an important role as a member of this Group. Its first meeting will take place in the Cabinet Room at 8 am this Wednesday, 20 March, and for this inaugural meeting the Prime Minister will take the Chair.

I attach the agenda for Wednesday morning's meeting. There will be four presentations to bring colleagues up to date with the initiative: each presentation will be very short. I then hope that the rest of the meeting will concentrate on the action that needs to be taken, both by those responsible for the management of the criminal justice system and by Departments will wider social and economic responsibilities, to make that initiative a success.

Within the criminal justice system, I suggest that the following action needs to be considered:

- the police to step up their operations against robbery by targeting hotspots and making more arrests;

468DB

- the police to ensure that evidence is brought to bear swiftly and systematically, whether from forensic analysis, identification procedures, or anywhere else, to enable early charges to be laid.;

- the police to ensure that all relevant information is available for the first court hearing, and to liaise with the Crown Prosecution Service and/or Youth Offending Team in order to make cogent recommendations on the appropriate remand/bail decision;

- the Crown Prosecution Service to step up the priority accorded to robbery case preparation, in terms of fast-tracking cases, deploying top quality lawyers, and working closely with the police;

- the courts to give priority to robbery cases, if necessary introducing extra sittings to deal with the increased workload;

- the judiciary and magistrates to be kept closely informed of the nature and extent of the robbery problem in their local areas;

- Youth Offending Teams to give priority to their work on robbery cases, including the preparation of pre-sentence reports;

- the prison and probation services to have plans in place to deal effectively with the expected increased numbers of robbery offenders with whom they will be asked to deal.

But this is of course not only a problem for the criminal justice system. The commitment of other departments, given the need to address both prevention and cure, will be absolutely crucial in delivering our objective of reducing robbery. For example, we need to ensuring that the initiatives to support young people through education and into employment - eg connexions, modern apprenticeships, mentoring - work properly for those in inner city areas.

The following paragraphs set out what I suggest are some of the more pressing needs.

<u>The Department for Education and Skills</u> can:

- ensure that police are welcomed into schools to help to identify problems and take early action, for instance in organising safe routes to and from schools;

- make sure that schools and education authorities are ready to exchange information with the police, social services, etc on known troublemakers but also on children both at risk of offending and of being victimised.;

- make sure that schools have deadlines for implementing anti-bullying policies and commitments to safe environments, supported by rigorous high priority inspection;

- work with the police to keep truants off the streets and to identify children who are not on school rolls;

- ensure that arrangements are made to meet the needs of excluded children.

The Department of Transport, Local Government and the Regions can help by:

- securing commitment from local authorities to work with the police to tackle the robbery problem through partnership working and information exchange;

- ensuring that neighbourhood renewal and Local Strategic Partnership strategies take full account of the need to tackle street crime;

- securing the fullest involvement of the British Transport Police in the initiative;

- more generally, by encouraging environmental improvements which will reinforce a sense of civic pride and involvement in high risk areas;

The Department of Health can play a vital role by:

- ensuring that necessary drug treatment provision is available;

- making sure that early diagnosis and remedial action are available for children with mental health problems;

- making sure that social services are fully engaged in exchanging information about children at risk.

Similarly, I hope that we can look to the Department of Work and Pensions to:

- ensure maximum provision of employment options for young offenders;

- make provision for their training needs.

020727

And the Department of Culture, Media and Sport can make an important contribution by:

- promoting activities which will help to deliver young people at risk from crime.

It must be a key objective for all departments and agencies working with young people, including the police and Youth Offending Teams, to work with each other in identifying problem families and problem young people who may be involved in street crime. There is provision in the Crime and Disorder Act allowing for exchange of information for crime reduction purposes, and it is very important that this should be seen to be happening in all areas.

I am writing in similar terms to all Ministerial colleagues on the attached list, and copying this letter to the Prime Minister, Sir Richard Wilson, and Michael Barber at the Delivery Unit. I look forward to engaging with you all on these issues on Wednesday and thereafter.

Best wishes,

David

DAVID BLUNKETT

0207273

STREET CRIME ACTION GROUP
1ST MEETING: WEDNESDAY 20 MARCH 2002
NO 10 DOWNING STREET, CABINET ROOM

AGENDA

1. **Introduction**
   Home Secretary

2. **Nature and scale of the robbery problem**
   Presentation by Professor Paul Wiles,
   Director, Research, Development and Statistics, Home Office

3. **The ten force area robbery reduction initiative**
   Police and criminal justice agency response
   Presentation by Dr Kevin Bond
   Director, Police Standards Unit, Home Office

4. **The Metropolitan Police *Safer Streets* operations**
   Presentation by Sir John Stevens QPM
   Commissioner, Metropolitan Police

5. **Robbery reduction issues for the criminal justice system and beyond**
   Presentation by Dr Michael Barber
   Director, Prime Minister's Delivery Unit

6. **Action by criminal justice system agencies**

7. **Contributions from social and economic departments and agencies**

8. **Programme management arrangements and future meetings**

9. **Communications – press notice**

02072733[redacted]

ANNEX

1. The Rt Hon Lord Irvine of Lairg, Lord Chancellor's Office, House of Lords, London SW1A 0PW.

2. The Lord Goldsmith QC, Attorney General's Chambers, 9 Buckingham Gate, London SW1E 6JP.

3. The Rt Hon Tessa Jowell MP, Department of Culture, Media and Sport, 2-4 Cockspur Street, London, SW1Y 5DH.

4. The Rt Hon Estelle Morris MP, Department for Education and Skills, Sanctuary Buildings, Great Smiths Street, London SW1P 3BT.

5. The Rt Hon Alistair Darling MP, Department of Work and Pensions, Richmond House, 79 Whitehall, London SW1A 2NS.

6. The Rt Hon Stephen Byers MP, Department of Transport, Local Government and the Regions, Eland House, Bressenden Place, London SW1E 5DU .

7. The Rt Hon Alan Milburn MP, Department of Health, Richmond House, 79 Whitehall, London SW1A 2NL.

8. The Rt Hon Andrew Smith MP, Chief Secretary to the Treasury, Treasury Chambers, Parliament Street, London SW1P 3AG.

All letters to be copied to the Prime Minister and Sir Richard Wilson.

Confidential

DB

Anti-terrorism → need + reply

Street policing:

(Uniformed P.)s
CJS

Big org = custodial sentences

Juveniles
Inner London.

Re-policing

50m → start police training gold

30m police track: video IDs.

40m – policing

40m – policing initiative – Jury bonus to April

100m Juveniles
100m Inner London
– 2/3rds capital.

400m = x

40m–50m : range

Need x every year

↓ re-this.

Video ID cards: £41m

Anti-social policing: £40.6m

O/T: 70% = current.

Community support officers: £10m

- pilots

Diversion support: £11.1m

Juvenile offenders

13 March 2002

Justin Russell
Policy Adviser
10 Downing Street
London

HOME OFFICE DELIVERY PRIORITIES

I wrote to you last Friday setting out the approach which the Home Secretary is considering to the Chancellor for additional investment in the forthcoming budget as background for the Home Secretary's discussion with the Prime Minister tomorrow.

Since these papers were put together, we have of course decided to launch an intensified ten-force robbery initiative. This will result in some additional resource requirements for 2002/03, which can only become quantified with any degree of certainty once we are in a position to talk in detail with the police forces concerned and other criminal justice agencies.

To give you an indication of the scale of what might be involved, the bid of £40.6m to enable the intensification of targeted anti-robbery policing was predicated on the ten-force initiative as originally planned. It is primarily to fund overtime, with some provision for equipment. In order to bring the ten-force operation forward to April – and extend it to cover over forms of street crime – that figure is likely to rise, perhaps by as much as £20m. We might also consider increasing our bid for Community Support Officers. The CPS estimate of £4m to cover their contribution to the originally planned exercise is also likely to increase.

There may well be other costs for the criminal justice system. We may need to access the criminal justice strategic reserve for those purposes.

I understand that there is some expectation that resources may be found from the Capital Modernisation Fund. I should point out that many of the bids associated with this exercise cover overtime and the purchase of additional, but routine, equipment. Such expenditure would not come within the ambit of the CMF. However, it might be for consideration, even at this late stage in the current round of the CMF, to fund the video ID initiative (items 1 and 12 of the attached annex) out of CMF provision. This would of course require some very speedy footwork and no doubt reassessment of the current list of priorities for CMF across Government.

JONATHAN SEDGWICK

From: Justin Russell
Date: 8 March 2002

PRIME MINISTER

cc: **Jeremy Heywood**
Andrew Adonis
Michael Barber
Olivia McLeod
Jacob Nell
Jonathan Powell

HOME OFFICE BUDGET BIDS

DB requested a meeting with you to discuss possible Home Office budget bids - you are due to meet him next Thursday (14 March).

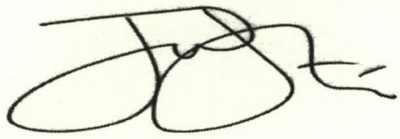
I attach a copy of a draft letter he proposes to send to Gordon setting out his bids (totalling £287m in 2002/03)– which he is likely to want to discuss with you. Jeremy's advice is that there is almost no chance that HMT will provide any revenue funding – though there may be some room for manoeuvre on the capital side through the Capital Modernisation Fund.

I have discussed DB's proposals with Michael Barber. In the unlikely event that there are any additional resources our strong advice is that we should prioritise those bids which would support the street robbery initiative which PMDU have been working up with the Home Office. In particular, we would suggest prioritising:

Setting up video ID parade facilities in the ten forces with highest robbery rates (bid 1 - £4.1m)

Targeted anti-robbery policing (overtime, surveillance equipment etc) in these same ten forces (£40.6m)

Juvenile offenders – £70m in 2002/03 for **additional secure remand places** (100 extra places by June; 300 by the end of the year) and rolling out electronic tagging on bail (up to 1,800 people a year) plus national roll out of intensive supervision and surveillance programme for young offenders – which currently only covers half of the country.



JUSTIN RUSSELL

DRAFT LETTER FOR SIGNATURE BY THE HOME SECRETARY

The Chancellor of the Exchequer

HOME OFFICE DELIVERY PROGRAMMES

Dealing effectively with crime and law and order is a central part of our drive to create a modern, prosperous and fairer Britain. Indeed crime is the local issue that people care about most.

Since coming to the Home Office, I have begun to push forward major programmes of reform for the police, immigration, asylum and nationality and the criminal justice system. This is all crucial if we are to deal effectively with street crime, violence and anti-social behaviour – particular juvenile crime. All of this needs to be underpinned by a coherent programme to promote civic renewal and community cohesion. However, I am convinced that if we are to ensure that we have the impact we need as quickly as we need it, we need to bring forward a number of the programmes for which I am bidding in the Spending Review. I therefore believe that the forthcoming budget offers and excellent opportunity to announce new programmes which will make a real difference in these key areas.

To make the biggest impact we need to fund:

- programmes to tackle violent street crime, robbery and anti-social behaviour by creating significant new police resources by direct measures and by maximising technology, improving healthcare and recruitment

- measures to target juvenile offenders particular through the provision of more secure accommodation

- measures to promote community cohesion in key areas.

I am therefore attaching details of each of these programmes.

I appreciate that this budget will be a tough one but I really do believe that these measures are essential if we are to deliver this key part of the Government's programme. I would, of course, be very happy to discuss any of this with you in greater detail.

I am copying this letter to the Prime Minister and Sir Richard Wilson.

Draft Letter from Jonathan Sedgwick to Justin Russell

HOME OFFICE DELIVERY PRIORITIES

The Home Secretary is meeting the Prime Minister next week to discuss the approach which he has been considering for accelerating the programmes he is developing to tackle violent street crime and anti-social behaviour. This builds on discussions that the Home Secretary has had in his recent stocktakes with the Prime Minister. The Home Secretary considers that this is essential to make the early impact now needed to address these problems. Clearly this has resource implications and so in advance of their meeting, I agreed to send you a draft letter to the Chancellor setting out his approach which the Home Secretary is considering.

There are three elements to this package:

- programmes to tackle violent street crime, robbery and anti-social behaviour by creating significant new police resources by direct measures and by maximising technology, improving healthcare and recruitment

- measures to target juvenile offenders particular through the provision of more secure accommodation

- measures to promote community cohesion in key areas.

The attached draft gives a detailed breakdown of the bids which the Home Secretary is considering sending to the Chancellor. Of course the Home Secretary recognises that this is likely to be a tough budget and he has his own views about which elements of these packages are the most essential. He also has views about elements which could be scaled back. He is also aware that as far as possible the capital elements of any bids could be packaged under the Capital Modernisation Fund.

You will also be aware that the Home Secretary is waiting for a response from the Treasury to his request for additional resources to maintain counter-terrorist activity.

I hope that this is helpful.

Annex

Tackling Violent Street Crime, Robbery and Anti-Social Behaviour

1. The Establishment Of Video ID Parades

Cost
£4.1m

Buys
First year set-up costs for video identification parade service for the ten forces most affected by the current rise in street robbery. This would provide the four sets of equipment, hardware, software and communication links per force necessary to change over to this system. Also video copying facilities for magistrates courts.

Delivers
Major reduction in time spent by operational officers organising parades. The time saved, in police officer time alone, equates to 700 additional officers per year. A similar level of savings would be made in support staff time. Improvements in the success rate of parades - from 60% to 90% - parades can be arranged within hours as opposed to weeks, whilst events are still fresh in mind of witnesses. Particularly useful with street robberies, where failures and delays in identification procedures are a major difficulty faced by police in curbing the current steep rise. Positive IDs will lead to immediate charges and a fast tracking of the whole process that presently can stall on the ID arrangements, with solicitors and suspects often failing to turn up and the memory of victims fading with time. Better care of witnesses who would not have to face offenders.

Targets and priorities
Can be expected to make a major contribution to the target of reducing robbery in the principal cities by 14% by 2005, which the Prime Minister has made clear must be regarded as the main immediate priority for the criminal justice system. Significant contribution to PSA targets on reducing crime and the fear of crime through police officers being released from station activities to operational duties. Would contribute to increase in levels of public confidence in the CJS; numbers of offenders brought to justice; reduce time taken from arrest and disposal; and the time taken from arrest to sentence for persistent young offenders.

2. Intensification of targeted anti-robbery policing.

Cost
£40.6 million.

Buys
Additional police resources (overtime, vehicles, surveillance equipment) to enable the ten forces with the most serious street robbery problems to deliver sustained and targeted policing operations aimed at reducing its incidence during 2002/03. Overtime costs account for about 70% of the total bid.

Delivers
The additional resources would enable the ten forces concerned to run proactive operations in robbery hotspots on a continuing basis during 2002-2003, modelled upon the Metropolitan Police's Operation Strongbox. Operations will be carefully targeted on prolific offenders, requiring major investment in evidence-gathering by both technical and non-technical methods. Estimates based on evidence from London in particular indicate that a relatively small number of hardcore offenders are responsible for a high proportion of all street crime, indicating that the intensive targeting approach can be expected to have a major impact on the overall problem.

Targets and Priorities
The bid contributes directly to the PSA target of reducing robbery in the principal cities by 14% by 2005. Milestones for robbery reduction over the next year in the ten forces now included in the initiative are currently being negotiated. Success in reducing the amount of street robbery, in conjunction with a robust communications strategy, will also contribute to the proposed Delivery Target of bringing about a reduction in the fear of robbery and other crimes of most concern.

3. Community Support Officers - Patrol

Cost
£10m
SR 2002 will include bids for long term provision for CSOs

Buys
800 Community Support Officers (@ annual cost of £25,000 per officer)for patrol functions for 6 month pilots to inform the main roll-out, divided between metropolitan forces (2 x 200), mixed areas (3 x 100) and rural areas (2 x 50). Pilots would not operate in all BCUs in participating forces. Exact numbers would depend on when recruitment took place, and deducting costs of training and uniforms, and evaluation. A particular focus for pilots would be to cover Neighbourhood Renewal Areas.

Delivers
Immediate increase in uniformed presence on the streets, raising public reassurance, reducing anti-social behaviour, deterring crime and increasing information flows to the police. Information gained will help assess best patterns of future deployment. Full benefits dependent on passing of Police Reform Bill empowering CSOs and completion of necessary training.

Targets and priorities
Direct contribution to PSA target on reducing fear of crime, and to targets on reducing vehicle crime and robbery.

4. Support Staff - Custody

Cost
£7m
Anticipated SR 2002 bid to provide one full team of ten for each BCU in the country.

Buys
400 custody support staff (@ annual cost of £35k per person) for 6 months, providing full cover (other than the custody sergeant) for 40 custody suites, covering a third of BCUs. Roles include case management and processing of arrestees as well as detention functions. Exact numbers subject to cost and phasing of recruitment and training needs.

Delivers
Major reduction in time arresting officers spend in station; the half-year partial deployment is estimated to save the equivalent of 130 constables who would be released to return to patrol duties, increasing crime reduction and public reassurance. Improved investigation of crime and improved case file quality and timeliness, therefore increasing the likelihood of successful prosecutions and of reducing delays in the CJS.

Targets and priorities
Significant contributions to PSA targets on reducing crime and the fear of crime through release of constables to operational duties. Would contribute to increase in levels of public confidence in the CJS; numbers of offenders brought to justice; reduce time taken from arrest to disposal; and the time taken from arrest to sentence for persistent young offenders.

5. National Recruitment Standards

Cost
£1.9M
Items marked* below will require continuation funding in subsequent years.

Buys
A coherent, professional assessment process for recruitment*
A national application pack for the police service*
Recruitment brochures/material for people expressing interest in the PS*
A police recruitment website
Revised Police Initial Recruitment Test

Delivers
A professional, coherent recruitment and assessment process for the police service which should help to reduce the time taken between application and appointment and has potential to reduce the burden of the process on forces.

Supports the delivery of 130,000 officers. Also, contributes to improving electronic delivery of public services.

Targets and priorities
Home Affairs Select Committee consider the present arrangements to be "disorganised and disjointed" and in need of national direction.
ACPO, APA, and Police Staff Associations support a more coherent approach to the application process which would allow better use of potential recruits.

6. Occupational Health

Cost
£10.25M
SR2002 bid planned

Buys
Fast track diagnosis and treatment in all 43 forces
Staff/consultancy to manage implementation

Delivers
Faster diagnosis and faster treatment support earlier return to work by sick/injured officers. More officers available for operational deployment. Fewer officers on long term sick leave. Ultimately fewer medical retirements.

Likely to be welcomed by ACPO and APA

Targets and priorities
Supports police efficiency target

7. Police Standards

Cost
£18M (£3.4M running costs: £14.6M programme costs)

Buys
Full complement of 60 PSU staff. Details available on request.

Support for policing and in particular Basic Command Units (BCUs)
Development of Codes of Practice
Intervention in Policing Priority Areas (PPAs)
Auditing, Measuring and Monitoring Police Performance
Establishing Good Practice
Training and Development support for BCUs
Knowledge Management

Delivers
Improves performance in tackling crime – reducing variations in clear-up and detection rates and differences in recent success in reducing different categories of crime.

Reduces the variations in performance on personnel issues (sickness rates, ill-health retirements, etc).

Reduces bureaucracy and paperwork.

Removes barriers to effective policing and supports effective partnership..

Tackles drug abuse.

Improvements in the use of the extended police family; policing major events; effective deployment of police officers and the use of IT.

Targets and priorities
The Police Standards Unit work influences the following Delivery Priorities:

Priority 1: Reduce crime and the fear of crime
Priority 2: Reform the police service
Priority 3: Improve delivery of justice
Priority 4: Tackle drug abuse
Priority 5: Ensure efficient asylum process

And Public Service Agreements:

Objective I: reduction in crime, particularly youth crime, and in the fear of crime; and the maintenance of public safety and good order.

Objective II: delivery of justice through effective and efficient investigation, prosecution, trial and sentencing, and through support for victims.

8. Custody Nurses

Cost
£4m

Buys
The development of a training package and roll out to 43 forces.
Central provision for the recruitment of qualified nurses.

Delivers
Reduction in the delay in prisoner assessment, thereby reducing the burden on officers. Increased safety for prisoners – reduction in deaths in custody through on-site provision of medical care. Costs associated with medical care are reduced – this is a spend to save initiative.

Targets and priorities
Significant contribution to PSA targets on reducing crime and the fear of crime through the release of constables to operational duties.

9. Vehicle Transport Cells

Cost
£3.2m

Buys
Would convert 5 vehicles per BCU, enabling each to have the use of a protective cell fitted in the rear of patrol vehicles to protect the driver and to prevent the escape of the detained person.

Delivers
Removes one of the obstacles to double-crewed vehicles – concern for officer safety when transporting prisoners. Would increase capacity to deal with prisoners detained by newly empowered Community Support Officers. Increasedsafety for prisoners. Saving of 2,325 police officers per annum, assuming a journey time of 30 minutes to and from custody suites and 3 hours processing prisoners. Potential savings would be less if delays in processing were minimised. Increased savings in rural areas where there are long journey times to custody suites. Potentially wider benefits if single crewing were introduced outside of prisoner transportation.

Targets and priorities
Contributes to PSA targets on reducing crime and the fear of crime through release of police officers from non-patrol activities.

10. Non-Emergency Contact Number for Police

Cost
£10M
A bid for further funding is being submitted in SR2002.

Buys
The first year of an incremental approach in which the long term objective is expected to be to provide a Police Direct service capable of full call resolution – that is handling calls on a geographic basis and directing those calls to the point of resolution without caller re-dialing.

A national capability would develop. The intention is that forces would be added to the national "Police Direct" number as capability spread.

Delivers
Improved service to the public through an accessible telephone service for the citizen.

Start of implementation of "Police Direct".

Full feasibility study with details of options due to be completed by end March 2002

Targets and Priorities
High priority. Commitment to pursue this service, subject to feasibility and cost, in "Policing in the New Century – a Blueprint for Reform". With intention of running pilot by March 2003.

11. Livescan Equipment

Cost
£11.1M

Buys
Livescan equipment – an electronic fingerprint capture device - for each BCU for one year; the network links to NAFIS, PNC and NSPIS; and custody and service management and support provision.

Delivers
Would halve the time it takes to take fingerprints; a reduction in error rates; an increase in positive identification; and shorter investigations and time to court. An increase in first time positive identification often leads to a guilty plea and a significant saving of police officer and court time. There would be a major overall reduction in the time that police officers spend in checking identities, processing prisoners and preparing files – a saving of one hour of police officer time per prisoner for 1.2 million prisoners per year. This equates to an additional 700 officers per annum.

Targets and priorities
Significant contribution to PSA targets on reducing crime and the fear of crime through the release of police officers to operational duties. Also contributes to reducing the time taken from arrest to sentence or other disposal.

12. Roll out of Video ID Parades to all forces

Cost
£7.7m

Buys

Develops the central capability and equipment and infrastructure necessary to roll out the benefits of video i.d. parade services operating in the ten robbery forces to all forces. Provides the service free at the point of delivery for the first year.

Delivers

Ensures the significant benefits – in time savings, care to witnesses and tackling street robbery - provided by video id parades are extended to all forces within a year. Ensures all forces operating id parades to the same national standard with an improved success rate of parades - from 60% to 90%. Central service provides opportunities for intelligence gathering and sharing between forces. Reduction in bureaucracy and duplication of effort resulting from all forces operating one system.

Will increase the likelihood of guilty pleas and successful prosecutions across all forces.

Targets and priorities
Significant contribution to PSA targets on reducing crime and the fear of crime through police officers being released from station activities to operational duties. Would contribute to increase in levels of public confidence in the CJS; numbers of offenders brought to justice; reduce time taken from arrest and disposal; robbery in the principal cities of 14% by 2005; and the time taken from arrest to sentence for persistent young offenders.

13. Development of E-Policing And Associated Publicity Campaign

Cost
£3m

Buys
Delivery of the user requirement, design, development, testing and first year maintenance of a range of on-line services via the police portal. Current priorities include Frequently Asked Questions, recruiting and lost property. Associated publicity campaign which could also be linked to that for a new single number for non-emergency calls.

Delivers
Reduction in the demand on response officers to attend minor tasks and enquiries, thereby increasing the amount of time spent on front line policing. Improved services to the citizen through an accessible online service.

Targets and priorities
Contributes to e-government objective of appropriate services on-line by 2005 and PSA targets on reducing crime and the fear of crime through the release of constables to operational duties.

14. Crime Fighting Fund (CFF) Top up

Cost
£3.8M
£6m per year thereafter to fund the extra 200 officerscovered by proposed SR 2002 bid.

Buys
200 additional CFF recruits in the second half of 2002/03.
Initial residential training costs for 200 extra recruits

Delivers
Raises total CFF recruit numbers over 3 years to 9,200. Provides additional margin for achievement of 130,000 officers.
Extra recruits could be targeted to areas of high crime or where strength remains below record levels.

Targets and Priorities
Links to Police Recruitment Delivery Plan

15. Pilot Scheme To Retain Officers Post 30 Years Service

Cost
£2.8M
Cost relates to bringing forward payment of lump sum of officers who would have remained in the service longer than 30 years anyway from the date when the officer would have retired. It is estimated that around a third of the officers who are accepted for the scheme would have remained for at least a year longer without the scheme.

Costs will increase if the number of forces and officers involved increases.

Buys
Retention of 40 West Midlands, 50 Met Police, 20 Hampshire and 20 West Mercia officers for up to 4 years.

Delivers
Pilot for 30+ scheme agreed by PNB. Will provide data to gauge expectations of take up for national scheme.

Valuable skills and experience retained in operational roles by forces (forces choose who stays).

Additional skill transfers from the retained officers, particularly important in the context of the currently high levels of recruitment.

Targets and priorities
Links to Police Strength Delivery Target

16. Special Constabulary Recruitment & Retention:

Cost
£13.9m
(A SR2002 bid aims to achieve a target strength of 20,000 specials by 2005/06.)

Buys
Introduction from 1.10.02 of a tax-free (subject to Treasury agreement) allowance for specials. This will be paid in return for a minimum commitment of hours: (£2,500 pa for an aggregate commitment of 8 hours per week; £1,250 pa for an aggregate commitment of 4 hours per week).

A Challenge Fund to support the recruitment of 1505 additional specials (35 in each force) covering on-cost support: recruitment, training and equipment.

Improved HR management Funding for one additional dedicated member of HR staff per force initially for one year. Bids for alternative special HR initiatives to achieve the aims below might also be considered

- Co-ordinate recruitment/management so that "career specials" (i.e. long-term volunteers with no interest in joining the regulars) and those wanting to progress to the regulars are identified and managed appropriately
- Ensure management information systems, data collection and records are in place – to administer the new allowance and to monitor performance and best value. These vary widely among forces and are largely inadequate
- Improve recruitment processes are streamlined prior to increased recruitment in 2003/4

National Recruitment Standards - establishing national medical and fitness criteria

Publication of Home Office/ACPO best practice guidance and training seminar for force commandants

Production and broadcast of two bursts of national TV advertising following the advertising for regulars; press advertising and support material and response handling.

Delivers
Recruitment of an additional 1505 special constables in 2002/03

Current projections for recruitment and wastage of specials until 2005/06, based on a successful SR 2002 bid, are as follows:

	(2001/02)	(2002/03)	2003/04	2004/05	2005/06
Opening Strength	12738	10901	9432	12956	16480
Recruitment	842	822	5025	5521	6010
Wastage	2679	2291	1501	1997	2486

Closing Strength	10901	9432	12956	16480	20004

1505 additional specials would have the immediate effect of halting the decline in numbers. It would also enhance the likelihood of meeting/exceeding the SR2002 targets.

Targets and Priorities

The bid supports:

Home Office Aim 1 PSA Targets 1 and 2 " to reduce crime and the fear of crime"

- Specials activity is to be focussed on high visibility patrolling and local intelligence based crime reduction initiatives. Using specials local knowledge to target local crime problems has been proven to be successful (e.g. 50% reduction in robberies in Deptford Market following initiative by local special)
- Specials are an important "seed-bed" for recruitment of regulars. Over 450 specials joined the regulars in 2000/01
- Increasing police numbers also helps Chief Officers to be able to deploy officers to duties which may be more effective in terms of reducing crime as well as those effective in terms of reducing fear of crime.
- Ensuring that specials are recruited and trained to national and effective, competency/role based standards helps improve their worth to police forces, their colleagues and their communities.
- Improving the professionalism of the Specials will aid the effective delivery of justice.

Home Office Aim 7 "to support strong and active communities in which people of all races and backgrounds are valued and participate one equal terms

- Special constables are an excellent direct method of encouraging active citizenship and enabling the public to act in partnership with the police. This will support the Home Office's work in building social cohesion and community engagement.
- The Special Constabulary figures for diversity in recruitment are proportionally better than those of the regular police, (about 15% of the total strength in the Metropolitan Police and West Midlands Police, 10% in West Yorkshire). Specials therefore help police forces to better represent their communities.
- Disconnected communities tend to have poor relationships with the police. Active partnership with the police through participation in the specials can only aid community relations.
- Such active partnership also aids civic renewal by encouraging members to take pride in the communities they are helping to create/protect. An example of such a partnership is the "cop shop" manned by Specials in Tooting Mosque, which will provide a venue for third party crime reporting as well as engagement in recruitment, crime prevention and other activities.
- Reducing the fear of crime helps encourage people back in to their communities and in to active participation in local affairs, which can help overcome problems affecting communities in need of regeneration.

- Working and training as a special gives members transferable skills which can aid personal as well as community development in the longer and wider term.
- Improving the data available on specials will mean lessons can be learned in dismantling barriers to improve the diversity of recruitment for regulars.

17. Police recruit Training

Cost
£20M
No continuation funding required - after the foundation training, forces pick up any ongoing training costs. There will be an SR 2002 bid for increased probationer training requirements in future years

Buys
Foundation training for an additional 2120 new police recruits.

Delivers
The current baseline enables National Police Training to train up to 3,600 recruits, and the CFF money a further 2,600. Requests have been made by forces for a further 2120 training places in 02/03

Targets and Priorities
Meeting the commitment to increase police numbers and achievement of the target of 130,000 police officers by Spring 2003.

18. Housing Co-ordination

Cost
£0.1M
(Continuing Commitments. There would be a continuing cost for the secondee and possibly for the risk premium if it had to be spent in the first year. Provided the scheme was successful, it would be reasonable to expect the Police Authorities for the forces involved to pick up the cost in future years.)

Buys
Police service secondee to NHS Housing Co-ordinator team to enable the team to negotiate rented housing provision for police officers as well as NHS staff.

Risk premium to cover rental liability costs arising from any unlet homes. Minimal risk because of size of potential tenant pool.

Delivers
Housing costs identified as significant problem for recruitment and retention in and around London.

Access to choice of affordable rental housing for police staff in areas where the costs of house purchase or private rental are inhibiting recruitment or retention. Housing Co-ordination team negotiates long term contracts with Housing Associations for availability of rental units. Occupiers pay rent. Risk premium covers potential cost of unoccupied housing units.

Will be welcomed by ACPO and APA.

Targets and Priorities
Supports police recruitment Delivery Target

COMMUNITIES

The Community Cohesion package

Cost
£11.35m (of which £0.5m is capital grant)

(i)	Funding for Community Cohesion Unit	£2.3m
(ii)	Funding for Summer Activities programme	£7m
(iii)	Community Assets pilots	£0.75m
(iv)	CRE community project pilots	£0.5m
(v)	Youth leadership Fund	£0.8m

SR2002 Bids will be submitted to continue work in all of these areas.

Buys
Funding of the Community Cohesion Taskforce; funding for Community Cohesion Unit; team of Government officers in the North dedicated to Community cohesion work; conferences and marketing activity; research to support policy work; pump-priming.

National programme of Summer Activities, targeted at areas of possible race disturbance in 2002. Will be supported nationally through interdepartmental joint working and co-ordinated locally through Regional Government Offices.

Capital grants of up to £500,000 for around 5 community groups in Bradford, Burnley and Oldham. This will fund the provision of advice and support on asset-based community development, including enabling them to improve their premises with the objective of delivering more services which bring together different sections of these communities and which also help strengthen the sustainability of these community groups, including generating income. Funding will also cover evaluation, to learn lessons for incorporating in ongoing support.

Pilot scheme: new community projects aimed at reconnecting communities. Funding would specifically support local/regional race equality partnership work (cross communities not single communities). Less than 2% of funding would be used on grant administration.

Fund to pilot new Leadership programme for "older" young people (in the age group 18-25). Will provide opportunities for experienced young people to take advantage of training received in previous programmes, to perform a key role in their community, putting across fundamental messages to their peer groups on community cohesion and citizenship.

Delivers
Support for implementation of Government's agenda on community cohesion, helping to make best use of resources across Whitehall for Government's community cohesion objectives; evidence base for policy; external advice; team on the ground in key areas (Bradford, Burnley and Oldham) approx 400,000 young people in constructive activities over summer holiday period. Will reduce likelihood of repeat

of the Summer Disturbances, and further development of community cohesion agenda by engaging young people.

Valuable experience of what works for applying to expanded programme in the future; growth in social capital in areas involved (of direct social benefit - generation of income stream, benefits in terms of crime reduction, drug misuse etc)

New set of strategic relationships and funding principles for local race equality work. Will lead to innovative cross community working, increased capacity building and improved range of funding alliances in support of community cohesion.

Mechanism by which we can get good and experienced young people to interact with their peer group to deliver key messages about citizenship and community cohesion.

Targets and priorities

The bid is for funding to implement the Government's community cohesion agenda in 2002-03. Some of this work has already started following the report of the Ministerial Group on Public Order and Community Cohesion in December 2001, however it is currently unfunded.

Targets and milestones will be set in the HO Business Plan for 2002-03.

JUVENILE OFFENDERS

1. Dealing with Additional Remanded and Sentenced Juveniles

Costs

£104 in 2002/03 then £136/143/143m throughout SR2002 period

Needs to be seen in the context of a very poor funding position. After SR2000 we had to undertake to find extra money urgently needed for youth justice from the core Home Office budget. The commitment above our SR2000 baseline is £34m for 2002-03 rising to £60m in 2003-04 and £75m annually thereafter for which we have not been able to find a source of funds. This package includes that shortfall. It relates to the existing STCs expansion programme; the existing Intensive Supervision and Surveillance Programme; and for part of the 'Bridging the Gap' commitment to provide 30 hours of week of education, training and constructive activity.

The new measures for juvenile remands and population pressures cost an estimated £70m in 2002/03 then £76/68/68m in the following 3 years. They are costly partly because of the speed with which they have to be taken; partly because the supervision of young people in custody is necessarily staff intensive; and partly because diversions need good supervision.

Buys

An emergency package of measures to find additional secure accommodation to hold juvenile custodial remandees through a mix of conversions, reopening older accommodation and quick build on sites where we already have basic planning consent. Where possible we would use the limited available space in the Prison Service juvenile estate, but some of the places will have to be outside it and suitable for younger juveniles. These measures would create up to 100 places by June and in total 300 by the end of the year. The main elements are for £18/11/11/11m for 180 refurbished and ready-built places and £17m annually to purchase a mix of 120 Prison Service and non-Prison Service places.

Alongside tagging, additional measures to provide for effectively supervised forms of bail and early release attractive to the courts and publicly acceptable. During the coming year, implement nationally the Intensive Supervision and Surveillance Programme and bring in a wider range of bailees nationally. Set up some remand fostering schemes. And we think we can make some early releases from custody with electronic monitoring. Together we estimate that these measures along with tagging would, through diversion, provide the equivalent of around 100 custodial places by June and 500 by early next year. The main elements are £13/15/11/11 for early releases with tagging and moves from closed to open conditions freeing up to 240 secure custodial places. Also £17/25/21/21m for tagging 1800 plus people a year and intensive supervision alternatives to custody together freeing up 200 custodial places. Finally, £5/8/8/8 for 80 remand fostering (i.e.bail) places.

Delivers

Robbery and other offences committed on the streets by young people – many under 18 - have been increasing fast in London and elsewhere. This is a real problem for the community, and we need to address it. The police and youth justice services need to bring young offenders quickly before the courts, ensure effective remands, get to conviction and sentence quickly and administer appropriate sentences. Moreover, taking account of the general crime problems the Lord Chief Justice has told the courts to treat significant periods in custody as an automatic sanction for a whole range of offences. For juveniles alone, we expect these developments to push up the demand for custodial places by 500 this year.

The Home Secretary has no choice but to meet these pressures. And it does not stop there. We have had on the statute book since early 2001 legislative power both to tag juvenile bailees (a promising alternative to custody for some) and to extend the present secure remand powers to young bail bandits – medium level repeat offenders who cause so much distress to the community by continuing to offend time and again while their cases are being brought to trial. The Home Secretary has hitherto held back on implementation for financial reasons. But the powers have now been on the statute book for a year and there are expectations that he will move fast to implement them.

Together we expect these requirements to push up the demand for juvenile custodial places by 900 this year. Once we allow for existing vacancies, that means a gap we must close of about 730 – equivalent to a 25% increase on the present juvenile secure estate.

Clearly, so far as possible this gap should be met by available non custodial alternatives to secure remands. But to convince the courts and the public, they have to be well supervised options. And, inescapably, a significant proportion of the package will need to be in the form of custodial places. That is where all the pressure and expectations are and we can only handle some of it through diversion.

As a first step the Home Secretary has now had to go ahead and announce, on 26 February, his intention by June to implement nationally the electronic monitoring of juveniles on bail both for serious and for medium level repeat offenders. That will be a significant first step but it will by no means be enough.

2. High supervision fostering with day care

Costs

£200K in 2002/03 followed by 1200/1200/1200K in SR 2002 period.

Set-up costs £40k per 5 places. Continuing annual costs £300k per 5 places. Pilots for 20 trainees to start March 2003 (takes a year because of need for specialist training). Evaluation cost £50k over 3 years.

Buys

We propose to run 4 pilots, ie for 5 offenders each, in different parts of the country. Target group: limited administratively to those who meet criteria for custodial remand or sentence. Would operate through bail or supervision orders, plus electronic monitoring/curfew if court so decides.

The YJB would commission independent university evaluation. Operational report Spring 2004, reconvictions Summer 2005.

Delivers

Specialist remand foster carers would care for young offenders in their own homes. Each carer provides only one placement, although there may be other children of the carer's own household living at the address. Children would always be placed outside their home area, to break the patterns associated with inappropriate peers. Schemes are based on groups of five foster placements in a local area – with one activity centre providing daytime occupation for the young person, a project manager, part of the time of a project development worker and sessional staff.

During the day the young person is required as a condition of placement to attend structured daytime activities. This will include education, sport and voluntary work for school age children; work placements, leisure activities and voluntary work for older children. High levels of supervision (up to 24 hours per day) are possible, according to the offender's needs and the risk they may present.

WHO CAN DO WHAT?

20 March 2002

TWO URGENT GOALS

- Identify, arrest, charge, process through courts and sentence perpetrators as fast possible
- Through policing and other local agencies (such as schools) prevent robbery occurring wherever possible

ATTORNEY GENERAL / CROWN PROSECUTION SERVICE

- Work with the police on strengthened case preparation
- Prioritise robbery cases for the "premium service"

LCD / COURTS

- Prioritise robbery cases
- Open courts, evening and weekends to speed up processing
- Improve support for victims and witnesses
- With Home Office, toughen bail conditions
- Urgent training for magistrates on bail decisions

HOME OFFICE

- YOTs to prioritise robbery
- Expand capacity of prison, probation and resettlement
- Hotline number for information on street robberies
- Take forward with industry to invalidate stolen mobile phones
- Extend tagging for offenders
- Strengthen impact of DTTOs

EDUCATION / SCHOOLS

- Ensure schools welcome police
- Exchange information with police
- Active co-operation with police in known hotspots (e.g. Southwark)
- Implement discipline / behaviour policy
- Work with police to keep truants of streets
- Ensure full timetable for every excluded pupil
- Youth Service / Connexions
- Support initiative through the Children's Fund

DTLR / LOCAL GOVERNMENT

- Strengthen all CDRPs (to the level of the best)
- Neighbourhood Renewal / Local Strategic Partnership on board
- British Transport Police backing
- Improve local environment (broken windows / abandoned cars)
- Housing for offenders leaving prison

DEPARTMENT OF HEALTH

- More drug treatment provision
- Social Services involved in information exchange
- More mental health support
- Strengthen provision for looked after children

DWP

- Employment benefit and training options for offenders

DCMS

- Activities for children at risk of crime

EVERYONE

- Ministerial / seminar official contributions to regular action meetings
- Rapid response to actions identified here
- Any barriers to rapid progress identified and removed
- Data clearing arrangements in place
- Work flow projections
- Audit of communications
- Commit resources

1. David Phillips should speak immediately after the presentations.

2. Alistair Darling has top at 9 am

3. Gus McDonald has b p at 9.15 am.

- *extend opening hours/ use weekend courts*
- *Appoint more District Judges to high crime areas*
- *Provide urgent guidance and training to judiciary/ magistrates on* ***bail conditions*** *(tougher conditions and tighter procedures for defendants who fail to attend/ intimidate witnesses/ breach conditions) and* ***tagging for street crime offenders*** *on bail and as a condition of sentence*

COMMUNITY INTERVENTIONS

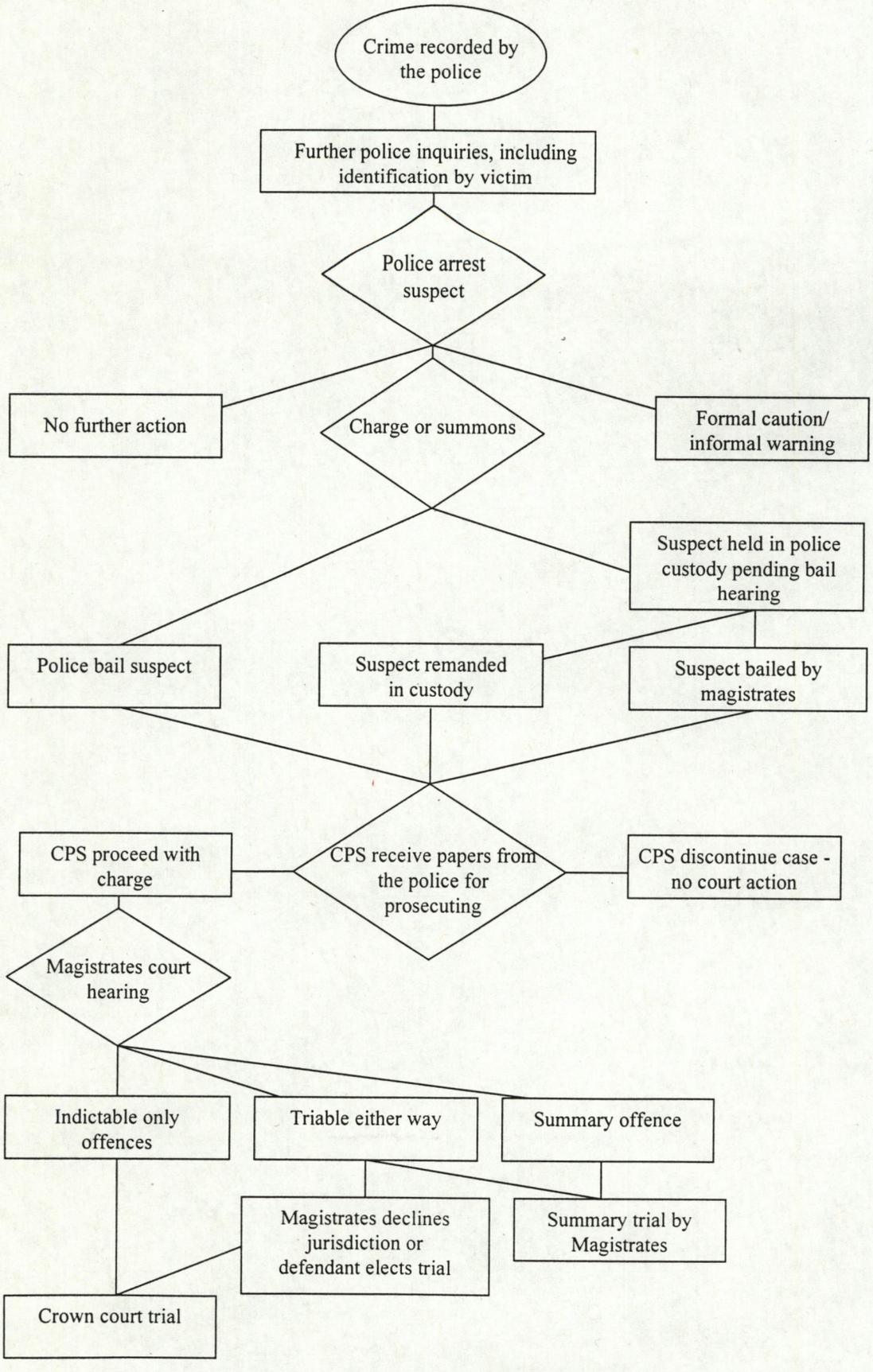
Education

- ensure schools welcome police and help identify problems and take early action, ~~e.g.~~ ~~organising safe transport routes to and from schools~~

  What will you do to address range of ideas for work with police to ***tackle specific issues at/around hotspot schools*** *– for example use of allocated police officers, or even full time police officers on school premises; security warden patrols around high crime schools at end of school day?*
- make sure schools/education authorities exchange information with police, social services, etc on known troublemakers and also on children both at risk of offending and of being victimised.
- make sure that schools implement anti-bullying policies and commitments to safe environments, supported by rigorous high priority inspection

  How can schools deal explicitly with street crime issues – could they, for example, be incorporated into curriculum?
- work with police to keep truants off streets and to identify children not on school rolls
- ensure arrangements for needs of excluded children

Arrest to Sentence



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The Rt Hon the Lord Goldsmith QC

ATTORNEY GENERAL

9 BUCKINGHAM GATE
LONDON SW1E 6JP

020-7271 2460

The Rt Hon David Blunkett MP
Secretary of State for Home Affairs
Home Office
50 Queen Anne's Gate
London, SW1H 9AT

19th March 2002

Dear David.

STREET CRIME

Thank you for your letter of 18 March. We also spoke on Friday about this initiative, and I undertook to consider what action can be taken by the Crown Prosecution Service.

I am convinced that the Crown Prosecution Service can make a significant difference and that it is right to step up the priority accorded to robbery case preparation. A tailor-made package will be required, to ensure that effort is properly focused on these cases. I **attach** details of a premium service scheme that I propose, which relies on close co-operation between the CPS, the police, and the courts. It will involve the commitment of dedicated lawyer specialists to the initiative, in order to build up close liaison with police teams, to ensure consistency, and to help the development of a robust prosecution culture. It is essential that the CPS is brought in at an early stage to provide advice on the evidence that will be required to mount a solid prosecution case, and that thereafter they stay on top of the case until its conclusion. This will require the provision of extra resources, but experience suggests that investment of relatively small sums, aimed at the right pressure points, and provided at an early stage, can make an enormous difference.

I am giving further thought to other issues. In particular:

(1) steps that might be taken to avoid potential problems from disclosure difficulties;

(2) producing a package of measure to deal with witness intimidation and reluctance.

ATTORNEY GENERAL

Subject to any views that you may have, I propose to outline these ideas at the meeting tomorrow. I should add that more work will be necessary to develop the ideas and assess their feasibility, but this work can be undertaken while the rest of the robbery initiative is being rolled out.

Finally, I suggest that we keep two further points in mind. First, we should encourage the criminal justice agencies to work co-operatively together. Our experience is that we can deliver significant change through a joined up approach. Secondly, we need to link this new initiative in with other work that is planned or is taking place, so that those on the front line who will be undertaking the work will have a clear understanding of what is being required of them and how it fits in to the overall picture.

Yours ever

Lee

ROBBERY RESPONSE – PREMIUM SERVICE

The items below arranged under their respective headings represent the basis of a premium service for street robberies passing through the criminal justice system.

The desirability of use of each item will be dependent on case volumes and availability of resources. A flexible use of the premium service can be applied according to the needs of the case and all the surrounding circumstances.

Pre Charge

- Early identification is paramount at the arrest stage – unless, of course, previously targeted in connection with crime series investigation.
- Make an early assessment of the investigation and likely outcomes
- Generate early/continuing legal contact with experienced CJU/TU lawyers (opportunities at intelligence, investigation and charges stages)
- Early agreement on evidential target plan, especially forensic and medical evidence
- Determine the optimum time – with legal advice -for arrest and commencement of proceedings where there is pre-planning and charging advice
- Police response to the crime scene investigation in relation to attendance criteria and forensic opportunities
- Officer in the case to be a [trained/experienced] detective
- Exploitation of DNA opportunities at crime scenes
- National standard of investigation including supervision regime [Aspirational only at this stage}
- Have a thoroughly prepared team to conduct a focussed interview with specific aims in mind [trained interviewers]
- Assign experienced officers to handle the case and work with file builders
- Create a cadre of experienced lawyers as case handlers for street robbery files or use of special caseworker lawyers
- Agreed prosecution plan including agreement as to the charge, standards in relation to future investigation and evidence, agreed time scales for any additional evidence collection, including agreed case handling and a shared view on case outcome

Preparation for and conduct of hearings at court

- Prioritise the quality preparation of files and determine the best method of case presentation – even in guilty plea cases, so as to maximise the impact of say CCTV evidence and to ensure that the charging is commensurate with the seriousness of the offending behaviour

- Encourage an ethos of robust "no deal" prosecutions – whether it induces additional trials or not, so as to bring home the seriousness with which the prosecution regards the offending behaviour. This might include applications for remands in custody wherever possible. Appeals against decisions to grant bail to be part of normal routine – where appropriate.

- Public interest criteria – consider presumption in favour of prosecution

- Thorough and detailed knowledge of previous misconduct on bail being available for bail hearings with information from local intelligence files backing up PNC print outs

- Not writing off prosecutions as being contrary to public interest to proceed in cases where defendant unlikely to obtain "further" punishment

- Police not to write off prosecutions without agreed referrals to ensure that no prosecution possible. CPS discontinuance to be subject to additional line management supervision and accounting

- Police to enforce non-attendance at court or to police stations as a priority, following issue of a warrant. Speedy procedures for warrant issue notification to be made to inform police as soon as possible

- Agreed procedures with the court to inform them of the defendant's background – to inform sentencing and remands

- Listing arrangements to reflect the complexity of the cases and proper time to be allowed to develop most of forensic opportunities

- Pre trial hearings to be conducted with agreed aims and with firmness. Prosecutions to be run with pro-activity rather than reactive

- Challenge probation pre-sentence report inaccuracies

Post sentence

- Encourage proper release reception plans – including inter agency co-operation during sentence – intelligence collection, rehabilitative regime, risk assessment in relation to further offending

DEPUTY PRIME MINISTER

OFFICE OF THE
DEPUTY PRIME MINISTER
Dover House
Whitehall
London
SW1A 2AU

Tel: 020 7276 0400
Fax: 020 7276 0196

The Rt Hon Stephen Byers MP
Secretary of State for Transport, Local Government and the Regions
Eland House
Bressenden Place
London
SW1E 5DU

MEL
NB.
CS.
OMC
JR

19 March 2002

DRINK-DRIVE BLOOD ALCOHOL CONCENTRATION (BAC) LIMIT

This letter gives you DA clearance to proceed as proposed in your letter of 28 February in which you sought agreement to announce your decision not to lower the drink-drive blood alcohol concentration (BAC) limit from 80mg to 50mg.

Replies were received from David Blunkett and Charles Clarke.

David fully supported the decision not to reduce the BAC limit and the proposal for an early announcement of that decision.

Charles favoured a reduction to 50mg. However, he understood the arguments for retaining the BAC limit at 80mg.

Subject to the views expressed above, you have DA clearance to proceed as proposed.

I am copying this letter to the Prime Minister, members of DA and to Sir Richard Wilson.

JOHN PRESCOTT

Web site: www.cabinet-office.gov.uk
Email: john.prescott@cabinet-office.x.gsi.gov.uk

INVESTOR IN PEOPLE

MATRIX

OHC
dc JR
JJH
JN

Treasury Chambers, Parliament Street, London, SW1P 3AG

The Rt. Hon. David Blunkett MP
Secretary of State
Home Office
50 Queen Anne's Gate
London SW1H 9AT

19 March 2002

Dear David,

AULD/CRIMINAL JUSTICE SYSTEM (CJS) WHITE PAPER

I have seen Lord Irvine's letter to you of 1 March 2002 and your response of 6 March 2002 on the scope, content and timing of the White Paper on Auld and the CJS. I thought it would be useful to write to set out my views.

2. I can see that a comprehensive White Paper on the CJS may be useful in allowing a thorough assessment of system wide pressures and the best policy mix to meet our objectives of establishing a modern and effective CJS.

3. I am, however, strongly opposed to the publication of such a broad White Paper before the conclusion of the Spending Review. With the

CJS struggling to deliver on existing commitments, despite significant additional resources since SR2000, it would be wrong to add more policy commitments without knowing if the resources to fund them will be available. A May White Paper would either have to be so bland that it achieved little purpose or would raise expectations that could not then be delivered on.

4. As you are well aware, the overall resource position is going to be much tighter in this spending review than the last. I am concerned that public expectations may already have been raised by the White Papers on the police and asylum, which cannot be met within the sort of settlements, which are likely to emerge from the Review. A further White Paper of the sort you envisage would exacerbate that situation further.

5. Without any knowledge of the detail of what you propose, I cannot comment on the likely content of a paper. I should be grateful if you could ensure that my officials are involved in developing it. I understand, however, that the paper is likely to cover a number of initiatives, which have yet to be cleared by DA. That will also add pressure to a May timetable. I will also need to see a full cost benefit analysis of any new proposals, including the evidence underpinning them.

6. I believe that publication of any widely based White Paper should be delayed until after the Spending Review. For the same reason, I would

prefer that any White Paper on the Government's response to the recommendations of the Auld Report should also wait until the conclusion of the Spending Review.

7. If, in the light of commitments already made, however, an earlier publication is deemed essential, then a very narrowly defined and tightly focussed White Paper – that is, one addressing the recommendations of the Auld Report alone – is vital. It must also avoid pre-empting decisions in the Spending Review or raising public expectations in any way. I will also need to see a full supporting cost benefit analysis for the Auld proposals as part of the policy clearance process.

8. It could still place the Auld reforms in the wider context of the CJS, but need not pre-empt publication of the broader sort of White Paper you propose after the Spending Review.

9. Copies of this letter have been sent to the Prime Minister, Lord Irvine, Lord Goldsmith and Sir Richard Wilson.

Best wishes,

ANDREW SMITH

02072733965

rachel.jenkinson@cabinet-office.x.gsi.gov.uk

JR

cc: OMC
JSM

Home Office

Home Secretary
50 Queen Anne's Gate, London SW1H 9AT

The Rt Hon Andrew Smith MP
Chief Secretary to the Treasury
Treasury Chambers
Parliament Street
LONDON SW1P 3AG

Dear Andrew

18 MAR 2002

STREET CRIME ACTION GROUP

In view of the mounting public concern about the levels of street crime in our major cities, the Prime Minister has pulled together this week a committee of Cabinet colleagues and others in order to oversee the progress of the major initiative which were are announcing to get on top of this problem. This Street Crime Action Group will be meeting on a regular basis, and I am writing on behalf of the Prime Minister to look forward to you playing an important role as a member of this Group. Its first meeting will take place in the Cabinet Room at 8 am this Wednesday, 20 March, and for this inaugural meeting the Prime Minister will take the Chair.

I attach the agenda for Wednesday morning's meeting. There will be four presentations to bring colleagues up to date with the initiative: each presentation will be very short. I then hope that the rest of the meeting will concentrate on the action that needs to be taken, both by those responsible for the management of the criminal justice system and by Departments will wider social and economic responsibilities, to make that initiative a success.

Within the criminal justice system, I suggest that the following action needs to be considered:

- the police to step up their operations against robbery by targeting hotspots and making more arrests;

468DB

- the police to ensure that evidence is brought to bear swiftly and systematically, whether from forensic analysis, identification procedures, or anywhere else, to enable early charges to be laid.;

- the police to ensure that all relevant information is available for the first court hearing, and to liaise with the Crown Prosecution Service and/or Youth Offending Team in order to make cogent recommendations on the appropriate remand/bail decision;

- the Crown Prosecution Service to step up the priority accorded to robbery case preparation, in terms of fast-tracking cases, deploying top quality lawyers, and working closely with the police;

- the courts to give priority to robbery cases, if necessary introducing extra sittings to deal with the increased workload;

- the judiciary and magistrates to be kept closely informed of the nature and extent of the robbery problem in their local areas;

- Youth Offending Teams to give priority to their work on robbery cases, including the preparation of pre-sentence reports;

- the prison and probation services to have plans in place to deal effectively with the expected increased numbers of robbery offenders with whom they will be asked to deal.

But this is of course not only a problem for the criminal justice system. The commitment of other departments, given the need to address both prevention and cure, will be absolutely crucial in delivering our objective of reducing robbery. For example, we need to ensuring that the initiatives to support young people through education and into employment - eg connexions, modern apprenticeships, mentoring - work properly for those in inner city areas.

The following paragraphs set out what I suggest are some of the more pressing needs.

The Department for Education and Skills can:

- ensure that police are welcomed into schools to help to identify problems and take early action, for instance in organising safe routes to and from schools;

- make sure that schools and education authorities are ready to exchange information with the police, social services, etc on known troublemakers but also on children both at risk of offending and of being victimised.;

- make sure that schools have deadlines for implementing anti-bullying policies and commitments to safe environments, supported by rigorous high priority inspection;

- work with the police to keep truants off the streets and to identify children who are not on school rolls;

- ensure that arrangements are made to meet the needs of excluded children.

The Department of Transport, Local Government and the Regions can help by:

- securing commitment from local authorities to work with the police to tackle the robbery problem through partnership working and information exchange;

- ensuring that neighbourhood renewal and Local Strategic Partnership strategies take full account of the need to tackle street crime;

- securing the fullest involvement of the British Transport Police in the initiative;

- more generally, by encouraging environmental improvements which will reinforce a sense of civic pride and involvement in high risk areas;

The Department of Health can play a vital role by:

- ensuring that necessary drug treatment provision is available;

- making sure that early diagnosis and remedial action are available for children with mental health problems;

- making sure that social services are fully engaged in exchanging information about children at risk.

Similarly, I hope that we can look to the **Department of Work and Pensions** to:

- ensure maximum provision of employment options for young offenders;

- make provision for their training needs.

And the **Department of Culture, Media and Sport** can make an important contribution by:

- promoting activities which will help to deliver young people at risk from crime.

It must be a key objective for all departments and agencies working with young people, including the police and Youth Offending Teams, to work with each other in identifying problem families and problem young people who may be involved in street crime. There is provision in the Crime and Disorder Act allowing for exchange of information for crime reduction purposes, and it is very important that this should be seen to be happening in all areas.

... I am writing in similar terms to all Ministerial colleagues on the attached list, and copying this letter to the Prime Minister, Sir Richard Wilson, and Michael Barber at the Delivery Unit. I look forward to engaging with you all on these issues on Wednesday and thereafter.

Best wishes,

David

DAVID BLUNKETT

STREET CRIME ACTION GROUP
1ST MEETING: WEDNESDAY 20 MARCH 2002
NO 10 DOWNING STREET, CABINET ROOM

AGENDA

1. **Introduction**
   Home Secretary

2. **Nature and scale of the robbery problem**
   Presentation by Professor Paul Wiles,
   Director, Research, Development and Statistics, Home Office

3. **The ten force area robbery reduction initiative**
   Police and criminal justice agency response
   Presentation by Dr Kevin Bond
   Director, Police Standards Unit, Home Office

4. **The Metropolitan Police Safer Streets operations**
   Presentation by Sir John Stevens QPM
   Commissioner, Metropolitan Police

5. **Robbery reduction issues for the criminal justice system and beyond**
   Presentation by Dr Michael Barber
   Director, Prime Minister's Delivery Unit

6. **Action by criminal justice system agencies**

7. **Contributions from social and economic departments and agencies**

8. **Programme management arrangements and future meetings**

9. **Communications – press notice**

ANNEX

1. The Rt Hon Lord Irvine of Lairg, Lord Chancellor's Office, House of Lords, London SW1A 0PW.

2. The Lord Goldsmith QC, Attorney General's Chambers, 9 Buckingham Gate, London SW1E 6JP.

3. The Rt Hon Tessa Jowell MP, Department of Culture, Media and Sport, 2-4 Cockspur Street, London, SW1Y 5DH.

4. The Rt Hon Estelle Morris MP, Department for Education and Skills, Sanctuary Buildings, Great Smiths Street, London SW1P 3BT.

5. The Rt Hon Alistair Darling MP, Department of Work and Pensions, Richmond House, 79 Whitehall, London SW1A 2NS.

6. The Rt Hon Stephen Byers MP, Department of Transport, Local Government and the Regions, Eland House, Bressenden Place, London SW1E 5DU .

7. The Rt Hon Alan Milburn MP, Department of Health, Richmond House, 79 Whitehall, London SW1A 2NL.

8. The Rt Hon Andrew Smith MP, Chief Secretary to the Treasury, Treasury Chambers, Parliament Street, London SW1P 3AG.

All letters to be copied to the Prime Minister and Sir Richard Wilson.

606 annual - [illegible]

345 days

per [illegible]

46% ↓

[illegible] days

10 [illegible] 1,400 - 1500 /month [illegible] working

new acting = 30% each annual

= 400 - 450 /month

charged = 250 → CSS

RT HON ROBIN COOK MP
LEADER OF THE HOUSE OF COMMONS
2 CARLTON GARDENS
LONDON SWIY 5AA
TEL: 020 7210 1025

Our Ref: LP/02/213/CM

18 MAR 2002

Dear Keith,

PRIVATE MEMBER'S BILL: CRIMINAL EVIDENCE (PROHIBITION OF SALE)

Thank you for your letter about Parmjiit Dhanda's Private Member's Bill on Criminal Evidence (Prohibition of Sale). You may take it that you have approval to oppose the Bill and arrangements will be made to block it if it reaches Second Reading.

The Bill is understood to have been prompted by the case of Fred West where, to benefit the estate, the Official Solicitor acting on behalf of the West children granted various authors and a television company access to material gathered during the course of the criminal investigation.

You argued that the Bill should be opposed. While you had considerable sympathy for Mr Dhanda's concerns, the law had changed since the West case. It now clearly provided that unused prosecution material disclosed to the defence during the course of criminal proceedings was confidential and might only be used with the permission of the court. The Criminal Procedure and Investigation Act 1996 provided that to breach such confidentiality was contempt of court and was punishable by up to two years' imprisonment and a fine. Additional case law reinforced this position. These provisions would have covered the case of the Wests.

A prohibition on the sale of evidence such as that which the Bill appears intended to deliver would, however, present considerable legal and practical difficulties and would have significant ECHR implications. The law provides that the police must return property to its owner once it is no longer needed in an investigation or trial. The fact that material was disclosed as unused evidence or even used as an exhibit in a trial does not affect those rights. It would not be right, for example, to prohibit the rightful owner of a stolen antique or a car from selling the item once the trial was over and the item was restored to him or her.

I note that the Bill is ninth on the list for debate on 10 May. It is therefore unlikely to be reached and, if this proves to be the case, the Bill should be opposed on the grounds that there has not been time to explore the issues it raises. In the highly unlikely event that there is time for substantive debate, I am content for the Bill to be resisted. However, in view of the public concern over this subject, I should be grateful if you would ensure that a thorough presentational strategy is prepared to deal with the issues raised by this Bill.

I am copying this letter to the Prime Minister, members of LP and DA Committees, Sir Richard Wilson and First Parliamentary Counsel.

Yours sincerely

Robin Cook

ROBIN COOK

The Rt Hon Keith Bradley MP
Minister of State
Home Office

Home Office

The Private Secretary to the Home Secretary

rr:onc
JSM
JPo
PH

Justin Russell
Senior Policy Adviser
10 Downing Street
SW1A 2AA

18 MAR 2002

Dear Justin,

The Home Secretary has been giving some thought to the handling of Wednesday morning's meeting. Key outcomes should be:

- commitment on the part of all to supporting the police in a high profile blitz on street crime, starting with a focus on robbery in April;
- agreement on whether blockages in the criminal justice system lie and assignment of responsibility for unblocking them;
- identification of areas where the economic and social departments, local government and partnerships can contribute to the operation – and where in the longer term they can help sustain improvements in crime levels by acting on the conditions which give rise to crime. Assignment of responsibility for taking action in those areas;
- commitment to reporting back at regular meetings (a further meeting to take place a week later; but fortnightly thereafter) and to the development of a performance monitoring regime.

We do not suggest the preparation of papers for the meeting at this stage, but suggest the following format, starting with four presentations of no more than five minutes each:

- the facts – trends and causes (Paul Wiles);
- the Metropolitan Police Safer Streets operation (Sir John Stevens);

- the policing response and criminal justice system – and what other departments can contribute (Kevin Bond);

- round-up and what is needed to make a difference (Michael Barber).

Sir David Phillips might then wish to give an ACPO perspective. But the next part of the meeting would be an opportunity for the Prime Minister to ask each of the departments/agencies represented at the table for an outline of what they could contribute – and a commitment to put up positive proposals for the next meeting. We would provide briefing for the Prime Minister on what each department/agency might be expected to contribute in terms of removing blockages/making a positive contribution to the desired outcomes.

We hope that by Wednesday some of the resource issues will be clearer. The police, in particular, will want a commitment that some, at least, of the extra activity associated with this initiative will be funded through additional resources. There is separate correspondence about this.

As for further meetings, we have to strike a balance between infusing a real sense of urgency in this and allowing people sufficient time to get on with the job; attending meetings and producing papers does not deliver. There may be a case for one further meeting on Wednesday week, but thereafter we would suggest fortnightly sessions – with small groups meeting to pursue specific issues in the intervening periods.

I am copying this letter to Michael Barber.

Yours

Gareth

GARETH HILLS

453GH

TB 10/02
16 March 2002

SHORT-TERM

1. identify on a partnership basis the problem children and youngsters
2. work with schools and social services to bear down on problem
3. put police out on streets
4. those lifted charged, taken to court and tried within days
5. courts to sit at night and weekend if necessary; new stipendaries to be appointed
6. bail to be refused or tagged
7. secure accommodation extended by whatever means necessary
8. hotline number to give information

LONG TERM

1. CDP to be put on more secure footing in the problem areas
2. parents to lose child benefit if children truant and other penalties to be investigated
3. children once convicted, tagged on release or subject to strict conditions including mandatory education and training

4. long-term extra secure accommodation and prison places

5. any asylum-seeker guilty of criminal offence carrying custodial penalty

6. any chargee positively tested for drugs is put on treatment or refused bail

7. disruptive children put in special schooling; not just excluded schooling

TB

02072733965

Home Office

The Private Secretary to the Home Secretary

15 March 2002

Jeremy Heywood
Principal Private Secretary
10 Downing Street
London SW1

JJH
cc OMK
JR

Dear Jeremy

TACKLING STREET CRIME

The Home Secretary discussed ways of accelerating and intensifying his plans for a robbery and street crime initiative with the Prime Minister yesterday. We agreed that the focus of next week's national meeting should be to bring together all those with a contribution to make in order to focus effort on tackling this problem. There was general agreement that additional resources would be necessary to kick start the process but that precise quantification would follow discussion on Wednesday. Nonetheless we need to be clear from the outset that sufficient extra resources will be made available if we are to win the support and co-operation of the police and other services.

Our initial estimates are necessarily broad brush. We do not yet know what demands will be placed on the prisons and others by a sustained drive by the police against street crime. Our initial best estimate is that we might need about £130m resource and £74m capital in 2002-03. There are, in addition, a number of other measures which the Ministerial Board may decide upon – for example, a police crackdown on drugs dealing.

We shall need to tackle the issue in two phases, and fund the programme accordingly. Phase 1 will comprise immediate measures, primarily increased policing effort delivered through increased staffing costs. These measures comprise:

Anti – Robbery Policing	£40m (resource)
Establishing Video ID Parades	£4m (capital)
(First year costs of a project that can be got under way quickly)	
Total	**£40M (resource); £4m (capital)**

But we cannot rely on heavy overtime to sustain the initiative indefinitely so we will need to bring in more support within months of the first phase. This is subject to a variety of constraints including the need to recruit more officers and, in relation to CSOs, the passage of legislation. This phase will include:

Deployment of Community Support Officers	£8m (resource)
Deployment of Custody Support Staff	£5m (resource)
Recruitment & Retention of Special Constables	£10m (resource)
Recruitment: Enhanced Crime Fighting Fund	£4m (resource)
Funding of retention beyond 30 years	£3m(resource)
Total	**£30M (resource)**

The intensified activity will also generate knock-on costs in a number of areas. The Prison Service is already under severe population pressure and the costs of new emergency accommodation are currently being prepared. The Home Secretary will be writing to the Chief Secretary separately about prison places but, for example, to help provide room for new intake we will need to expand the Home Detention Curfew scheme at a cost of around £5m (resource) and an extra 1000 places in prisons for young and adult offenders might cost some £40m in capital and £20m resource.

The initiative should also give rise to the need for more secure accommodation for juveniles – for both remand and sentenced offenders and for measures to release places in existing accommodation by early release with tagging or intensive supervision. We have done some preliminary work on this, which indicates that it could cost in the order of £30m (resource) and £30m(capital) to provide some 700-800 additional places on schemes in fostering and in secure units.

There will be costs for the CPS: processing ensuing arrests through their Premium Service might cost in the order of £5m (resource). This is an indicative cost which we have not checked with the CPS.

There will also be costs for LCD, in gearing up court sittings and, possibly, setting up special courts. We cannot yet quantify those costs.

The consequential costs for remand accommodation, CPS support, and court costs are essential if the initiative is to succeed: there is little point in enhancing policing activity on the streets simply to recycle those arrested onto the streets because the system cannot process them effectively. This is a major source of concern to the police currently, as Sir John Stevens stressed in his recent well-publicised speech; without addressing it, the initiative would be vulnerable to serious police criticism.

In terms of results, over the first six months we would expect to see a levelling off of the rate of increase in robbery with no more offences committed than in the same six month period of the previous year. This would then be the beginning of a sustained further reduction over the following two years. Given that the twelve months to December have seen increases of between 23% and 50% in some of the ten forces targeted this represents a major reduction in the areas which are responsible for 82% of the total for England and Wales.

I should stress that the Met's own safer street initiative has been secured at the expense of substantial reductions in other areas – e.g. traffic policing and through increased overtime. We cannot expect this level of commitment in a sustained way without a major impact on other priorities.

You invited us to identify possible sources of funding.

Some of the capital requirement might be found from the CMF. We have £90m worth of bids currently under consideration by the Treasury. These are important bids which we cannot afford to lose but some re-prioritisation of elements of the bids may be possible but I understand that there is some £300m available in the fund overall.

Some £70m of funding from the Communities against Drugs programme is available next year. Most has, effectively, been promised to the local partnerships, but we might be able to redirect £20-30m if the Treasury were content.

There is also the Confiscated Assets Fund. Subject to DA agreement, the fund will have a budget of nearly £12m, much of which could be used to fund activity under the new initiative.

You also mentioned the Policy Innovation Fund as a possible source of funding and I understand that this would require match funding. The bid for CSOs is perhaps the most obvious candidate here.

Finally, the Criminal Justice Reserve. Uncommitted funds now stand at £7m (resource) and £20m (capital).

These are very much initial estimates – we shall clearly have to do more work on the costings, including with OGDs at the right moment. The contribution of OGDs in their own spheres, such as education, welfare, drugs treatment, will be essential if we are going to make a lasting change, rather than a temporary suppression of the problem. For example, the Home Secretary wants to explore how the Children's Fund might be drawn on in relation to the younger age group.

I must also re-iterate the importance of rolling forward the post-September 11 counter-terrorism resources if we are not to see significant displacement of police activity to security and protection measures.

I am copying this letter to Lucy Makinson and Andrew Allberry.

Yours sincerely

JONATHAN SEDGWICK

02072733965

Home Office

Home Secretary
50 Queen Anne's Gate, London SW1H 9AT

OMc
JR
JJH
JN
AA
MS

The Rt Hon Andrew Smith MP
Chief Secretary to the Treasury
HM Treasury
Treasury Chambers
Parliament Street
LONDON
SW1P 3AG

19 MAR 2002

Dear Andrew

PSX MEETING ON DELIVERING EFFECTIVE CRIMINAL JUSTICE

Thank you for your letter of 30 January.

2. Our proposals for the SR 2002 period will be dealt with in the CJS Analysis of Resources. However you asked specifically for an update for PSX on the SR2000 CJS PSA targets which have still to be set on economic cost of crime and VFM.

Economic cost of crime

3. Our proposal is that performance should be tracked by an index of actual incidents of the economic cost of crime. This means that the focus of attention will be on value of crime and not just the volume of crime. Our proposed target is a reduction in the index in 2003/2004 relative to the 1999/2000 level.

4. Our measurement of the cost of crime is essentially a weighted index of actual incidents of crime. The economic cost weightings used reflect the cost of security expenditure, victim trauma, health costs, value of property stolen and

CJS costs for each different crime category. In our proposed measure, reductions in high trauma crimes will have a greater weighting. For example, a reduction in 100 incidents of robbery will have a greater impact on the index than a reduction in 100 incidents of criminal damage.

5. Setting a precise target is difficult. All crime moves in line with a number of socio-economic trends, some of which are beyond direct control of the CJS departments and agencies.

6. Your officials have expressed concern over the robustness of our cost estimates for certain crime categories. Because of these concerns, we recommend that for the present we should only include in the index those crimes where we are confident in the estimates. As a result, our index will track crimes against the household and individual. Current estimates suggest that these crimes represent well over half the total economic cost of all crime. To increase the coverage of the measure, my officials are developing a work plan to improve the robustness of estimates where our current figures are weak, particularly for those crimes against the commercial and public sector.

VFM

7. A great deal of work (in which your officials have helpfully participated) has been done on this measure and target, but we are still some way from a satisfactory solution. It is extremely difficult to construct an overall value for money measure which

- strips out the effects of exogenous factors such as demography and economic conditions
- gives the right signals to practitioners endeavouring to improve performance against it about what behaviour is to be encouraged, whilst avoiding perverse incentives (e.g. targetting easy cases)
- is not so complex as to defy easy public and Parliamentary explanation and
- does not require the sort of statistical manipulation that would invite charges of cooking the books.

8. If we continue to keep this as a PSA target we will end up with a "no win" situation: any adverse trend would be taken as indicating that our efforts to improve the cost-effectiveness of the system were failing; but if the trend was positive, the measure would be criticised as flawed and meaningless. It makes much more sense to regard this as an important way of assessing, for performance management purposes, how things are going and where we should direct efforts at improvement, rather than as a publicly-accountable PSA measure.

9. We will be making proposals on how to take both these measures forward in our SR2002 Analysis of Resources.

02072733965

10. I am copying this letter to the Prime Minister, members of PSX, Derry Irvine, Peter Goldsmith, Estelle Morris, Hazel Blears and Sir Richard Wilson.

Best wishes,

David

DAVID BLUNKETT

THE NATIONAL ARCHIVES

DEPARTMENT/SERIES PREM 49 PIECE/ITEM 2597 (one piece/item number)	Date and sign
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(David Hutson
Mac Jarnes)

02PWT00269

Cc: SL

HIGHGROVE HOUSE

13th February, 2002

Dear Lord Chancellor,

I was most grateful for your letter of 10th August and read, with interest, the points you made about the concerns I had expressed to you over the increasing litigiousness of our society. You will not be surprised to learn that I am afraid I do not agree with them all! The more I have thought about this group of issues, the more convinced I am that we are heading for increasing difficulty in many walks of life. So I hope you will bear with me if I return to the subject in this rather over-long letter...

Part of the difficulty is the scope of what I am talking about. In this respect my letter of 26th June was perhaps too narrow: it only referred to the individual difficulties caused by the more extreme examples of litigation brought to exploit legislation which, itself, has been laudably designed to protect people from exploitation by others. But I believe that these individual cases have to be looked at also in terms of the underlying attitudes they may reflect and in terms of their cumulative effect. And this effect is multiplied, in my view, by other issues relating to the passing of ever more proscriptive laws - for example, health and safety at work legislation, the blame culture they can in practice encourage, and the bureaucratic red tape which accompanies new rules. The more I talk to people, the more convinced I am that this cumulative effect has the potential to be deeply corrosive to the fabric of our society. The reason is because human society is surely about human relationships, which are infinitely varied in tone and hue, and attempting to legislate for them in all circumstances (with which we seem increasingly obsessed) frequently produces unintended consequences which can eat away at the institutions and relationships these rules are designed to protect.

I would not want you to think for a moment that I would argue against sensible ways to protect the interests of individuals and society from harm, irresponsibility and unfairness. Nor would I want you to tell me that I am simply exaggerating isolated examples into an

argument which cannot be sustained by hard fact. I can only set before you examples, however anecdotal, based on the many people to whom I talk in all walks of life, which ring for me huge warning bells which our instincts should not ignore if we are to consider responsibly the longer term consequences of our actions. It is not always a matter of direct cause and effect, but more a matter of discerning links which need careful exploration - in just the way that while no-one has yet been able to prove a causal link between commercial fish-farming on the West Coast of Scotland and the loss of wild salmon stocks, there are issues and points at stake here which we must not responsibly ignore. Perhaps you will indulge me by allowing me to give you a few very simple examples?

I am patron of a considerable number of hospices and residential homes. Some of them rely heavily on volunteers to carry out their immensely important work of care and compassion. They need, of course, to be carefully regulated if they are to perform their very responsible tasks properly. But there ought, surely, to be sensible limits. For example, the law now prevents volunteers cooking meals for residents at home and then transporting them to the residents' home to be re-heated. It also prevents them from cooking meals in old people's homes unless they have undertaken a food hygiene course. Yet many of these sorts of volunteers are middle-aged ladies who have cooked for their families for forty years without poisoning anyone. In order to protect the elderly from a tiny, but theoretical, risk a whole section of volunteers is in danger of being alienated. These sorts of people will not volunteer if they are patronised or if regulation makes it impractical. This, I would contend, is the underlying danger of an increasingly over-regulated society. (Moreover, those who institute the rules sometimes seem so evidently not to know what they are talking about. Take the case of wooden chopping boards which had to be thrown away in favour of plastic ones of a different colour each for meat, vegetables, fish, etcetera. Some time later they had to change back again because it was decided that wood was more hygienic than plastic, rather than less hygienic!) More importantly, the lives of residents themselves risk being impoverished because, instead of the variety of food and human contact favoured by the older system, they are increasingly subjected to a more institutionalized system in which that vital civilizing element of human relationships will be so much harder to achieve.

As another small, but significant, example, I heard recently of a case where the springs on residents' room doors in a residential home were replaced with stronger ones to comply with fire regulations (even though the old ones held the doors shut). Unfortunately the new ones are so strong that some of the old people are unable to open their doors, and one seriously damaged his back attempting to do so. I tell this story – and you will probably say I am being woolly and imprecise! - because, whilst fire regulations are obviously important, it shows how easily we can lose our sense of proportion. I would entirely understand if the rules, in this case, had been enforced to the letter because, in a litigious society of absolute rights, it is understandable for a fire inspector to have in the back of his mind that he personally will be blamed and liable if someone dies because a fire door was not shut properly. No one will prosecute him for sticking to the letter of the regulations, even if, as a result, a resident dies in a fire if he or she is not physically strong enough to open a door. But my contention is that the quality of the residents' lives is impoverished as a net result - they no longer even have control over whether or not they can open their doors - by our apparent inability to keep rules in proportion, and to see the wider consequences of our actions.

In my view, these small examples carry within them much more serious cumulative implications which may put at risk the culture of some of our great institutions. I am in little doubt that, in the broadest sense, the proliferation of rules and rights makes people over-cautious, stifles initiative and acts as a brake on creative thinking. The Armed Forces are an important example. Armies fight as they train. If you wish to do well in high intensity war-fighting, you must also train at a high level of intensity. But because modern safety precautions are so strict, live-firing exercises happen with much less frequency than they used to, soldiers are not pushed as hard as they used to be, and the boundaries of training are at risk of being set more and more within a comfort zone that already questions, for example, the use of barbed wire on exercises. No-one can yet measure the effect of such rules and there is, understandably, huge discussion about such matters within the Armed Forces. But even to be considering the possibility - as I am now told is the case - in which a soldier will be able to sue his superior officer if the latter makes a poor decision in the heat of battle which results in him being wounded, reveals the extent to which existing

Similarly, I have heard of a case where the surviving member of a two man aircraft crew faced the possibility of a manslaughter charge and of being sued by the widow of his friend who died in the crash he survived. The instance I am thinking of swung on the legal definition of "negligence" and, in fact, no case was brought. But why should any other pilot in that squadron, knowing there is a risk of litigation if he gets it wrong, take any calculated risk, exercise his professional judgement, push himself to the limits, or fly in marginal weather? In short, why should individuals continue to operate in the way which has always made our Armed Forces so capable and professional if a different set of rules based on individual rights makes the potential penalties too great? You have only to sow the seeds of doubt (which I know is already happening) for people to begin to feel professionally undermined and to start developing a culture that is risk averse.

I should love to go on - for example, the teacher sued for spilling orange juice over a pupil or the increasingly routine practice of what is known as "Defensive Medicine" in the N.H.S. for fear of malpractice suits - but I hope I have said enough to illustrate my point that there is a balance to be struck, together with a sensitivity towards the longer-term implications. Human Rights legislation carries both important benefits and equally serious costs. I simply do not accept, as you suggested in your last letter, that rights and responsibilities are marching forward hand in hand. The Human Rights Act is only about the rights of individuals (I am unable to find a list of social responsibilities attached to it) and this betrays a fundamental distortion in social and legal thinking. This is made worse because the litigious society is a vicious circle; the more people become litigious, the more government legislates to proscribe those occasions which might lead to a third party having just cause to enter into litigation! Of course, I do not attach all the blame for such trends to the Human Rights Act. There are much wider social attitudes at issue here. Laws which aim to protect the dignity and well-being of the individual human being are right and necessary. But an approach, increasingly enshrined in law and regulations, which seems to apotheosize the individual and his rights in almost all circumstances, can only be a threat in the longer term to the ability of a society to function in the balanced way which alone can safeguard truly civilized values. That needs, I believe, a system of careful monitoring and checks, and an ability to keep in view the wider perspective of where society is moving.

As the Prime Minister has warned me, I am sure you will not agree with much of this, but I should welcome the chance to talk through these issues with you privately in more detail when we next have the chance to meet - perhaps when I come to see the pictures in your London apartment!

This comes with my very best wishes and kind regards —

Charles

THE LEGAL SECRETARIAT TO THE LAW OFFICERS
ATTORNEY GENERAL'S CHAMBERS
9 BUCKINGHAM GATE
LONDON SW1E 6JP

General enquiries 020 - 7271 2400
Direct line 020 - 7271 2456
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e-mail: Sue.Ross@lslo.x.gsi.gov.uk

OMC

John Gieve
Permanent Under Secretary of State
Home Office
50 Queen Anne's Gate
London SW1H 9AT

8 March 2002

Dear Mr Gieve,

DEATHS IN CUSTODY: ATTORNEY GENERAL'S REVIEW OF CROWN PROSECUTION SERVICE PRACTICES

I enclose for your information a copy of the written answer given by the Attorney General in December 2001 announcing his intention to review CPS practices in relation to deaths in custody cases (which was cleared in advance with the Home Office and Lord Chancellor's Department).

As that answer shows, the Attorney General's intention is to consult widely.

The first stage in the public consultation process will be the issue of a consultation paper. The consultation paper is not yet finalised from an internal CPS or Law Officers perspective. The Attorney General's target date for issuing it is at present 8 April.

However, prior to reaching a final draft the Attorney General is anxious that Home Office interests - which, although not the direct subject of the review, are necessarily referred to in order to put the role of the CPS into context - should have the opportunity to comment on the draft from their perspectives.

I enclose a hard copy of the current draft.

It would be much appreciated if Home Office observations on behalf of the different interests could be with me by close on Tuesday, 26th March so that I can prepare a final version over the Easter weekend for the Attorney General's approval the following week.

I should also let you know that, in December after the publication of the written answer, the Attorney General wrote, among others, to: Brian Caton, General Secretary of the Prison Officers' Association, to Sir David Phillips for ACPO and to Fred Broughton for the Police Federation enclosing a copy of the written answer and explaining that the Attorney General would in due course invite them to contribute their own experience and expertise to the review. Brian Caton and Sir David Phillips have both written back in positive terms; only Fred Broughton has not yet replied.

In addition to the Home Office, the Attorney General has asked me to send a copy of this draft of the consultation paper, also for comments by 26 March, to:

- the Lord Chancellor's Private Secretary;
- Martin Narey, Director General of the Prison Service;
- His Honour Gerald Butler QC (who carried out an earlier review of CPS practices in relation to deaths in custody);
- Molly Meacher, for the PCA.

After the consultation paper is issued, the intention is to ask for any written responses by 28 May 2002.

In the interim, between 8 April and 28 May, we will hold two events. The second, and more important, will be a seminar. This is currently fixed for 21 May. The present intention is to make the seminar (subject to the capacity of the venue) an opportunity for a wide cross-section of interests to attend and debate the key issues.

Prior to this, probably on 24th April, we will hold a much smaller consultative workshop, whose purpose will be to test, with a limited cross-section of consultees, the extent to which the consultation paper has raised the issues that people consider to be important. This will assist us to ensure that the seminar works as successfully as possible.

The Home Office may wish to be represented at either or both of these events.

As the written answer indicates, the current intention is to conclude the review at the end of June 2002 with a view to publication (probably by way of a statement to both Houses) before Parliament rises for the summer.

If you would like an electronic copy of the draft consultation paper, my secretary Linda Geers (0207 271 2455) will be happy to email it or forward it on a disk.

I hope this is helpful.

Yours sincerely

Sue Ross

SUE ROSS

FAXED

Fire. But I can't come to think you need something more visibly tough & shocking & launch it soon. This should include move serve accomodation; w/e courts & meet ips specifically to deal with this. Lets talk.

From: **Michael Barber**

c.c. **Gus Macdonald**
Richard Wilson
Jonathan Powell
Jeremy Heywood
Andrew Adonis
Justin Russell
Olivia Mcleod

PRIME MINISTER **Date:** **8th March 2002**

ROBBERY REVIEW

I attach as promised the report of the joint Home Office/Delivery Unit review of Robbery which we undertook the week before last. It is the result of an excellent collaboration with colleagues from the Home Office. We have been able to learn from them about robbery policy and its problems; they have learnt from us about thinking in a disciplined way about delivery and the benefits of framing policy through direct communication with the police and others in the CJS working on the frontline. The result, as I hope you'll agree, is a clear analysis of the issues and a series of practical proposals which the Home Office, with our help, can now turn into an operational plan.

David Blunkett and I have discussed the outcomes of the review, which he is extremely positive about. He is very keen to lead a sustained drive on this issue with real urgency. He and I are very clear that we will only achieve irreversible change if each of the interlocking steps is taken in the right sequence so that bottlenecks are avoided and temporary gains through police action are not dissipated in the court system.

The sole purpose of the Delivery Unit producing a report of this kind is that it leads, as rapidly as possible, to action on the ground. I have met Kevin Bond today to ensure follow through and his Project Board, in which we participate, is meeting on Wednesday to take the next steps.

The report has 30 pages but is set out in such a way that you should be able to skim through it rapidly and gain a clear picture of both the problem and the proposed solutions.

Michael

MICHAEL BARBER

PRIORITY REVIEW OF STREET ROBBERY

Home Office

and

Prime Minister's Delivery Unit

March 2002

THE NATURE AND SCOPE OF THE REVIEW

The aim of this review is to support the developing work on reducing robbery by providing sharply focussed, rapid feedback on the way that police and other agencies tackle robbery and making practical proposals for strengthening delivery. Haringey was chosen as a front line location because it is a high robbery area and powerful efforts are being made to tackle the problem.

The review team were:

Home Office	Jim Daniell, Jo Langdale, Zoe Bristol
PMDU	Michael Barber, Richard Page-Jones, Rachel Jenkinson
Treasury	Claire Wilson-Thomas
PA Consulting	Adam Pemberton

The review used three main sources of evidence

- data and research on robbery provided by the Home Office RDS and others
- interviews with key stakeholders
- interviews with front line services in Haringey

The stakeholders interviewed are identified in Annex 2

CONTENTS OF THE REPORT

The robbery problem

Building a strategy to reduce robbery

- more targeted policing
- better case management
- better victim and witness support
- a more coherent Crime Prevention strategy

The major risks

The next steps

Annex 1 – present Home Office strategy and plans

Annex 2 – the evidence base

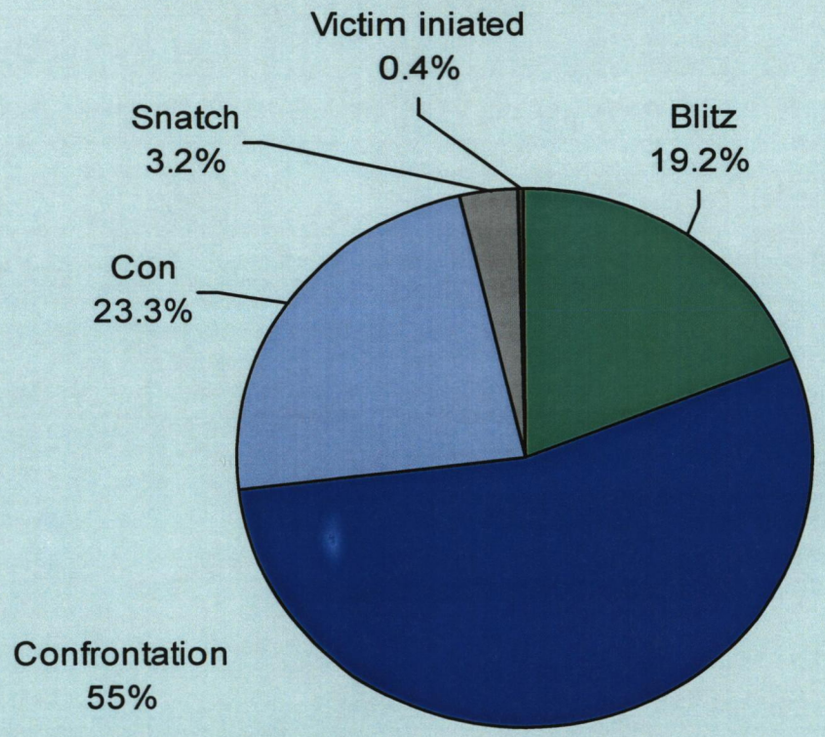
WHAT IS ROBBERY?

Legal definition: A person is guilty of robbery if he steals, and immediately before or at the time of doing so, and in order to do so, he uses force on any person or puts or seeks to put any person in fear of being then and there subjected to force.

Robbery covers a wide range of seriousness of offence, from an extension of school bullying to very serious crime involving weapons

WHAT IS ROBBERY? TYPE OF OFFENCE

How victims are targeted - 17 years and under



Blitz Violence is used as the first point of contact to overwhelm/ control the victim

Confrontation A demand for property or possessions is the initial point of contact between victim and offender

'Con' The suspect engages the victim in spurious conversation

Snatch Property is grabbed from the offender without prior demand, threats of physical force (normally classed as theft – but included in Met definition of Street Crime)

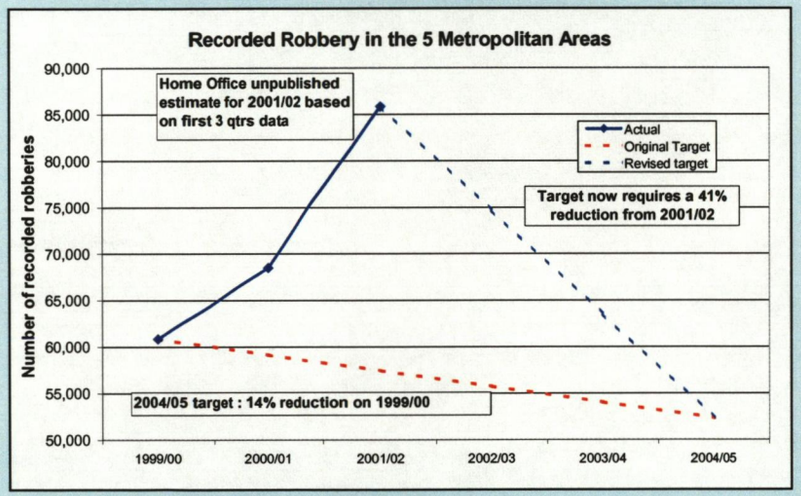
Victim initiated The victim initiates contact with the suspect and becomes the victim of robbery

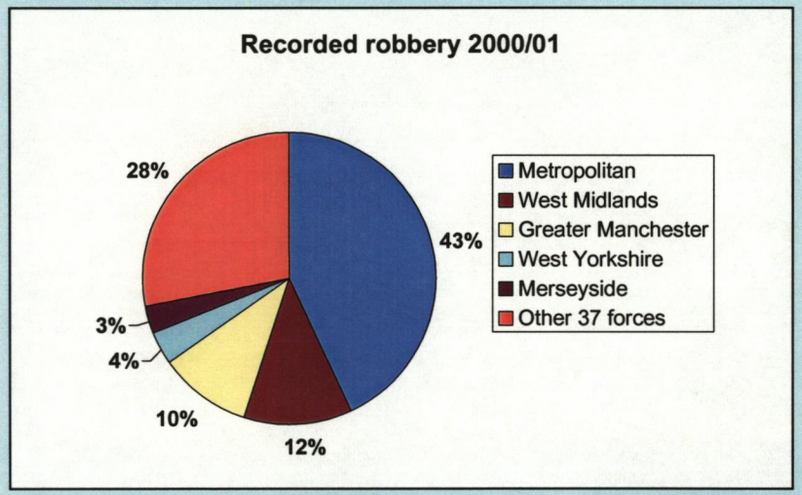
The Met report that 50% of street robberies includes theft of a mobile phone and 35% a mobile phone only. Street robbery is often opportunistic and difficult to detect.

Source: Home Office RDS

WHAT IS THE TARGET?

Robbery Delivery Target: Reduce recorded robbery figures in the 5 forces (Metropolitan London, West Midlands, Greater Manchester, West Yorkshire and Merseyside) by 14% by 2004/05 (baseline 1999/00)





Recent increases now mean the target requires a 41% reduction from 2001/2002

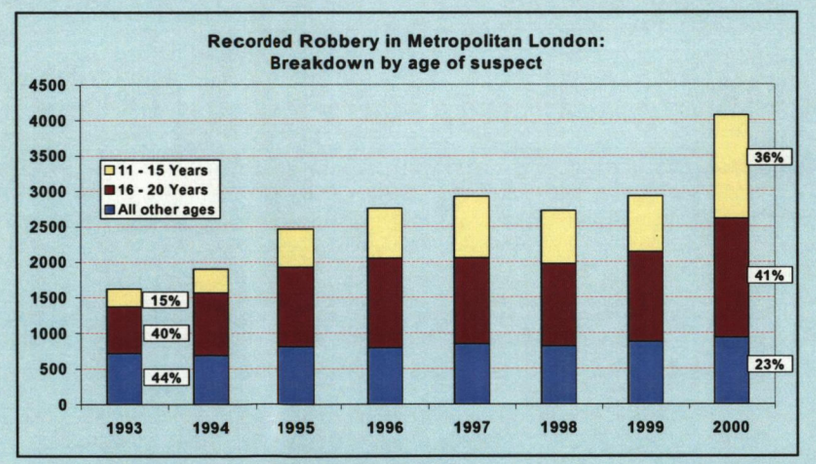
43% of all recorded robbery is in the Met

Source: Home Office RDS

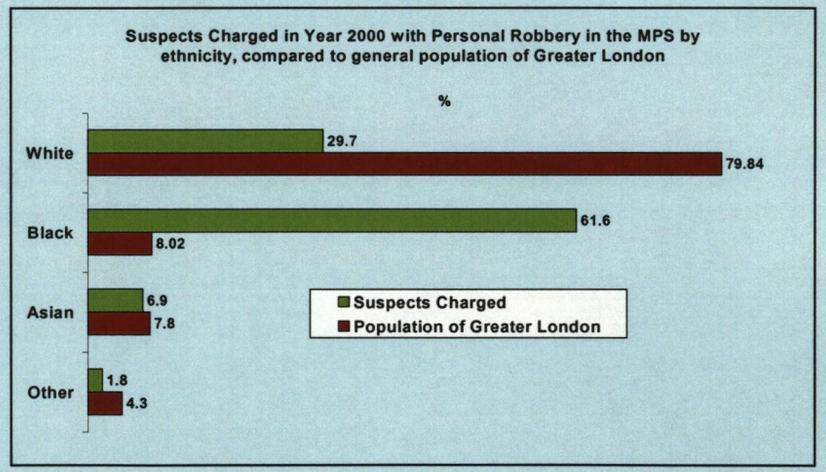
WHO ARE THE ROBBERS?

In London:

- the robbers are increasingly young



- and they are mainly young black males

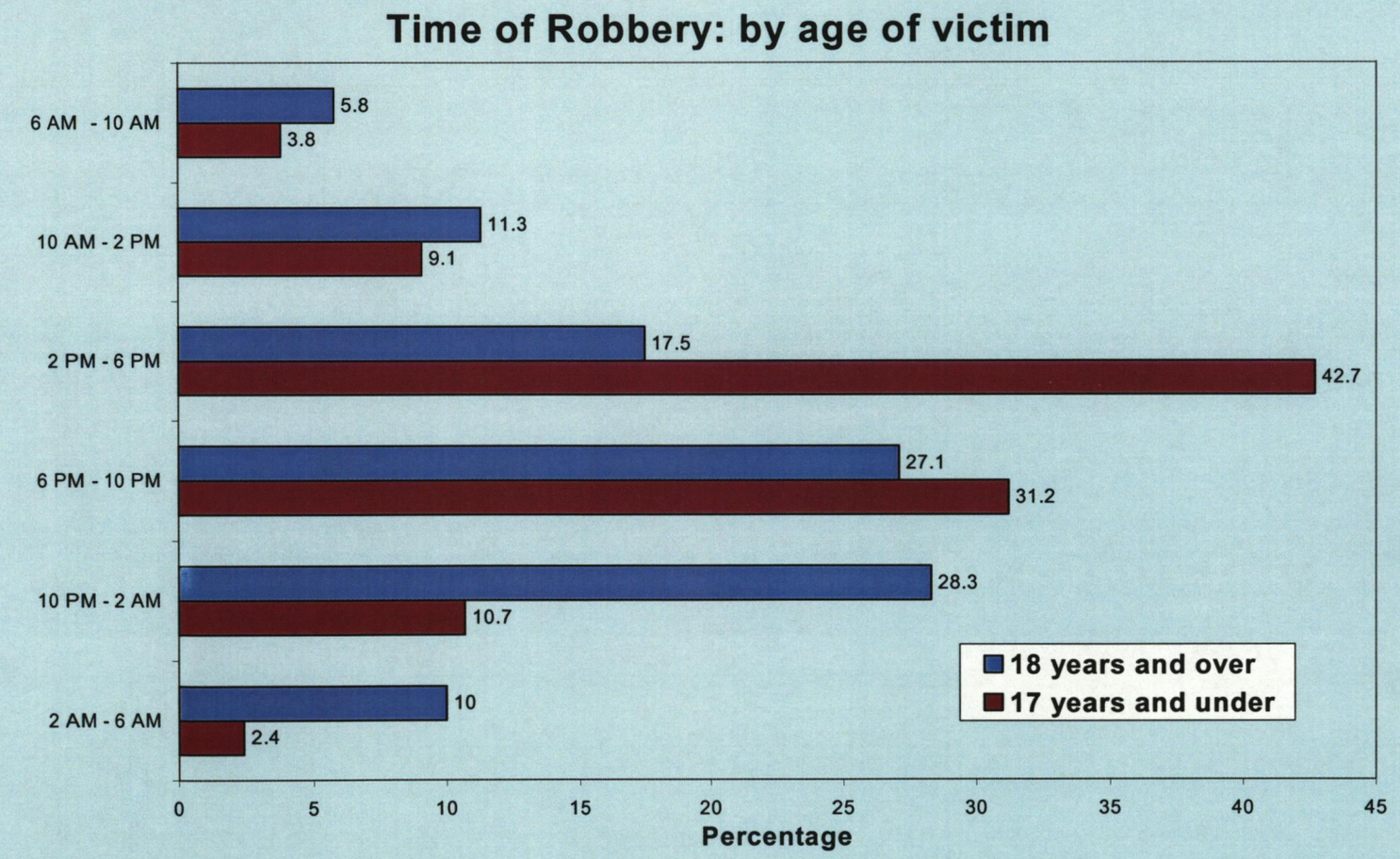


- The Met report that in London 66-75% of those arrested for street crime have no previous convictions.

Source: Home Office RDS

WHEN DOES THE ROBBERY TAKE PLACE?

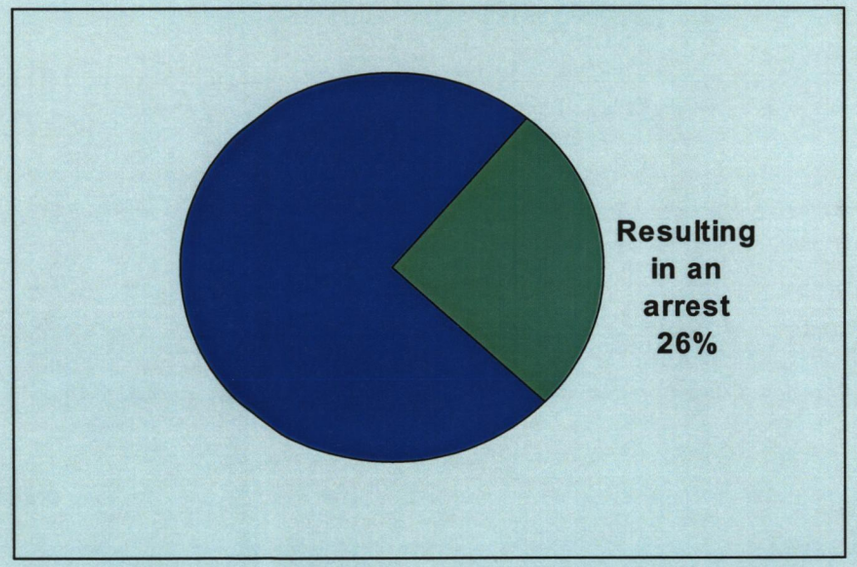
The peak robbery time for young people is 2pm-6pm, at the end of the school day



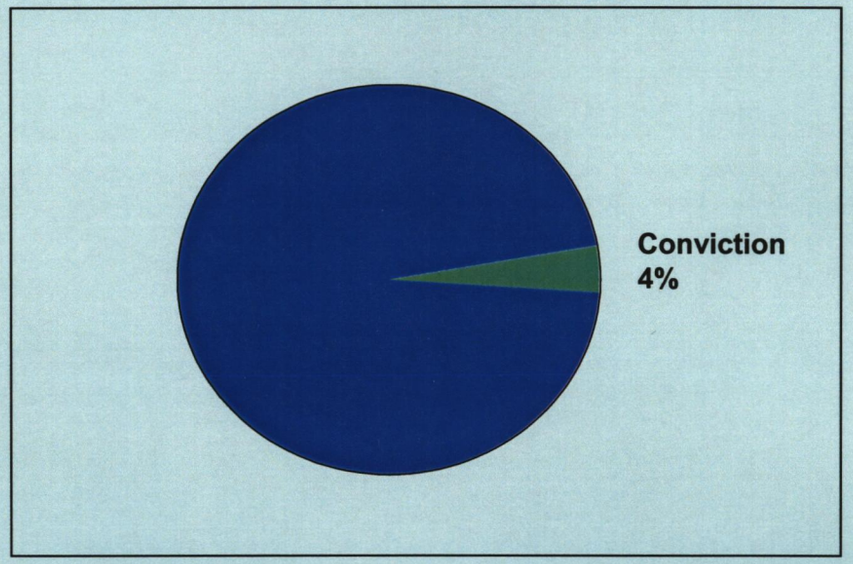
Source: Home Office RDS

HOW MANY ROBBERS ARE ARRESTED AND CONVICTED?

In London only 26% of offences result in arrest



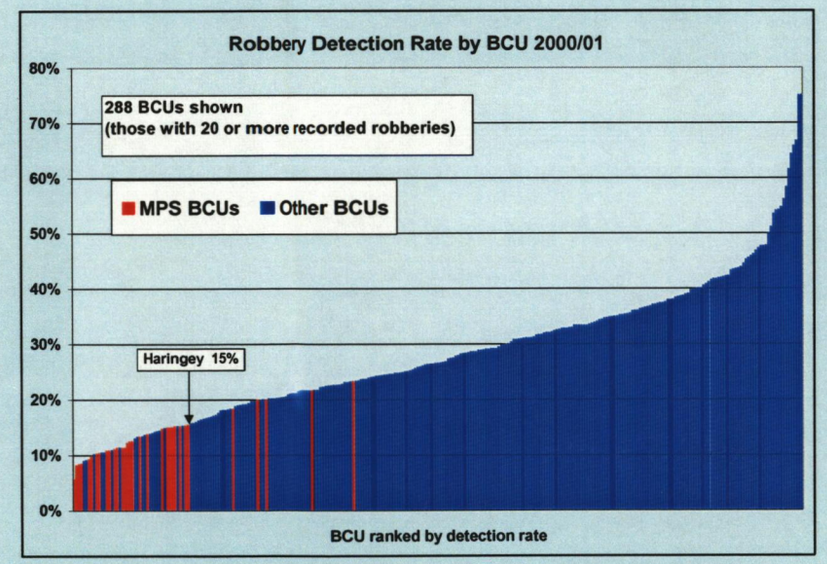
Only 4% lead to a conviction



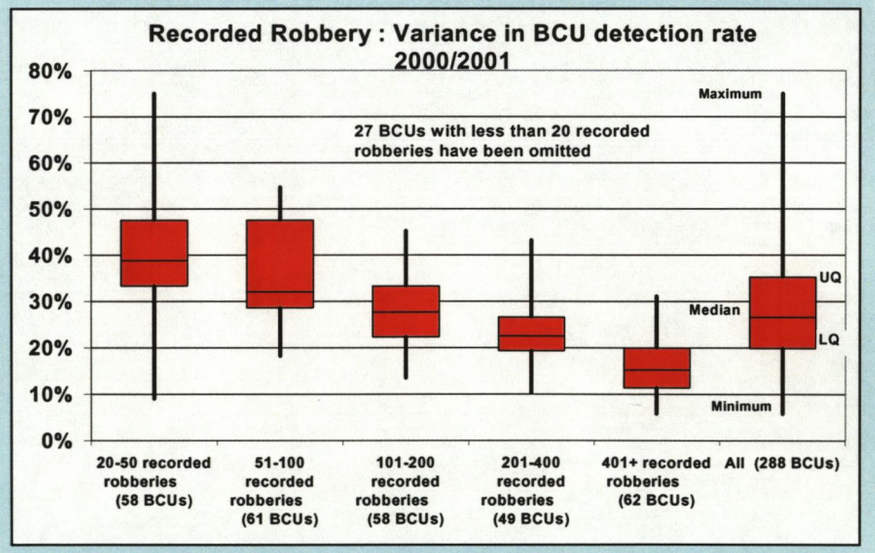
Source: Home Office RDS

THERE ARE WIDE VARIATIONS IN DETECTION RATES ACROSS THE BCUs

They vary from 6% in Lambeth to 75 % in Brighton



As the number of robberies increases, detection rates tend to fall. But there are wide variations in forces with similar robbery rates



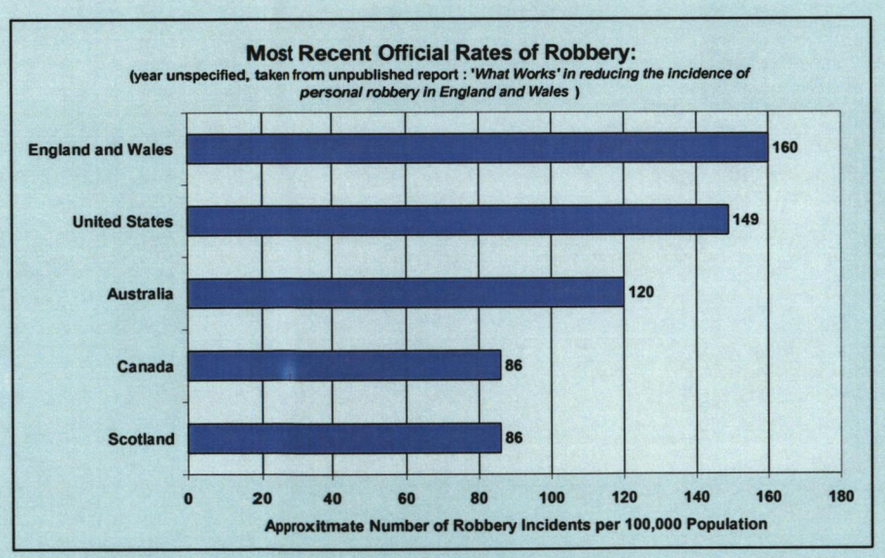
Source: Home Office RDS

THE INTERNATIONAL PERSPECTIVE

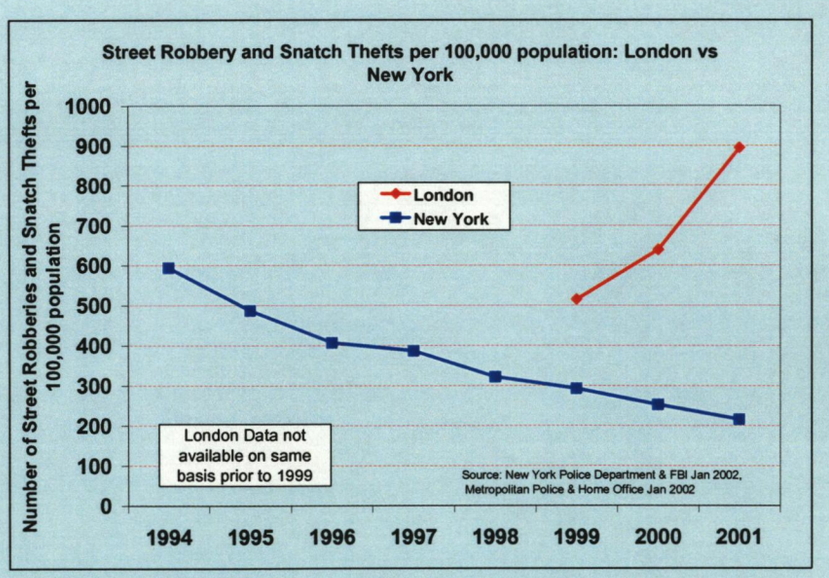
- The statistics for recorded crimes also show a change in trends over the last few years
- The US has experienced a 28% reduction in robbery since 1996 (47% since 1990) and has sustained it even when mobile phones became ubiquitous
- There have also been declines in Canada and Australia, following a peak in 1999

The robbery rate in England and Wales is high. The London robbery rate is more than four times higher than in New York

Comparison between England and Wales and other countries



Comparison between London and New York



Source: Home Office RDS

SUMMARY OF KEY INFORMATION FOR STREET ROBBERY REVIEW

- Robbery covers a wide range of seriousness of offence; from an extension of school bullying to very serious crime involving dangerous weapons and very valuable property.
- Street robbery is an opportunistic crime. It is difficult to detect. The offence is often committed at high speed, there is very little forensic evidence.
- Successful convictions are heavily dependent on victim and witness identification evidence, and attrition rates are high.
- Increasing numbers of young people are involved. Research and review evidence suggests that they often do not receive clear and consistent messages about the seriousness of robbery and that they realise that they are unlikely to be caught and punished.
- A high proportion of robberies in London is carried out by young black males. Unpublished evidence suggests this proportion is increasing.
- The incidence and detection of robbery varies widely across BCUs.
- The Met report that in London 50% of all street crime includes theft of a mobile phone; 35% are mobile phone only.

BUILDING A STRATEGY TO REDUCE ROBBERY

The evidence from this review suggests that it could be built around four key elements:

More targeted policing – the Met's *Safer Streets* initiative is clearly having an impact: high visibility, evidence-led policing of known hotspots is reducing robbery and increasing the number of robbers arrested: but sustainability is a key problem

Better and more active **case management** of robbery allegations to move cases more swiftly though the system, getting casework 'right first time' to reduce the high rate of attrition and reinforce the message that robbery is taken seriously

Better **support for victims and witnesses** of robbery throughout the criminal justice process to ensure their continued involvement and to increase the likelihood of securing a conviction

A more coherent approach to **crime prevention**, including more effective identification of young people at risk of offending, and a consistent, focussed approach to prevent them from sliding into committing robbery

Three overarching key themes:

- Higher quality and more effective **use of data and sharing of data** to identify risks, shape strategy, focus resources and evaluate effectiveness
- **Greater accountability**; people at every level and across all agencies should understand how they are contributing and be accountable for that contribution individually and within the team
- **Better joined-up working** of the key agencies involved

This report now considers each of the elements, identifies success so far and provides suggestions for strengthening delivery

MORE TARGETED POLICING

Key successes so far

In the first three weeks the *Safer Streets* initiative has led to reduced street crime and increased the number of arrests for robbery	• robbery has fallen in the three weeks of *Safer Streets* • even so it remains 17% above the same period last year • this is an improvement on the annual increase in street crime in the Met of 40% for 2000/2001 • detection rates have risen from 9 to 12-13% • this has raised the morale of the police and sent messages out to the public and potential offenders
Successful strategies in Haringey and other *Safer Streets* boroughs	• intelligence-led policing, targeting known hotspots • high visibility policing • using plain clothes police and unmarked cars to identify suspects • use of Video Sentries (a video system for monitoring known hotspots)
Effective consultation with ethnic minority community groups	• effective communication has secured good community support • intelligence-led approach is important in securing the support of black communities
Strong leadership by the Haringey Borough Commander	• developing strong links with the community and other agencies • providing a clear direction to police activities • sustaining morale and keeping sickness rates among police officers at a low level – 6 % in Haringey

STRENGTHENING DELIVERY: MORE TARGETED POLICING

Increasing sustainability	• evaluate the sustainability of *Safer Streets*, given impact of high levels of overtime on police officers, diversion of resources from other police work and the lack of sustainability of predecessor (Operation Strongbox) • use analysis of cost-effectiveness of different strands of Safer Streets and any other possible approaches to build a long term, sustainable approach (the Met is working on a sustainability plan based on redirecting resources from other police activity)
Increased use of community police, traffic wardens etc and the introduction of auxiliary police	• need to be part of the extended police family and seen as part of a high visibility police presence • their powers and responsibility need to dovetail smoothly into those of the police • to patrol hotspots on a sustainable basis
Reducing administrative burdens	• implement wider reform agenda • increase use of civilian support (e.g. for some , more streamlined recording systems and more effective use of IT, to free police time for their core job
Tackling environmental cues that indicate a lack of police presence	• using community wardens, traffic wardens and others to audit, and improve the environment • deal promptly with cues such as damaged cars and broken windows

STRENGTHENING DELIVERY: MORE TARGETED POLICING

Communication with community groups

- build on the improved relationships between police and ethnic minority communities
- ensure regular dialogue, with black community leaders in London

Higher quality and more effective use of data

- high quality, real-time information to shape strategy and focus resources; for example data about hotspots and information from Video Sentries
- Rapid, high quality data on recorded robbery and detection rates to evaluate impact of strategies and to contribute to accountability
- *Safer Streets* has daily returns from BCU and tracking of individual cases to identify attrition issues and improve case management
- recording systems vary across BCU; this undermines the use of key performance indicators
- a National Crime Recording System will be introduced on 1 April 2002 which should provide consistent and more robust data, but will affect recorded crime statistics

Increased accountability

- people at every level should be accountable for individual and team contributions; particularly BCUs and area teams
- need for cost benefit analysis of different policing options
- the New York COMSTAT system has been widely welcomed
- further consideration needs to be given to benefits and risks of raising the public profile of performance data

BETTER CASE MANAGEMENT TO REDUCE ATTRITION RATES

Key successes so far

Active case management of Persistent Young Offenders (PYOs) has allowed focussed and proactive management of PYO cases by dedicated local teams drawing together representatives from each of the criminal justice agencies. This helps ensure that the factors which cause cases to fail are focused on more quickly and cases are more likely to result in a successful conviction. Active case management has been successful nationally in halving the time taken to deal with PYOs from 142 to 71 days. A similar approach would help to tackle the high attrition rate in robbery cases and is now being considered by the Home Office.

STRENGTHENING DELIVERY: BETTER CASE MANAGEMENT

Consider establishing a multi-agency team to manage robbery cases; in high robbery areas (e.g. at BCU level) prioritise, track and actively manage robbery cases	• track individual cases through the CJS system in a similar way to PYOs • hold regular action-orientated meetings to ensure cases are dealt with 'right first time'
CPS - with Criminal Justice Units - to address the high proportion of cracked cases	• introduce CPS "premium service" for robbers • develop strong links between police and CPS to prepare robbery cases better for court • lead on setting up and maintaining a system of tracking cases • consider prioritising in-house legal resources to high robbery areas; (operations such as *Safer Streets* might have legal experts to direct and advise those involved in case preparation)
Police and Criminal Justice Units to have clear accountability for - and give greater emphasis to - case management	• give priority to robbery cases and papers; ensure strong, proactive measures are taken to ensure all material needed is supplied in good time and of necessary quality, making effective use of civilian support
Magistrates' and Crown Courts to ensure appropriate focus on robbery	• identify a point of contact on robbery cases to attend multi-agency meetings • consider more flexible opening hours (including weekends) to speed up the processing of robbery cases

STRENGTHENING DELIVERY: TACKLING IDENTIFICATION AND BAIL ISSUES

Improving the effectiveness of identifying suspects

- change the PACE code to make wider use of video ID parades; reduce the delays due to arranging ID parades and victim unwillingness to attend
- ensure that there are sufficient facilities to make this work and that there is proper training and preparation for the changes

More rigorous bail process; tackling the police allegation of the revolving door of justice, including changes in the law where necessary

- consider ways of holding more robbers in custody, particularly for more serious robbery, and address the present lack of secure accommodation
- bail is the only realistic option for some robbers but smarter and more rigorous conditions should be considered
- introduce tighter procedures for defendants who:
  - fail to attend at court
  - intimidate victims
  - breach previous bail conditions
- consider more extensive and smarter use of tagging and curfew orders
- ensure that no credit is gained for plea changes at last moment

BETTER VICTIM SUPPORT TO VICTIMS AND WITNESSES

Key successes so far

CPS is planning to roll out Direct Communications with Victims initiative from October 2002

In Haringey the review team were informed of a recent extension of funding for more local witness services at court, but overall these schemes are inadequate to provide complete services for victims and witnesses

STRENGTHENING DELIVERY: BETTER VICTIM AND WITNESS SUPPORT

Better services need to be offered at every stage of the process

Once the offence has been committed	• CJS needs to send clear message that witness will be supported • this should be coupled with a strong message to the community that robbery is serious
Once the offence is reported	• there should be appropriate support to victims and witnesses provided by the police and Victim Support Schemes; more use of volunteers strengthen regular contact with the victim • provide support to ensure victims and witnesses proceed • draw on USA practice and provide a pack explaining what happens in court, the layout of the courtroom and the roles of all those involved
During criminal proceedings	• police and CPS should give maximum warning of court appearances • witnesses need to be reassured, procedures explained and delays minimised
At court	• improve physical facilities so that there is safe space for victims and witnesses, particularly young people who know the defendant • improve support and reassurance provided by Victim Support or the court

STRENGTHENING DELIVERY: BETTER VICTIM AND WITNESS SUPPORT

After court	• police should notify victims of the result of the case • police should answer any questions and seek feedback on their experiences • victims should routinely be notified when an offender is released back into the community
Stronger role for the community	• community leaders should be encouraged to see a vested interest in victim and witness support; the community should work with Victim Support to ensure community members are properly supported
Reducing witness intimidation	• a joint approach between the CJS and communities, to make clear the seriousness and penalties for intimidation • follow this up with firm action in the courts if intimidation takes place

A MORE COHERENT CRIME PREVENTION STRATEGY

Key successes so far

The establishment of **Safer Communities Partnerships (also known as Crime and Disorder Reduction Partnerships) and Safer Communities Strategies** has provided a good potential framework for crime reduction. These partnerships have generated examples of successful preventative action.

- creating safer public spaces though better lighting, fencing and CCTV
- the formal involvement of community groups such as The Haringey Peace alliance
- the establishment of a Youth Inclusion Panel in Haringey where children are referred to an "at risk" panel when they first come to public attention
- in Lewisham the Local Authority is working with schools on a Safe Schools Standards to identify what needs to be in place for schools to contribute to community safety
- Lewisham is also establishing a protocol for sharing information about potential young offenders

The establishment of **Youth Justice Board (YJB) and Youth Offending Teams (YOT)** has provided a good potential focus for tackling youth crime

STRENGTHENING DELIVERY: A MORE COHERENT CRIME PREVENTION STRATEGY

Strengthening Safer Communities Partnerships

- they need clearer accountability and clearer funding streams
- the present Government Office (GO) role could be extended to include a 'light touch' monitoring role
- more sharply focussed inspection of the contribution of agencies by individual inspectorates; e.g. OFSTED and HMIC, guided by clear standards
- joint inspection of the overall partnership triggered by GO concerns

Identifying and intervening with children at risk of offending

- each agency needs to systematically identify young people at risk
- this information needs to be shared with other agencies
- the information sharing needs to include 8-12 year olds, because the transition from primary to secondary schools is important in the slide into crime
- data sharing protocols and systems need to be developed and acted on
- YOTs need to play a consistently stronger role in pre-crime prevention

Strengthening the influence of community groups

- black community groups in particular need to be supported in work with young people; recent evidence suggests that black communities recognise the problem and want to tackle it
- mentoring and family/parenting support on important strategies; community groups have a strong part to play in both of these

STRENGTHENING DELIVERY: A MORE COHERENT CRIME PREVENTION STRATEGY

Improving youth provision	• Youth service provision needs to be strengthened; there is widespread concern among community groups that there are inadequate facilities and activities • DfES specification for an adequate Youth Service will be an important starting point for improvement
Strengthening the role of schools	• schools need to play a stronger part in tackling educational failure and in tackling training, bad behaviour and bullying as precursor to robbery • stronger emphasis on their role in achieving community safety • closer work with the police and other agencies and ensure that schools provide information about those at risk from offending and help to identify those that have offended • consider changes to the law and OFSTED inspections to achieve this
Convincing young people about the seriousness and consequences of robbery	• concerted campaign; convey the message that robbery is a serious crime and robbers will be caught and dealt with severely and that prison is an unpleasant place to be • national and local campaigns that focus on target groups and learn from previous campaigns focusing on young people e.g. on drugs
Preventative measures with mobile phones	• driving through developments with the industry to improve security and reduce false reporting • make it illegal to change IMEI numbers and explore the feasibility of a database to give real time information on stolen phones • explore ways of disrupting the market for stolen goods • keep upstream of crime and look ahead to the next generation of desirable items for robbery

THE MAJOR RISKS

- High levels of overtime in *Safer Streets* leads to police fatigue; initiative is not sustained; effect stops when resources are removed and momentum is lost
- The police up their game, but the Criminal Justice System does not respond swiftly enough and the momentum of improvement is lost
- Robbers continue to be bailed leading to reduced police morale
- Insufficient secure accommodation available
- Additional resources targeted on street crime lead to growth in problems in other areas of policing
- Focusing police resources on hotspots leads to a displacement of crime to other geographical areas
- Research shows high proportions of young black males involved in robbery in London. Tackling this may cause increased tension and breakdown of present improved relationships; might lead to major unrest on London streets in the summer. Or conversely, the police fear that they will not be supported and are reluctant to tackle the criminal activity of young black males
- Insufficient progress is made by the summer; school leavers and school holidays lead to increases in street crime
- The National Crime Recording System will provide more robust indicators, but risks leading to a rise in the amount of reported robberies and the public perception that robbery has increased
- Government Offices unwilling to take on a stronger role in monitoring Crime Reduction Partnerships, because of lack of resources and fears that it will get in the way of the critical friend role
- Schools fail to make a sufficient contribution; headteachers see stronger emphasis on community safety as diverting them from core business of educational standards
- Civil liberties lobby objects to greater surveillance by the police and to social agencies working more closely with enforcement agencies; this has a particular impact on schools, notably in London

THE NEXT STEPS

This rapid review has identified key successes in tackling robbery and has made suggestions for strengthening delivery. The report will now feed into developing strategy in the Home Office - and in particular the robbery reduction programme currently starting up. This is shown in Annex 1.

That programme and other work will need to take into account:

- the opportunity costs involved in shifting resource into robbery reduction
- the importance of planning a strategy in which each of the interlocking elements (from crime prevention through policing to the courts and prison system) is brought into place in the right sequence at the right time, in order to create a coherent process and avoid bottlenecks

Annex 1

PRESENT HOME OFFICE STRATEGY AND PLANS

The Home Office Robbery Delivery Plan sets out existing strategies for robbery reduction. In addition, the Home Office has responded to the strong upward trends in robbery by establishing a robbery reduction programme aimed at a short to medium term reversal of the trend on which longer term work on robbery reduction will build. The Robbery Reduction Programme Board met for the first time on 26 February and will meet and report fortnightly to Ministers.

The central thrust of the programme is a robbery reduction drive in ten forces with the highest robbery figures - accounting for 82% of all robberies in England and Wales.

- The Police Standards Unit has commenced planning and implementing force-led aspects of the programme
- the aim is for forces to attach the highest priority to an intelligence-led campaign to catch and disrupt the culprits and reclaim the streets.
- The Home Office Police and Crime Reduction Group is working in parallel to secure the co-operation of the other Criminal Justice Agencies to ensure that those who are caught are fast tracked through the system
    - the problem of multiple offending while on bail is tackled and that sufficient secure accommodation is available
    - learning from the persistent young offenders' initiative will be taken on board
- the Met Safer Streets initiative has commenced; other police operations to be up and running by May/July
- regular statistics will be gathered

LONGER TERM STRATEGIES BEING DEVELOPED INCLUDE

Keeping up the pressure on the mobile phone industry	• working with the industry on a security plan for 2G and 3G mobile phones • all five main network providers to disable stolen phones • the main UK providers to bar phones across networks by summer 2002 • consider legislative options to outlaw changing IMEI number • guidance to the police on recording practices in respect of lost or stolen phones to facilitate tracing and recovery and discourage bogus claims • crime reduction campaigns with policy and industry • joint police/industry tracking exercise in London hotspot
Strategic approach to involving YOTs	• to identify good and bad practice working practices between the police and YOTs • setting robbery performance targets for YOTs
Working with the youth crime unit in GOL to engage schools and other local agencies	• co-ordinate activity and data sharing in pre-criminal prevention • take active measures to reduce robberies in and around schools • including banning mobile phones in schools and safe transport routes • drawing on local partnership successes e.g. operation Seneca in the Met
Securing funding and devising a 3 year anti robbery publicity campaign	
Other non robbery-specific central initiatives, which should help tackle the robbery problem	• changes in PACE to facilitate video ID parades • additional police officers • CCTV projects • Communities Against Drugs • Retail Crime Reduction Partnerships • curfews and tagging
Undertaking of research to understanding 'What Works'	• series of reports to be issued and used for best practice

THE EVIDENCE BASE

The key stakeholders interviewed were

- Assistant Commissioner and other senior representation of the Metropolitan Police Service
- Sir Keith Povey - HMIC
- The Youth Justice Board
- The Government Office for London

The review then tracked issues down to a local level though visits to the following agencies in Haringey

- Haringey Borough Command – The Metropolitan Police Service
- Haringey Local Authority and Crime Reduction Partnership
- A Secondary School in Haringey for discussions with the Assistant Education Officer, teacher and pupils
- The Haringey Youth Offending Team
- The London Probation Service
- The local Crown Prosecution Service
- Haringey Magistrates' Court

CONFIDENTIAL - PERSONAL

File
In Draw
Box

MASTER

bcc JH
JR

10 DOWNING STREET
LONDON SW1A 2AA

From the Principal Private Secretary

7 March 2002

Dear Mark,

ORGANISED CRIME

The Prime Minister had a brief discussion with the Chancellor this afternoon following his letter of 14 February (attached).

The Chancellor said that Sir Andrew Turnbull had drawn up a list of issues that would need to be resolved before the Prime Minister's proposal could safely be taken forward. The problem was that a dedicated law enforcement agency was bound to give less priority to collecting revenue and combating tax fraud than Customs currently did. Unless the Treasury could be given reassurance on this issue it was difficult to see how the proposal could work.

The Prime Minister said that there was no reason why a new organised crime agency could not be given a second key objective of meeting specific revenue targets. Officials could discuss this.

It was agreed that before moving on to the wider issues Sir Richard Wilson's group should focus on the prior questions raised in Sir Andrew Turnbull's note.

The Prime Minister would be grateful if Sir Richard Wilson could take a meeting to discuss these questions and report back to him and the Chancellor.

I am copying this to Sir Richard Wilson and Sir Andrew Turnbull.

Yours,

JEREMY HEYWOOD

Mark Bowman
HMT

CONFIDENTIAL - PERSONAL

10 DOWNING STREET
LONDON SW1A 2AA

14 February 2002

THE PRIME MINISTER

Dear Gordon,

You may recall that just after the election I raised the issue of how we might rationalise the national structures that we have in place for fighting the growing menace of organised crime.

As the events of the past few months have shown it is vital that we have in place a strong, coherent and co-ordinated strategy to tackle, at both national and international level, the threat of organised crime – including drug trafficking, people smuggling and large-scale financial fraud - alongside the action we are taking against terrorism.

I am increasingly of the view that the delivery of such a strategy will not be possible until we have a single national law enforcement agency to co-ordinate our efforts in this area. There would of course need to be arrangements for strong Ministerial control over priorities. But such an organisation drawing together a wide range of skills from existing agencies like Customs and Excise, NCS and NCIS and working from a single statutory base, could bring major benefits across Government (for example through a much more joined-up and professional approach to money-laundering and financial fraud).

I would like to invite Richard Wilson to chair a small group of senior officials – including Andrew Turnbull, Richard Broadbent and John Gieve to develop a more worked up proposal for a single agency which we could discuss further with David and Jack before the end of this month.

At that meeting I would also like to discuss the case for a more immediate change - a new senior Ministerial group on organised crime which could agree overall priorities and PSA targets on organised crime for the SR2002 period and develop properly co-ordinated bids to deliver those targets.

Grateful if we could discuss further. I am copying this letter to David Blunkett, Jack Straw and Peter Goldsmith.

Yours ever,

Tony

The Right Honourable Gordon Brown MP

CONFIDENTIAL

10 DOWNING STREET
LONDON SW1A 2AA

From the Senior Policy Adviser

7 March 2002

Dear Jonathan

MODE OF TRIAL

The Prime Minister met with the Home Secretary, the Lord Chancellor, the Attorney General and the Chief Secretary to the Treasury this morning to discuss Auld's recommendations on mode of trial and an intermediate tier. John Gieve, Sue Ross, Jonathan Spencer, Jeremy Heywood, Andrew Adonis, Robert Hill, Sally Morgan, Lindsay Bell, Sarah Tobin, Olivia McLeod and myself were present.

Jonathan Spencer gave a brief presentation on the options for reform. The key choice was between Auld's proposal to establish an intermediate tier and abolish the right to elect, and the alternative model being proposed by the CJS Ministers of extending magistrates sentencing powers to 12 months while retaining the right to elect. The Ministers' proposal assumed a package of other reforms, including implementation of Halliday's custody plus and minus; incentives for early guilty pleas (sentence discounts plus advance indication of sentence); abolishing magistrates' powers to commit for sentence; and improved case management, with better guidance on charging and sentencing. Together this should cut back the perverse incentives in the system for electing jury trial. This package of reforms would also apply to Auld's model, and could be combined with extending magistrates powers to 24 months.

Officials had analysed how the different options would impact on the system, using year 2000 data. In that year, there were 58,000 either-way cases handled by the Crown Court - of which 41,000 were committed by the Magistrates' Court and 17,000 were a result of defendants electing – leading to 21,000 jury trials. In addition there were 17,000 indictable-only cases, resulting in a further 7,000 jury trials. Auld's proposals would see the number of either-way jury trials reduced by 65%, while the Ministers' alternative proposal would deliver about half that reduction (30%). Both options would deliver a larger reduction than straight abolition of the right to elect (25%), although the abolition of the right to elect could be combined with the options for extending magistrates powers. All of the options would cost money over the SR2002 period because of

set-up costs, with savings only being realised after 2005/06. The Ministers' proposals delivered about half the net long-term annual savings (£12-16m) of Auld's model (£26-30m). Including the non-cashable savings (for example extra court capacity) doubled the estimated total savings, though it was likely that only a proportion of those could be realised.

The Prime Minister said that he believed in principle that it was wrong to reject Auld's proposals. Everyone who had looked at this issue objectively – including Auld, Narey and Runciman - believed that abolishing the right to elect was the right thing to do, and this reform was supported by the police, the magistracy and the judiciary. There were many aspects of the proposed second session criminal justice legislation where we were likely to encounter opposition, and mode of trial was not in a different category in this respect. The risk was that the radical option would be replaced by smaller reform but would still encounter the same problems.

The Home Secretary said that the objective was to have a more efficient and effective system that convicted the guilty. There were a package of reforms in hand to deliver that, including better protection of witnesses, changes to rules of evidence and incentives for guilty pleas. Abolishing the right to elect was not key to achieving that objective, and there was no point in wasting three years battling with the Lords simply to prove a point.

The Lord Chancellor said that he accepted that abolition was right in principle. The question was whether the gain it would bring would justify the effort. Of 21,000 jury trials for either-way cases, the Ministers' proposed option would cut 6,000. Abolishing right to elect would cut another 5,000 trials, delivering additional savings of around £15m. This was not enough to justify the controversy which would accompany the reform and overshadow the entire bill. There could be no guarantee that the Ministers' alternative model would not run into difficulty in the Lords, but it would be easier to justify using the Parliament Act, should that prove necessary, to extend magistrates' sentencing powers than to abolish right to elect.

The Attorney General said that we would get more support from the judiciary for our important change agenda – disclosure, case management, rules of evidence, prosecution rights of appeal – if it was not seen as a battle about mode of trial. He and the Home Secretary had met the day before with David Phillips and David Calvert Smith who had pressed strongly for these other changes, but not for abolishing right of election. There was a further point that the judiciary had supported the original mode of trial bill but not the second version (which had

more limited judicial discretion) and that issue had not been resolved. There had been no significant support in consultation for Auld's proposals for an intermediate tier.

The Chief Secretary said that the points made by Auld in his letter responding to the Ministers' alternative proposals had been compelling in principle and practice, and had not been fully answered. There was an issue on the costings, which were unlikely to be reliable as they did not apply the standard costs and flows model to take account of knock-on effects on the rest of the criminal justice system, for example the impact on prisons. The Treasury would require this further analysis before reaching conclusions on SR2002. Jonathan Spencer said that though previous evidence suggested that magistrates sentenced more leniently than the Crown Court, it was assumed that the implementation of the Auld and Halliday reforms would eliminate variation in sentencing between the jurisdictions. The Chief Secretary commented that this could prove to be an heroic assumption, and said that more work needed to be done on the cost-benefit analysis before decisions were finalised.

The Prime Minister asked what guarantee there was that if magistrates' powers were extended, defendants would not simply increase the rate at which they exercised their power to elect. The Lord Chancellor said there would be a package of incentives not to elect, but confirmed that people would still continue to have that right. The Home Secretary said it was important to think radically about reform and not be limited to existing proposals. Other ideas included making some non-custodial sentences such as tagging only available in the magistrates court, and imposing longer sentences for defendants electing and being found guilty.

The Prime Minister asked what additional benefits could be achieved by extending magistrates' sentencing powers to 24 months. The Home Secretary said that the power could result in more custodial sentences. Current problems with the over-stretched prison estate highlighted the need to avoid that. The Attorney General said that the further magistrates' sentencing powers were extended, the more likely defendants were to exercise their right elect. Magistrates would require significant additional training to take on sentencing up to 24 months.

The Prime Minister asked when the reforms would take effect. Jonathan Spencer said the bill would start next session, with implementation from 2005/06 onwards. The Home Secretary said that as much as possible would be done earlier than that, not least to tackle the prison population which had risen

4,000 in the last two months. The Lord Chancellor said that the Court of Appeal had already called for lower custodial sentences.

The Prime Minister said that he did not propose to reject the Ministers' collective advice, but he noted the Chief Secretary's concerns about the uncertainty of securing savings in jury trial costs without the certainty of abolition of right to elect. If Auld's recommendations on right to elect and an intermediate tier were not to be pursued, the rest of the package had to be as strong as possible.

Follow up

The Prime Minister would be grateful for further joint advice from the three CJS Ministers on the following issues:

- An agreed outline of the content of the White Paper to be published in May, including an outline of the chapter on rules of evidence and disclosure, by the end of next week; with a full draft of that chapter before Easter (27 March).
- An issue-by-issue summary of the contents of next session's legislation, showing progress to date and key milestones for policy approval and drafting (using the format developed for the Asylum and Immigration Bill), by 21 March.
- The outcome of further work into the wider cost benefit analysis of the proposals using costs and flows model, as soon as this is available.
- Proposals for research into how right to election is currently exercised (and abused) which would enable us to set a baseline from which to measure the impact of reform.

I am copying this letter to the Private Secretaries of those Ministers present, to the other attendees, and to Andrew Allberry (Cabinet Office).

Yours sincerely

JUSTIN RUSSELL

Jonathan Sedgewick,
Home Office

FROM: THE PRIVATE SECRETARY

NORTHERN IRELAND OFFICE
11 MILLBANK
LONDON
SW1P 4PN

cc JPo
TH AGS
JR
DMc

Matthew Rycroft
PS/Prime Minister
No10 Downing Street
London

7 March 2002

Matthew

CRIMINAL JUSTICE REVIEW

I enclose in draft a response the Prime Minister might send to David Trimble in reply to his letter of 25 February, in which he complained that the Irish Government was consulted on a Strand 1 issue, namely the Criminal Justice Review.

By way of background, the Justice (Northern Ireland) Bill passed through its Commons Stages on Monday 4 March. During Report Stage, my Secretary of State brought forward a number of amendments to the provisions on the display of the Royal Coat of Arms and flying the Union flag at courthouses. This was after Trimble had written to the Prime Minister. These amendments were welcomed by unionists and opposed by nationalists and the Irish.

The move in Trimble's direction should not have been a great surprise, however, and he may be seeking to use the issue to make a more general point about consultations with the Irish on Strand one issues.

The attached draft reply confirms that the Government is responsible for Strand one issues, but is unrepentent about our commitment to sensible consultation on the Review with the Irish and others. In fact, the Agreement

INVESTOR IN PEOPLE

says, at para 6 of the policing and justice section, 'Implementation of both reviews will be discussed with the political parties and the Irish Government'

I am copying this response to Ivor Roberts (Dublin).

Kate Udy

KATE UDY
PS/SECRETARY OF STATE

INVESTOR IN PEOPLE

DRAFT

Rt Hon David Trimble MP, MLA
First Minister
Parliament Buildings
Stormont
BELFAST
BT4 3XX

March 2002

CRIMINAL JUSTICE REVIEW

Thank you for your letter of 25 February about representations received from the Irish Government on the Criminal Justice Review.

Since the Review Group published their report in March 2000, there has been extensive consultation on all aspects of the Review's findings and the Government's response to them. We have sought and received comments from a wide range of individuals and representative bodies, including the Irish Government, at all stages of the process.

There is no question in my mind but that the Government retains responsibility for taking decisions on Strand one issues. Having said that, I note that the Agreement says (para 6 of the policing and justice section) 'Implementation of both reviews will be discussed with the political parties and the Irish Government'. I also think it is right that we have consulted on the Review across as broad a spectrum of opinion as possible, including with the Irish Government.

I understand that the debate on the symbolic issues in the Criminal Justice Review has moved on somewhat since you wrote to me. I hope you will

INVESTOR IN PEOPLE

agree that the amendments we put down during Commons report stage have struck an appropriate balance in relation to the views expressed to us during these consultation exercises.

PRIME MINISTER

INVESTOR IN PEOPLE

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MASTER

10 DOWNING STREET
LONDON SW1A 2AA

CJ pt 7.

THE PRIME MINISTER

Personal Minute

LORD CHANCELLOR

I am sorry that our meeting to discuss how to take forward Auld's recommendations on mode of trial and an intermediate tier was postponed last week. In advance of the reconvened meeting tomorrow morning, I have considered the joint advice which you have provided on the various options for reform, and I remain unconvinced that we are right to reject Auld's recommendation to abolish the right to elect, and establish an intermediate tribunal.

At our meeting tomorrow, I would like to explore further the following points:

- Given that the principle of abolishing right to elect is supported by most of the judiciary and the magistracy, and has been recommended by successive independent reviews, are we right to pull back now from radical reform? In particular, what assurance can you provide me that your alternative option (which you calculate would result in a 20% reduction in jury trials) would not prove, in effect, just as contentious in the Lords and ultimately require the Parliament Act to get it through?

- In the context of a very tight spending review, can we really ensure maximum cost-benefit from reform without abolishing the right to elect? Your analysis shows that your alternative options would only deliver half the savings of

Auld's model – but what is the full, long-term opportunity cost of not going for the full package? In particular, what is the risk of the benefits of your approach being neutralised by defendants increasingly exercising their right to elect?

- Given the practical problems there appear the be about establishing an intermediate tier, would a more straightforward and less contentious alternative to Auld not be to combine abolishing the right to elect with the extension of the magistrates' sentencing powers to 12 months; which together would deliver 85% of Auld's savings?

- If we do reject Auld's recommendation to abolish right to elect, would it not be better to extend magistrates powers to 24 months, in line with the youth court, to maximise reduction in Crown Court caseload? Would that not in any case be a better starting position from which to negotiate in the Lords, conceding to 12 months if that proved necessary, and in return for support on other measures?

I am copying this minute to David and Peter.

Tony

6 March 2002

02072733965

Home Office

Home Secretary
50 Queen Anne's Gate, London SW1H 9AT

JR
JP
JJH
DMc

The Right Honourable the Lord Irvine of Lairg
Lord Chancellor
House of Lords
London
SW1A OPW

Dear Derry

06 MAR 2002

CRIMINAL JUSTICE WHITE PAPER

Thank you for your letter of 1 March about the above.

I am as enthusiastic as you about publishing an Auld White Paper in May. I consider, however, that the White Paper should not be confined to announcing the Government's response to the Auld Review but should place this in the context of our overall strategy for law reform and reform of the criminal justice system.

The White Paper should deal with crime in the community; criminal justice system issues from charge to conviction (including rules of evidence); sentencing and offences; correctional policy; and rehabilitation issues.

We need to discuss and resolve our different views on the scope of the White Paper at the CJS Cabinet Committee meeting on 14 March. I would like us to look at the publication from the point of view of the public and, in particular, the need for a coherent top-to-bottom approach to tackling all those challenges which currently undermine or block achieving broader success on reducing crime, increasing convictions and making sense of both sentencing and the criminal justice system. To this end our officials are preparing a paper for the Committee.

If a detailed response to all of Auld's recommendations is required, and would unbalance the sort of White Paper I have in mind, one solution might be to issue with the White Paper an appendix which whilst critically important to a range of interests would complement rather than subsume a key story we have to tell the wider world.

303db

02072733965

I am copying this letter to the Prime Minister, the Attorney General, the Chief Secretary to the Treasury and Sir Richard Wilson.

Best wishes,

DAVID BLUNKETT

FCS/02/042

SECRETARY OF STATE FOR THE HOME DEPARTMENT

DMC
E:JR
MR

Organised Crime Emanating from Turkey

1. Thank you for your letter of 19 February in which you raised your concerns about Turkish involvement in the heroin trade and people smuggling. I share your concerns. Turkey is a major processing centre for Afghan opiates, the principal supply route for heroin to Western Europe and a growing thoroughfare for illegal immigration to the UK. Criminal organisations in Turkey with links to terrorist groups may well be facilitating both drugs and people smuggling.

2. On the face of it, Turkey is failing to take its international law enforcement responsibilities seriously, particularly in respect of transnational organised crime. Turkey has long seen drug trafficking as a foreign problem. This in part is due to its extremely low domestic demand for drugs and its intractable belief that drugs simply transit Turkey and are not produced there. Similarly, Turkey believes that it is a transit rather than a source country for illegal immigration.

3. As you also rightly say, to be effective, the manner in which we engage with Turkey over these problems must take account of several factors. These include the relationship which has been built with Turkey since the terrorist attacks in the United States last September, and Turkey's wider relations within NATO and its region. They are particularly sensitive to external criticism.

4. There have been some encouraging signs recently; operational co-operation is improving and consequently there have been some very large seizures of heroin. The obvious benefits of having a shared approach to drugs and UK-Turkey co-operation on controlling illegal immigration in the Balkans makes the refusal to accept a UK immigration officer difficult to understand, even if our most recent contacts with the Turkish MFA suggest the refusal may not be definitive. I fully support your proposal for a Home Office Minister to visit Turkey to express our concerns. As you note, we should encourage and offer assistance while pressing the Turkish authorities to do much more. I agree that we ought to encourage greater engagement with JHA structures, and indeed would emphasise the need for Turkey to overcome its insularity if it is to meet its EU aspirations.

5. I understand that Keith Hellawell is due to visit Turkey in April, when he will be able to build upon the successful visit of John Abbott and Sir John Wheeler at the end of last year. I am keen that we open as many doors as possible to our law enforcement agencies whose co-operation with the Turkish Authorities will be the key to slowing trafficking in people and drugs.

6. I am grateful to you for raising these matters and I will ensure that these important issues are placed on the agendas of FCO Ministers. I will raise your concerns whenever I feel it appropriate with my Turkish opposite number Ismail Cem.

7. I am copying this to the Prime Minister, Peter Hain and Denis MacShane.

Jack Straw

(JACK STRAW)

Foreign and Commonwealth Office

4 March 2002

02072192220

FROM THE RIGHT HONOURABLE THE LORD IRVINE OF LAIRG

OMC
cc JR
JH
AA

HOUSE OF LORDS,
LONDON SW1A 0PW

2 March 2002

The Rt Hon John Denham MP
Minister of State
The Home Office
50 Queen Anne's Gate
London
SW1H 9AT

Dear John,

NEW LONDON YOUTH CRIME TASK FORCE

Thank you for copying your letter of 22 February to the Deputy Prime Minister to me alerting colleagues to your intention to announce a new Youth Crime Task Force for London on 26 February. There is a pressing need to grip youth crime, especially street robbery, in the capital and I am broadly content with the terms of reference for the Task Force and its membership. I do however, have a number of concerns.

Firstly, the Terms of Reference include the phrase "ensuring effective sentences and programmes to support them". I take this to refer to sentence execution and that the intention is to ensure that there are high quality programmes of suitable intensity available which are rigorously supervised by the appropriate officer, including decisive action on breaches. I would like your assurance that the Task Force will not stray into the judicial area of sentence determination.

We need to bring these young offenders to Court quickly but my second concern is that the right balance between effectiveness and speed through the system is struck. The most effective message we can send to young muggers is that there is a high probability of their being convicted. I, however, believe that the Task Force should be directing its efforts towards detection and good case preparation rather than all out speed, as the best means of reaching what is desired at the end of the line - conviction of the guilty.

My third point concerns the relationship of the new Task Force with other London groups, in particular the Solicitor General's Ministerial Group and the London Criminal Justice Board. It will be vitally important to get that relationship right to ensure clear lines and channels of communication.

02072192220

Finally, although I am aware there has been some discussion at official level and I do support the creation of a new Task Force to tackle the hard core of young offenders in London, I must register my disappointment that your letter did not consult colleagues within our tripartite arrangements on the basic principle of a Task Force but simply informed us of an announcement made by the Home Secretary the previous day.

I am copying this letter to the Prime Minister, the Deputy Prime Minister, Michael Wills, other members of CJS (CR) and DA Committees, and to Sir Richard Wilson.

Yours ever,
Derry

LONDON CRIMINAL JUSTICE BOARD

Working together to improve delivery of criminal justice services across London

CO-ORDINATION OF JUSTICE DELIVERY IN LONDON

BACKGROUND

The Attorney General has asked the London Criminal Justice Board (LCJB) for a briefing paper in its role (past, present and potential future) and its perspective on issues affecting the delivery of joined-up justice in London. This paper is required as a baseline for the forthcoming Ministerial Group meeting in 19 December 01.

CONTENTS

The contents of this paper reflect the Attorney General's remit and supplementary questions she posed at a meeting with Chairman of LCJB on 29 November. For ease of reference the paper is laid out as a Q & A brief as follows:

Part 1 – London Criminal Justice Board
What was LCJB's raison d'entre?
What is the LCJB's present mandate?
What are LCJB's current priorities?
What are LCJB's longer-term ambitions?

Part 2 – Issues affecting the delivery of joined-up Justice
What is the legacy that London faces?
What are London's strengths and weaknesses?
What are the areas requiring attention?
What extra resources are required – and for what?
Do we have a boundaries problem?
Do we have a liaison problem?
How does our organisation compare with that of other countries?

Part 3 – The Way Ahead
What then are LCJB's long-term ambitions?
And how can the Ministerial Group help?

PART 1 – THE LONDON CRIMINAL JUSTICE BOARD

1.1 What was LCJB's Raison D'Entre?

- Glidewell – In November 1998 a London Criminal Justice System (CJS) team (known as 'The Taking London Forward' Task Group) was formed to consider issues arising from the Glidewell Report's proposed alignment of operational boundaries. The Group's remit was to review the rapidly changing CJS Landscape, the then new Government's objectives for a 'joined-up' CJS, and to make recommendations.

- Disperate Organisations – At that time London's CJS suffered a particularly fragmented organisation. This included the recently amalgamated London Crown Prosecution Service; two Police forces (as now); four autonomous Probation Services (since brought together as one Service); 30 different Magistrates Courts Authorities (brought together as the Greater London Magistrates Courts Authority – GLMCA – on 1 April 01) and the London Crown Courts Group (then, as now, rather anomolously part of the SE Circuit).

- Recommendations – The Task Group's final report, published in June 2000, included two key recommendations:

  - **Operational Level** - The establishment of a *London Criminal Justice Board* comprising the Inner Offices in London Statutory CJS agencies.
  - **Working Level** – The parallel establishment of *Borough Criminal Justice Operational Groups* comprising the local officers in the same CJS agencies.

1.2 What is LCJB's Present Mandate?

- Mandate *To:*
  - Coordinate operations between London's statutory CJS agencies.
  - Consult and communicate across the wider criminal justice community
  - Achieve their respective Ministers' objectives for the CJS as published in their CJS Strategic Plan (1999-2002)

- Membership

Chairman - **Ashley Truluck**
Chief Executive, Greater London Magistrates Courts Authority

Members **Keith Budgen**
Group Manager, London Group of Crown Courts
Peter Boeuf
Chief Crown Prosecutor London
Tarique Gaffur
Assistant Commissioner, Metropolitan Police Service
Frank Armstrong
Commander, City of London Police Service

John Powls
Chief Officer, London Probation Service

The Board is supported by an ad hoc *Executive Secretariat* comprising next level Chief Officers seconded from their respective member services on a part time basis.
It is also served by a *Support & Advisory Team (SAT)* currently tasked onto PYO work (see below).

1.3 What are LCJB's current priorities?

- Persistent Youth Offenders (PYO)

The first four above-mentioned officers form the PYO Steering Group. In the six months since this group formed, delay times for processing PYO have been driven down from over 120 days to 68 in real time terms. This is the biggest proportional drop across the country (although national statistics, which lag real time by 3 months, do not yet reflect this fully). PYO was a 'test case' for LCJB and many valuable lessons in joint working have been learned as a result – including, for example, the value of a Joint Operating Protocol; regular joint coordinating meetings at both operational (Chief Officer) and working (Local) level; and the catalytic effect of deploying a Support & Advisory Team to problem areas as a 'trouble shooter'.

- Other Priorities include improvements to:
  - Management of *all* persistent offenders (using the experience gained from PYO work)
  - The effectiveness rate for (cracked) trials
  - The support of witnesses and victims
  - Joint performance management and monitoring

1.4 What are LCJB's Longer Term Ambitions?

- The Board welcomes the establishment of the joint Ministerial Group and looks forward to working closely with it in the future.
- The Board wishes to realise its full joint operational potential by establishing a *permanent* multi-agency secretariat which would build in the success of the current ad hoc Executive Secretariat and Support & Advisory Team to provide a joint capability to:
  - Support the Board's meetings
  - Act as 'Think Tank', developing initiatives and plans
  - Act as a joint performance management/monitoring unit
  - Provide a 'trouble shooting' Support & Advisory Function
- Anticipated 'deliverables' by mid 2002 are:
  - Finalising a Joint Improvement Plan
  - Agreeing joint operational protocols
  - Establishing Joint Performance Indicators
  - Develop proposals for more effective IT interfaces
- These, and other ambitions are explained in Part 2 and brought together in Part 3

PART 2 – ISSUES AFFECTING THE DELIVERY OF JOINED UP JUSTICE

2.1 What is the Legacy we jointly face?

- Political
  - Three government departments involved – no single focus
  - No strategic vision – concentration in short term 'quick wins'
  - No common boundaries or organisation for delivering joined up justice
- Social
  - CJS is the 'fall guy' for society's ills, especially domestic break-up/violence and the short falls of the state education system
  - All roads lead to London: we act as a magnet for particularly complex and long-running cases
- Resources
  - Growth in volume and complexity of crime issues in London has not been matched by a growth in resources allocated to deal with them.
  - Most CJS agencies are on 'mark time' budgets at best or steadily reducing budgets which are geared to 'steady state' assumptions i.e. do not allow for volume growth or local initiatives.
  - Money allocated down separate CJS 'stovepipes' rather than for joint initiatives.

2.2 What are London's Strengths and Weaknesses (c.f. joint working)?

- Strengths
  - **'Clout'** – we are big enough to mount effective initiatives if so minded.
  - **Commitment** – strategic commitment at Chief Officer level to work together backed up by growing understanding of the issues and requirements of joint working through the work of the PYO Steering Group and LCJB.
  - **Pockets of Excellence** – which are leadership-driven e.g. Camden, Tower Hamlets, Croyden and Westminster.
  - **Staff** – committed staff working with a volume and complexity of work not experienced anywhere else (a commitment not generally recognised). Staff are up for change if properly managed.
- Weaknesses
  - **Short term Initiatives** – due to proximity to Central Government. Perception of being the national trend setter (which we hope to be) and insistence on 'quick wins'. Fascination with statistics rather than long term goals.
  - **Unique Challenges** – London faces unique challenges due to its status as the Capital city; complexity of social and consequently criminal cases; mixed population including an abnormally high transient population including many foreign nationals; and high costs. Yet little or no allowance is made for these factors in terms of performance targets and resource allocation. London <u>is</u> special.

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- **Community Involvement** – given London's size, it is difficult to involve the community in developing our plans. As a consequence, London CJS tends to be heavily dependent on administrative procedures and bureaucracy at the expense of community responsiveness.
- **Blame Culture** - Although now much better as a result of LCJB initiatives and cooperation, a 'blame culture' persists between CJS agencies – not helped by the lack of shared strategies, objectives, targets and performance indicators (all being addressed by LCJB).

2.3 What therefore are the Areas Requiring Attention?

- Leadership – Need to develop the leadership skills in key personnel across the various statutory CJS agencies so as to educate people about each other's organisations, and so eradicate the blame culture by shared ownership of problem-solving, decision-making, business planning and implementation of change.
- Management - the need to apply a range of common business management techniques within and between the CJS agencies, so as to facilitate the development of a common vision and values.
- Communication – the need to develop a common communications strategy (including corporate identity) for the London CJS, through which we could project a single voice to external stakeholders and court users – thereby increasing public understanding and confidence.
- Planning – the need to develop a CJS Strategic Plan for London with appropriate bench marking, objectives, targets and performance indicators – including for dealing proactively with diversity and institutional racism.
- Complexity - the need to address the growing volume and complexity of criminal issues in London over the past decade – and the fact that this has not been matched by a corresponding allocation of resources.
- Estates – the absence of a long-term strategy addressing the need to rationalise the (shared?) use of real estate by the various CJS agencies and to coordinate piecemeal initiatives by the different CJS agencies.
- Information Technology – the absence of a much needed ICT Strategy for national CJS joint working and for London in particular.

2.4 What extra resources are required – and for what?

- Short-term injections of cash for specific projects – such as are provided through the *Criminal Justice Reserve* are most welcome but what's really required is long term investment. The need to make economies is fully appreciated but the year on year imposition of 3% efficiency savings on top of other 'efficiency' measures and lack of (adequate) allowance for inflation or innovation outside 'core' business means that CJS agencies are, in real terms, being asked to meet the rising volume and complexity of criminal activity with less and less resources. The consequences of such a policy are entirely predictable and already evident.
- Each CJS agency has their own particular funding priorities – these are not the subject of this paper. What follows are areas of potential investment that LCJB consider to be of value in a joined-up working

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context. Such funding needs to be bid for, and allocated, on a joint basis to be most effective. No such mechanism for such funding routes currently exist although, properly resourced, the LCJB could take on a coordinating role.

- Possible areas of investment – which have perhaps been neglected for want of a joint sponsor – include:
  - **Information Technology** – joint working depends on joint information and information exchange. The necessary ICT Systems – or even interfaces – simply do not exist at present. Each CJS agency develops its own stovepipe systems in relative isolation.
  - **Court Facilities** – Most of our courts need modernising to provide such facilities as video links, separate waiting areas for defence and prosecution facilities, particularly in the Crown Court, and victim and witness support facilities – to name but a few. In many cases this will involve a strategic approach to courthouse estate usage incorporating a long-term building and refurbishment programme – such as is about to be introduced by GLMCA. But real progress will require inter-Agency planning and involvement to produce, ultimately, *combined court centres* (as envisaged by Auld) or even *'Criminal Justice Centres'* bringing together all the necessary facilities to provide the public with a 'one stop shop' e.g. prisoner processing, courtrooms, CPS representation, probation services, voluntary agencies involved in victim and witness support, alternative sentencing and diversion etc. all provided on one site.
  - **Victim and Witness Protection** – The current system extends only to juries, victims and witnesses in high profile cases. However, there is clear evidence that intimidation is a feature in cases across the spectrum and the seriousness in the threats or implied threats do not always correlate directly with the seriousness of the alleged offence. To provide an effective programme to impact in intimidation would require massive investment.
  - **Permanent Secretariat** – LCJB is prepared to take these, and a range of other issues it has identified, forward. Auld envisages that it should do so (page 344 see footnote 57). However we cannot do this on the basis of the ad hoc support arrangement we are currently obliged to work with. As explained above, we need joint funding to establish a permanent group to act as a joint operational Secretariat/Think Tank/Implementation Coordinator/Trouble Shooter to drive this work forward on our behalf.

2.5 Do we have a boundaries problem?

- Yes – both functional and geographical.
- At the politico-strategic level we have no *Ministry of Justice* in UK and therefore responsibilities, funding and direction is dissipated over several ministries. With no strategic focus it is hardly surprising that those at the operational level worry about a lack of strategic vision. The introduction of an ad hoc Ministerial Group (though extremely welcome) is, at most, an acknowledgement of the problem, rather than a cure for it.

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- At the operational-strategic level most CJS agencies are now pan-London in organisation. The probation and magistrate's courts have recently formed single pan-London organisations. But the Crown Court still adhere to the SE Circuit and bring work into London from surrounding counties which confuses liaison arrangements.
- At the regional level within London there is little meaningful alignment of boundaries and responsibilities – despite the best efforts of the agencies involved. We attach map overlays showing the overlapping boundaries but in essence: The MPS have no regional structure below Scotland Yard; CPS have recently organised into 4 regions, GLMCA are about to organise into 5, Civil Courts to 4, Probation to 5. The situation is not as anarchic as it appears as all do their best to conform to CJU boundaries, which are - like all agencies – fundamentally borough based. Nevertheless, the amount of time and effort wasted in 'patching' across overlapping boundaries (and in attending 3 meetings when one would suffice given matching structures), is significant.
- At the working or local borough level most CJS agencies are represented. This represents the *'lowest common denominator'* in our operational structure. It is also our most important one – hence LCJB's emphasis on Borough Operational Units.

2.6 Do we have a liaison problem?

- Yes. To an extent this is necessary to overcome the problem of non-aligned/overlapping operational boundaries and the lack of a strategic coordinating focus.
- On the other hand, the CJS world is remarkable in its ability to spawn a large number of committees all addressing similar issues and most without the executive power or funds to put their proposals into effect. As a result, principal officers are frustrated by the amount of time spent talking around and about issues rather than resolving them. It was against this background that the LCJB was formed as a 'doing' group. Nevertheless, many liaison and discussion groups remain and new ones continue to proliferate. Some form of audit of these groups, and a reduction in their number, would enable a more focused approach to be taken overall.

2.7 How does our organisation compare with other countries?

- London's, and indeed UK's, ability to 'make do' and 'muddle through' probably disguises the organisational flaws in our system. It is difficult to imagine that other countries reputed for their organisational efficiency – e.g. USA and or Germany – would accept the sort of organisational non-alignment described in the previous sections. Anecdotal evidence seems to support this but it could be dangerous to draw analogies. For example, night courts work well in New York where Police and Court structures are more closely aligned than here – hence the problem we have had getting the night courts project off the ground in London.
- It is difficult to get reliable information on the subject – and to reduce the variables to enable meaningful comparisons to be made. An initial survey

of London vs. New York is attached as Appendix A as an example of the complexities involved.

- Looking wider afield, we understand that other US cities have developed effective joint working arrangements which have led to effective integrated thinking about performance and contributing to *reducing* (as opposed to merely *punishing*) offending. Equally, there are examples in Australia where this approach is applied. Ironically it may be more productive to look further afield (than Europe) to the old Commonwealth countries to find relevant examples of joined-up justice since these countries are often founded on British-style judicial arrangements.

PART 3 – CONCLUSION

3.1 What then are LCJB proposals for taking all this forward and how can it help the Ministerial Group in doing so?

- LCJB is only 3 months old as a principal officers group (it having been in shadow form for its first year) and its plans for the future are still forming. Nevertheless with its small size and focus on *delivery* and operational *solutions*, it has achieved a great deal already and captured the imagination of Auld in doing so. We look forward to taking our work forward with the Ministerial Group.
- We would propose to continue to provide the operational planning and coordination focus for London as discussed above, but to be fully effective we require a full time and multi-agency Criminal Justice Joint Operational Planning Unit or secretariat to do so.
- A CJS Strategic Plan needs to be developed for London. This would have as its permanent objectives the delivery in London of the Ministerial CJS Strategic Plan, and a further key objective of improving the delivery of CJS services by working in an increasingly holistic and coordinated manner.

3.2 And what can the Ministerial Group do to help us (all) achieve these objectives?

- By addressing the politico – strategic issues; i.e. lack of a single Ministerial lead; lack of 'a long term' investment plan based on clear strategic priorities; and lack of pan-London coordination on regional boundaries (not just for a joint criminal justice system, but also for emergency services etc).
- By concentrating on long term solutions rather than short term fixes.
- By creating an effective and focussed management structure, with executive power and dedicated funding, for tackling these issues – into which LCJB is fitted as the operational coordination function.
- By eliminating, *inter alia*, the overlapping liaison arrangements that currently exist and which take up so much time for little output.

A E G Truluck CB CBE
Justices Chief Executive
Greater London Magistrates Courts Authority

Co-terminosity in Criminal Justice System – Outside the UK

Introduction

This report summarises the brief analysis undertaken over a couple of days using the Internet as the main source of information.

A number of major cities were explored – New York, Los Angeles, Toronto, Paris, Rome, Oslo, Sydney and Melbourne. Of these, only New York provided sufficient breadth and depth of data on the key criminal justice agencies.

Co-terminosity of Criminal Justice in New York City

Co-terminous at borough level and New York City regarded as a separate unit with New York State. Cross agency bureaus and Mayor's Office provide the 'glue' for cross agency activities.

New York State Unified Court System

Fully integrated court system.
New York City Criminal Court is a discrete unit within the structure

New York City Criminal Court

Organised on a county basis – Bronx, Brooklyn, Manhattan, Queens, Staten Island (courthouse at each) plus community courthouses for Midtown, Red Hook (Brooklyn) both to counter criticism of centralisation and accessibility difficulties.

District Attorney's Offices

For New York City organised on a county basis – Bronx, Brooklyn, Manhattan, Queens, Staten Island
Department structure at each DA's Office varies

Criminal Justice Bureau of New York Police Department

Established in 1971 to centralise control of Police Department's criminal justice activities for four boroughs – Manhattan, Bronx, Brooklyn and Queens.
Activities include supervision of all police personnel assigned to court, effective warrant enforcement, formulate polices and plans involving CJS.
This Bureau replaced a 7-Borough Commander system for police activities and court appearances, and lower precinct level warrant execution.

New York State Division of Criminal Justice Service

Multi function criminal justice support agency
Operational liaison between NY City PD, five DA's Offices, NY State Office of Court Administration, Division of Criminal Justice Services, Mayor's Criminal Justice Coordinator's Office. There are seven program bureaus within it.

New York Mayor's Office

Much broader role than the London-version.
Provides direction on key initiatives across public safety (including criminal initiatives such as targeting career criminals), education, Children's services, healthcare, welfare reform, housing, accountability of government (charter initiatives), economic development, cultural projects. Mayor coordinates all this through - Citywide Accountability Program –series of performance indicators and reporting which tie back to Mayor's policies for the year

Alison Lloyd
10th December 01

London Boroughs

CJU Boundaries

4 CJU ACCP Areas

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5 GLMCA Regions & London Boroughs

File

RESTRICTED

In DCO Inbox

10 DOWNING STREET
LONDON SW1A 2AA

From the Private Secretary

1 March 2002

Dear Paul

CRIMINAL JUSTICE REVIEW

I enclose a copy of a letter the First Minister has written to the Prime Minister about the Criminal Justice Review (dated 25 February but received here only today). It complains that the Irish Government were consulted on a Strand 1 issue.

I would be grateful for a draft Prime Ministerial reply by close on 7 March.

I am copying this letter to Ivor Roberts (Dublin).

Yours

Matthew Rycroft

MATTHEW RYCROFT

Paul Priestly
NIO

RESTRICTED

OFFICE OF THE FIRST MINISTER & DEPUTY FIRST MINISTER

From the First Minister
Rt Hon David Trimble MP, MLA

The Rt Hon Tony Blair MP
Prime Minister
No 10 Downing Street
LONDON
SW1A 2AA

25 February 2002

Dear Prime Minister

CRIMINAL JUSTICE REVIEW

As you are aware I have made vigorous representations in an attempt to arrive at a satisfactory and fair outcome on important symbolic issues raised, in my view unnecessarily, by the Criminal Justice Review.

I was alarmed to learn that the Irish Government have made representations on the same subject. The successful practical outworking of the Belfast Agreement is dependent on the primacy of the 3-stranded approach being maintained. With regard to Strand 1 areas, these are the preserve of Her Majesty's Government and the Northern Ireland Administration. As criminal justice functions are Strand 1 issues, I see no reason why the Irish Government should have been consulted, or representations received from them.

I very much regret that Her Majesty's Government has not been prepared to defend the integrity of the United Kingdom and of the Peace Process on this important issue.

David Trimble

THE RT HON DAVID TRIMBLE MP, MLA
First Minister

Parliament Buildings, Stormont, BELFAST, BT4 3XX, Northern Ireland
Tel: (028) 90521013 Fax: (028) 90521963

LORD CHANCELLOR'S DEPARTMENT
SELBORNE HOUSE
54-60 VICTORIA STREET
LONDON SW1E 6QW

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JONATHAN SPENCER CB
DIRECTOR GENERAL, POLICY

Telephone: 020 – 7210 8719
Facsimile: 020 – 7210 0695
Jonathan.Spencer@lcdhq.gsi.gov.uk

www.lcd.gov.uk

Your reference

Our reference

1 March 2002

Sir David Phillips QPM
President of Association of
Chief Police Officers
Kent Police Headquarters
Sutton Road
Maidstone
Kent ME15 9BZ

Dear David,

Auld Review Summary of Responses

Thank you for your letter of 19 February about the summary of responses to Auld.

I agree that this version of the summary did not fully reflect the Association of Chief Police Officer's views. We do of course attach great importance to ACPO's views, as evidenced by your meeting with LCD and Home Office officials as a key stakeholder on 18 December.

Written responses, as well as the notes of meetings, were passed on to officials with policy responsibility immediately upon receipt, and are fully taken into account in the preparation of advice to Ministers. At the same time, responses were summarised to give all interested parties an overview of the tenor of comments received. The version you received was very much an initial analysis, based upon an initial sift of responses received. In the week surrounding the closing date of 31 January, the Department received in excess of 300 responses, which ran to many thousands of pages. Many of these responses, like ACPO's, were lengthy. As a result of the enormous volume of responses, and the time available, the initial analysis of the responses was more patchy than we would have hoped. The summary has been considerably improved since the first analysis (it now runs to nearly 50 pages) and it already more accurately reflects ACPO's comments. I have however asked colleagues here to ensure that the final version of the summary fully reflects the views of ACPO; a copy of the final version will be sent to you in due course.

On the specific question of disclosure and pre trial management, I am in no doubt that this is one of the key issues to be tackled – indeed, better case management is one of the key themes in the whole Auld proposition. The challenge on disclosure – a topic on which the Home Office have the policy lead and which you will I imagine be discussing direct with them – is to find improvements and measures which will really stick. The LCD clearly has a role in this, not least in the part to be played by the judiciary.

Yours sincerely

Jonathan

JONATHAN SPENCER

DEPARTMENT OF HEALTH

Richmond House 79 Whitehall London SW1A 2NS Telephone 0171 210 3000
From the Secretary of State for Health

IMC: 20797

JA
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BS
DM
AA

The Rt Hon John Denham MP
Minister of State
Home Office
50 Queen Anne's Gate
London SW1H 9AT

1 March 2002

Dear John

NEW LONDON YOUTH CRIME TASK FORCE

Thank you for your letter of 22 February in which you set out the proposals to establish a London Youth Crime Task Force. I strongly support the objectives of the group. However I believe that it will be important that you have social services representation on the task force. Social services, as well as being the majority funder of youth offending teams, is likely to be a key agency for the young people that this task force is concerned with.

I would suggest that you contact David Behan with a view to him joining the task force. He is Director of Social Services for the London Borough of Greenwich and Chair of the Chief Officers Group, Inner London Youth Justice Services and I am sure he would be able to make a good contribution to the Task Force's work. If he is unable to take this on then he will be able to advise you on who to involve. His contact details are as follows:

David Behan
Director of Social Services
London Borough of Greenwich
Nelson House
Wellington Street
Woolwich
London SE18 6PY
Tel: 020 8854 8888

I am copying this letter to the Prime Minister, Deputy Prime Minister, members of CJS(CR) & DA Committees and to Sir Richard Wilson.

Yours Alan

ALAN MILBURN

SP010301

FROM THE SECRETARY OF STATE

M&L
C: NB

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LOCAL GOVERNMENT
REGIONS

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LOCAL GOVERNMENT AND THE REGIONS

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The Rt Hon John Prescott MP
Deputy Prime Minister
Dover House
Whitehall
LONDON
SW1A 2AU

Dear John,

28 February 2002

DRINK-DRIVE BLOOD ALCOHOL CONCENTRATION (BAC) LIMIT

I am writing to you as Chairman of DA Committee to inform you that I have considered the matter of whether we should lower the legal BAC limit from 80mg to 50mg and after discussion with the Home Secretary, I have decided that we should announce as soon as possible that the Government is not going to make a change in the foreseeable future. On presentation we would argue our priority is to tackle those drink-drivers exceeding the current limit.

Background

You will recall that this issue was examined shortly after the 1997 General Election and that we undertook a Consultation Exercise "Combating Drink Driving – the Next Steps" during 1998 in which the government said it was "minded" to lower the BAC limit to 50mg. The conclusion from this was that a majority of respondents favoured a reduction in the limit although the consultation provoked a substantial write-in campaign inspired by a national newspaper. In the Road Safety Strategy, which the Prime Minister launched in March 2000 we said we were deferring any decisions on a limit until we knew whether Europe planned any further steps.

In March 2001 the European Commission adopted a Recommendation on Harmonising Blood Alcohol levels throughout the Union. The Council of Ministers responded to this but, significantly, in my view, did not endorse it. Shortly after, Commissioner Palacio wrote to Larry Whitty asking if the UK would consider lowering the BAC limit to 50mg to be in line with the rest of Europe. She also wrote to transport ministers Italy, Ireland and Luxembourg in the same terms. Larry Whitty responded that we would consider the matter. In view of the uncertainty that has prevailed for nearly a year, I firmly believe we should now make a statement on this issue.

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The arguments

I have weighed up the arguments for and against.

Central to the case in favour is the estimate that some 50 lives a year might be saved, together with associated reductions in serious and slight injuries and corresponding accident costs. The value of this is estimated to be £90m. Implementation would not be costly although some new enforcement effort would be needed from the police and there could be some other administrative costs for courts and the Driver and Vehicle Licensing Agency. Implementation costs are estimated at £1m. The cost-benefit of this change would therefore be extremely favourable.

The case against a change is that it may not command overwhelming support among the motoring community and opposition could undermine the efficacy of the existing policy. It has also been said that lowering the limit could have an impact on the pub trade, and on the rural economy. The evidence of this is not strong (because there are so many other factors) but there is a risk of losing some of the goodwill of the generally law-abiding motoring public at large. The success of drink drive policy in Britain has hitherto been founded on the social stigma of the offence backed by the severity of the penalty for which there is much public support.

Other countries that have adopted a lower threshold still regard it as a relatively minor infraction at *lower levels* of alcohol. In the UK we have not adopted this approach. When we undertook our consultation we found that most people were against a two-tier penalty. The view was that if the limit were reduced to 50mg the current penalty should be applied at that lower level. I still feel, however, that the one year driving ban and the possibility of a custodial sentence would be regarded by many as disproportionately severe compared with other offences to which more gradation applies such as the degree of excess of speeding.

At the European level we would not be invoking the subsidiarity argument, since we are responding only to a non-binding Recommendation of the Commission (not of the Council or Parliament) and I do not believe any of the other three countries on 80mg are likely to change their positions in the near future. We would, in fact, want to talk up the importance of increased cooperation between member states in combating the drink drive problem. There is still more to be learned from experience and research, and through collaboration in development of new technology.

I would propose to make the announcement on or before 11 March when David Jamieson will be giving evidence to the House of Lords European Legislation Committee on this subject. We shall gear up to handle it in a positive way. To this end I hope the Home Office will lend support on the need for effective enforcement. Appropriate briefing will be made available to other interested departments.

I am copying this letter to the Prime Minister, members of the Committee and Sir Richard Wilson.

Yours Stephen

STEPHEN BYERS

Home Office

The Rt Hon John Denham MP
MINISTER OF STATE
50 Queen Anne's Gate, London SW1H 9AT

Justin Russell
10 Downing Street
London
SW1A 2AA

28 February 2002

Dear Justin

NATIONAL CRIME REDUCTION TASKFORCE

You will be aware that the National Crime Reduction Taskforce has not met since December last year. I am writing to inform you that we have decided that the work of the Taskforce has come to an end. The Home Secretary will shortly establish the National Crime Reduction Delivery Group, whose membership will consist of representatives of Central Government, police, Local Government and voluntary sector organisations. The Delivery Group will focus on local crime reduction delivery issues and will work to a Ministerial Committee established to ensure effective cross-Government co-operation in reducing crime.

I would therefore like to take this opportunity to thank you for your work as a member of the Taskforce. Reducing crime is one of the Government's top priorities and we have all been encouraged by the steady falls in levels of crime highlighted by the recent British Crime Survey. However, there is still much to be done. I believe that strengthening joined-up working at Ministerial and departmental level, together with the new Delivery Group working at the local level, will ensure that we can deliver further sustained falls in crime.

Thank you again for your valued contribution.

Yours

Rt Hon John Denham MP

Department for Culture, Media and Sport
Phil Clapp
Education and Social Policy Unit

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DM, JR SH WP

Jitinder Kohli
Head of Community Cohesion Unit
Home Office
50 Queen Anne's Gate
London SW1H 9AT.

28 February 2002

Dear Jitinder —

MINISTERIAL GROUP ON COMMUNITY COHESION

Following the slightly truncated meeting of the above Group yesterday evening, I thought I would put on paper a number of issues arising from the papers.

I should stress at the outset that there is huge potential for DCMS and its sectors to support and strengthen the community cohesion agenda, and the Education and Social Policy Unit stands ready to act as a first point of contact for you or colleagues where you think we might be of help.

We look forward to seeing the proposed list of Panel members, and are grateful for having been given the opportunity to contribute possible names. As Richard Caborn said at the meeting, it is clear that both community sports and arts have a key role in fostering community cohesion and we would hope that, even if it is not possible for reasons discussed yesterday evening to reflect all interests through Panel membership, some consideration might be given to this in constituting the second, larger group of external stakeholders.

The paper 'Community Cohesion - What Next?' sets out a suitably comprehensive approach. At one point, however, the paper refers to work with DCMS and the English and Wales Cricket Board (ECB) to develop a programme of summer cricket events. I understand from colleagues that they were until now unaware of these proposals. Could I ask that Sport and Recreation Division colleagues here at DCMS are involved in any further thinking on this and in particular in any discussions with the ECB. The contact here is: Sean Coster on 020 7211 6083.

The update paper on Community Facilitators flags up that in a number of areas - for example Oldham, Sheffield and Sunderland - sports and arts approaches are being used. This is perhaps an area that can be built upon, and colleagues here would be happy to exchange case studies and good practice with the CCU (and indeed the Neighbourhood Renewal Unit). Our regional arts and

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sports bodies are ready to engage with and support this agenda

It is also clear that a significant number of the areas covered - Hull, Rotherham, Birmingham, Southwark, Nottingham, Sunderland, Middlesbrough, Slough and Bristol - are within areas for our existing Creative Partnerships (CPs) programme. This initiative will from April bring together professionals from the creative industries with schoolchildren in deprived areas. Colleagues here would be keen to explore the potential synergies between the two agendas.

I am conscious that the paper collating SR2002 bids currently omits a number of DCMS bids which seem relevant to the community cohesion agenda. Colleagues in the CCU have already received details of our bid on summer activities, but I will ensure that further details of this and other relevant programmes such as Creative Partnerships (above) are with you shortly.

My final comments relate to the paper covering the proposed communications strategy. Given the position of DCMS, could I suggest that as well as including our communications colleagues in development of this, efforts should also be made to include colleagues at Sport England and the Arts Council of England.

I should also point out that the reference in the paper to ongoing research by DCMS on the relation of the media to race issues is mistaken. No such research is underway. Colleagues in the CCU have however already been provided with a list of relevant research of which we are aware. This includes details of joint research currently underway across broadcasting bodies including the Broadcasting Standards Commission, the BBC, the Independent Television Commission and the Radio Authority on: 'Audience perception of multi culturalism on TV and Radio' . We can certainly provide more details on this if necessary.

It probably goes without saying that the strategy will need to look carefully at what works in engaging young people, particularly those from black and minority ethnic groups, through the media. The Central Office of Information's Black and Minority Ethnic Unit will be particularly helpful on this. There already exists a lot of good practice in the public sector on reaching these target groups. For example the CRE/PFA 'Let's Kick Racism Out of Football' campaign very successfully reached young people through the media. Again colleagues here are happy to provide more details if that would be useful.

I hope these comments are helpful. If you or colleagues require anything more, please do not hesitate to get in contact.

I am copying this letter to Graeme Cornell in Richard Caborn's office and to other colleagues here at DCMS as well as to Olivia McLeod (No10 PU), Ciara Mulligan (NRU) and Balbir Chatrik (CYPU).

Phil Clapp

PHIL CLAPP
Head of Unit

From: Olivia McLeod
Date: 28 February 2002

PRIME MINISTER

cc: Jeremy Heywood
Andrew Adonis
Justin Russell
Jonathan Powell
Sally Morgan
Clare Sumner
Michael Barber

MODE OF TRIAL

Your meeting with the CJS Ministers earlier this week on Mode of Trial was cancelled. We will reconvene the meeting at the earliest opportunity. The departments need an agreed way forward on this as soon as possible so that they can finalise their spending bids and get on with drafting legislation. You have signalled that you continue to support Auld's recommendation to abolish the right to elect and establish an intermediate tier.

If, in the light of Ministers' latest advice (attached with our earlier note at annex A), you remain unconvinced of Derry's alternative proposal (retain right to elect and extend magistrates' powers to 12 months, yielding half the savings of full Auld), we recommend that you write to the Ministers (draft attached) setting out your position and highlighting your concerns for discussion at the meeting.

Are you content to write as drafted?

Olivia

Yes. I really do believe that tough though the policies are, this argument can be won. And is v. strong. JM

OLIVIA McLEOD

TEXT OF LETTER TO CJS MINISTERS ON MODE OF TRIAL

I am sorry that we were unable to meet earlier this week to discuss how to take forward Auld's recommendations on mode of trial and an intermediate tier. I have asked for the meeting to be reconvened at the earliest opportunity.

In the meantime, I have considered the joint advice which you have provided on the various options for reform, and I remain unconvinced that we are right to reject Auld's recommendation to abolish the right to elect, and establish an intermediate tribunal.

At our next meeting, I would like to explore further the following points:

- Given that the principle of abolishing right to elect is supported by most of the judiciary and the magistracy, and has been recommended by successive independent reviews, are we right to pull back now from radical reform? In particular, what assurance can you provide me that your alternative option (which you calculate would result in a 20% reduction in jury trials) would not prove, in effect, just as contentious in the Lords and ultimately require the Parliament Act to get it through?
- In the context of a very tight spending review, can we really ensure maximum cost-benefit from reform without abolishing the right to elect? Your analysis shows that your alternative options would only deliver half the savings of Auld's model – but what is the full, long-term opportunity cost of not going for the full package? In particular, what is the risk of the benefits of your approach being neutralised by defendants increasingly exercising their right to elect?
- Given the practical problems there appear the be about establishing an intermediate tier, would a more straightforward and less contentious alternative to Auld not be to combine abolishing the right to elect with the extension of the magistrates' sentencing powers to 12 months; which together would deliver 85% of Auld's savings?
- If we do reject Auld's recommendation to abolish right to elect, would it not be better to extend magistrates powers to 24 months, in line with the youth court, to maximise reduction in Crown Court caseload? Would that not in any case be a better starting position from which to negotiate in the Lords, conceding to 12 months if that proved necessary, and in return for support on other measures?

Annex A

From: Olivia McLeod
Date: 22 February 2002

PRIME MINISTER

cc: **Jeremy Heywood Justin Russell Andrew Adonis Jonathan Powell Sally Morgan Clare Sumner Michael Barber**

MODE OF TRIAL

You are meeting with the CJS Ministers on Tuesday to **take a decision on Auld's proposal for an intermediate tier and the abolition of the right to elect mode of trial**. Attached is a final version of the HO/LCD cost-benefit analysis of the Auld model and a range of alternatives, including extending magistrates' sentencing powers to 12 or 24 months, with and without the right to elect (there will be a short presentation of this analysis at the meeting). The CJS Ministers will write with their collective view on Monday, but are likely to stick **to Derry's preferred option of extending mags' powers to 12 months while retaining the right to elect.**

As you can see from the summary table below, Derry's option delivers about **half the potential savings of Auld** with less than half the reduction in jury trials (but more than the savings from abolishing right of election on its own which has been calculated at £10-15m realisable). Increasing mags' sentencing powers to 24 months increases savings to 60% of full Auld and abolishing right of election is worth another 35%. But savings wouldn't come on stream under any option until well after 2005.

Option	Saving pa (long-term realisable)	Savings pa, inc in kind (eg court capacity for attrition)	% reduction in jury trials
Auld (3 tiers, right to elect abolished)	**£26-30m**	**£51-57 m**	**51%**
Mags < 24 mths abolish right to elect	£26-31m	£48-56m	47%
Mags < 12 mths, abolish right to elect	£22-26m	£39-46m	38%
Mags < 24 mths retain right to elect	£14-19m	26-34m	27%
Mags < 12 mths retain right to elect	**£12-16m**	**£21-28m**	**22%**
Simple abolition of right to elect (original Mode of Trial bill)	£10-15m	£17-26	20%

The figures are no more than best estimates, and you will see the savings are significantly lower than those calculated at the time of the last Mode of Trial bill (£126m). Most of the difference is accounted for by previous assumptions about savings in prison costs. We're now told that we can't assume that mags will sentence less severely than the crown court for similar offences transferred to the lower court. The cost-benefit analysis assumes (for all options) abolition of committal for sentence, and other reforms which we could make a start on now including better allocation between tiers and sentencing guidelines, CPS to take over charging, and more use of incentives for early guilty plea.

Derry will argue that the political cost of abolishing right to elect is not worth it when half the savings could be realised under his model. But **the beneficial impact of his approach could be neutralised if defendants responded by increasing the rate at which they exercise their right to elect**. By abandoning the principle that mode of trial should be a matter for the court not the defendant, we forfeit control of allocation in either-way cases.

There is also the fact that Auld (like Runciman and Narey before him), having carried out a major and serious review of the criminal courts, believed this was the right thing to do. On your request, Derry wrote seeking his views on the options, and he has replied (Annex B) asserting that belief in the strongest terms.

Set against those points, there seems no doubt that **we would need the Parliament Act to abolish the right to elect.** Derry's option is likely to get broad support, though there is always the risk that having conceded so much so soon we find opponents rallying against our alternative model – you might want to press Derry on this point.

Intermediate tier

There is the related but separate question of Auld's intermediate tier (tribunal of two magistrates sitting with a District Judge to hear cases between 6 months and 2 years). There is a strong consensus against it (mags particularly oppose proposal that DJ alone is responsible for sentencing) and Derry will argue that it is both cheaper and more popular simply to extend mags powers. Auld in his letter responds by pointing out that mags' lack of experience combined with their track record for inconsistent sentencing will mean either (a) spending a lot more money on training and legal advisors making this option as expensive as an intermediate tier or (b) giving DJs responsibility for more serious cases – likely to be Derry's plan – thus depriving defendants of any lay element, and potentially more controversial. **You may want to press Derry on this point.**

I'll come back to you on Monday with CJS Ministers' recommendations.

ANNEX A

THE AULD REVIEW OF THE CRIMINAL COURTS

INTERMEDIATE TIER/RIGHT TO ELECT

Executive Summary

What are the issues?

1. There are two main issues:

   a) whether to proceed with abolition of the defendant's right to elect for Crown Court (jury) trial in "either-way" cases which would otherwise not be allocated to the Crown Court; and

   b) whether the "intermediate tier" proposal made by Sir Robin Auld is the best way to proceed.

Stakeholder attitudes

2. Most of the judiciary, a majority of magistrates, and some outside commentators (eg Professor Zander), favour abolition of the right to elect, which is Government policy in line with the recommendation of several reviews and reports over the last 10-15 years. But other opinion - in particular the Bar Council and Law Society – remains strongly opposed to abolition.

3. Comments received during consultation are generally against the intermediate tier, even amongst those who support abolishing the right of election. There is a view that extension of magistrates' sentencing powers would be preferable as a means of allowing more cases to be diverted from the Crown Court, magistrates proposing an increase to two years; the judiciary would oppose this, but would support one year. The Bar Council would oppose any extension, however.

4. Sir Robin Auld sticks to his view that the intermediate tier would be the best way to proceed. He points out in particular that extension of magistrates' sentencing powers to two years would have to be exercised wholly or largely by District Judges; either they would be sitting with lay magistrates, in arrangements similar to those of the intermediate tier, or they would sit alone, in which case there would be no lay involvement in this level of justice.

The Options

5. Accordingly, four options have been evaluated, as requested at the meeting on 17 January:

   Option 1 – the full Auld proposal, with intermediate tier and right to elect abolished. Other changes would include –
   pre-charge consultation between police and CPS to improve accuracy of charge;
   abolition of committal for sentence;

better sentencing guidance for the prosecutor and for magistrates, leading to fewer committals for trial of defendants not actually at risk of sentence outside magistrates' powers;
advance indication of sentence and clearer tariff of discounts to encourage guilty pleas at the allocation stage (but note concern amongst some judiciary and others about sentence indication);

Option 2 – right to elect maintained, but magistrates' powers extended to 12 months, equating to 'custody-plus' as recommended by Halliday. Other changes as above;

Option 3 – the same as Option 2, but with magistrates' powers extended to two years;

Option 4 – right to elect abolished, no other change.

The impact of abolishing right to elect in conjunction with Options 2 and 3 has also been evaluated. Option 3 combined with abolition is (as Sir Robin Auld has pointed out) closely equivalent to the intermediate tier.

The Options – impact on Jury Trials

6. Evaluations have been based on experience in 2000 when there were 58,000 either-way cases in the Crown Court of which 41,000 were directed there by the magistrates and 17,000 through defendant's election. The cases resulted in about 21,000 jury trials (36% of the total). There were also about 6,000 jury trials of indictable only cases, making a total of 27,000 jury trials. Either-way cases taken in magistrates' courts totalled some 400,000.

7. The options are estimated to result in the following reductions in jury trials:

   Option 1 (full Auld) – about 14,000, ie two thirds of either way trials and half of all trials;

   Option 2 (12 months, with right to elect) – about 6,000, ie 30% of either-way trials and over one fifth of all trials;

   Option 3 (2 years, with right to elect) – about 7,000 to 8,000, ie over a third of either-way trials and over a quarter of all trials; and

   Option 4 (abolish right to elect) – about 4,000 to 6,000, ie a quarter of either-way trials and a fifth of all trials.

The Options – Costs and benefits

8. Once new arrangements had settled down, savings could be expected because magistrates' courts or intermediate tier trials would be somewhat quicker than Crown Court trials and could require fewer advocates in court. There would be no economy in case preparation costs – earlier calculations assumed there would be, and this is why they suggested savings which we now feel were too high. We have also assumed that sentencing policies in all types of court are made more consistent through better

guidance, so that change of venue has no overall effect on prison occupancy and costs. Such an assumed effect accounted for a large part of savings calculated at the time of consideration of the Mode of Trial Bills.

9. A Crown Court day saved on either-way cases can be valued in several ways depending on what use is made of it. A full evaluation would need to be made as part of a detailed business plan for the whole Criminal Justice System and so the figures that have been worked out cannot be used now for detailed financial calculations. However, the relativities amongst the options are the same for all cost assumptions.

10. On a mid-range cost assumption, the full Auld proposal (Option 1) would save around £26-30 million a year (higher and lower assumptions lead to savings of £51-57 million a year and just over £20 million a year respectively). Other options produce the following savings in proportion:

    Option 2 (12 months, with right to elect) - £12-26 million per year, 50% of full Auld

    Option 3 (2 years, with right to elect) - £14-19 million per year, 60% of full Auld

    Option 4 (abolish right to elect) - £10-15 million a year. Similar additional savings, around 35% of full Auld, arise if abolition is combined with Options 2 and 3.

11. All these calculations have to be treated with some caution, because it is extremely difficult to predict the effect of introducing so many changes simultaneously.

Recommendation

12. That –

- the intermediate tribunal should not be adopted;
- magistrates' sentencing powers should be extended to include custody-plus, as recommended by Halliday; and
- right to elect should be retained, pending research to establish whether it has any genuine value to the criminal justice system.

Attorney General **Home Secretary** **Lord Chancellor**

25 February 2002

THE AULD REVIEW OF THE CRIMINAL COURTS

INTERMEDIATE TIER/RIGHT TO ELECT

In order that criminal cases should be allocated to the tribunal which is appropriate to their gravity and complexity, Auld proposes –

- the removal of defendants' right to elect trial in the Crown Court for either-way offences, and
- the creation of a new tribunal (consisting of a District Judge and two lay magistrates) intermediate between the Crown Court and the magistrates' courts, to hear cases likely to attract a sentence of between 6 months and two years.

The arguments of principle for removing the right to elect are undoubtedly strong, but it is a matter of judgement how far the benefits would justify the effort which would be necessary to overcome such opposition. As for the intermediate tribunal, responses to the consultation exercise show that there is little support for this proposal: the judiciary oppose it, as do the two branches of the legal profession. The lay magistracy (who might have been expected to welcome the prospect of involvement in more serious cases) dislike their proposed exclusion from the sentencing process. Some respondents, including the magistracy, have suggested instead that the maximum sentence available to magistrates' courts should be raised from the present 6 months.

As agreed at the meeting on 17 January, therefore, officials from the criminal justice departments have considered how far it might be possible to achieve the objective of matching offences with the appropriate tribunal within a <u>two-tier system</u> and <u>without removing the right to elect</u>, relying instead on different sentencing powers and some of Auld's other recommendations. Their conclusions may be summarised thus:

- extending magistrates' courts' sentencing powers, either to include 'custody-plus' (as recommended by Halliday) or alternatively up to 24 months, should result in a substantial transfer of business from the Crown Court to the magistrates' courts. This would not be negated, although it would to an uncertain extent be reduced, by retaining the right to elect;
- the change would need to be backed up with clearer guidance and more effective training for magistrates about which cases are appropriate for hearing in the Crown Court;
- the effect of retaining election could to some degree be offset by offering greater incentives for defendants who ultimately plead guilty to do so at the outset. Auld has proposed a system whereby a defendant who is considering making an early guilty plea could seek an advance indication of the likely sentence, and the signs are that (with minor modifications) the idea would be acceptable to most respondents.
- There is also some, albeit limited, scope for reclassifying either-way offences as summary, which would effect a small reduction in the number of elections.

Right to elect

Auld strongly endorses the principle that it should be for the court to determine where either-way cases are tried, whether in a two-tier or a three-tier system, and is supported in this by most of the judiciary and the magistracy. It is clear, on the other hand, that the Bar Council and the Law Society remain deeply opposed to the abolition of the right to elect, for a variety of reasons including the allegedly disproportionate effect on ethnic minorities. The history of the Criminal

Justice (Mode of Trial) Bills shows how difficult it is likely to be to secure the passage through Parliament (especially the House of Lords) of legislation effecting abolition.

One difficulty is that there is no evidence which can be used to rebut the argument, deployed by the Bar and others, that the right to elect can be of genuine value to defendants who properly wish to establish their innocence. If it were decided to retain the right, it would be prudent to emphasise that this would be as an interim measure. Research could then be carried out into cases where the right to elect was exercised, which would in due course show how far it is abused (as the Government believes), and how far it is justified by its exercise in cases where a defendant needs and goes on to receive jury trial.

If the right to elect were retained, the link might be made between that and other Auld proposals: jury waiver, and the proposals to allow jury trial to be dispensed with in serious fraud cases and in grave crimes involving young defendants. But jury waiver is arguably quite consistent with the existence of the right to elect, and it may be that the political credit gained by not abolishing election would serve to curb any opposition to the other measures.

Intermediate tribunal

Auld argues that some cases dealt with by the Crown Court do not warrant the time and expense of jury trial; that on the other hand magistrates have shown weaknesses in dealing with cases at the upper end of their jurisdiction; and that 'it is time for a further step along the Beeching road towards greater flexibility in matching cases around the borderline between the present two tiers of jurisdiction to the right level and form of tribunal'. He therefore proposes the creation of an intermediate tribunal (the 'District Division') consisting of a District Judge and two lay magistrates, in order -

- to provide a more suitable and efficient mode of trial for many of the middle range and less serious cases that now go to the Crown Court;

- to ensure a lay element in all cases presently tried by juries that would fall within the jurisdiction of the District Division;

- to make better use of District Judges, the present parity of whose *maximum* jurisdiction with lay magistrates he considers to be anomalous;

- to enable the best and most flexible use to be made of existing court accommodation and court staffs.

Auld argues that -

- the presence of a judge would bring legal knowledge and experience,
- the ability to deploy different levels of judge would provide a degree of flexibility in dealing with cases of varying seriousness and complexity,
- the lay magistrates would be representative of the community, but
- would not need the lengthy explanations and clarifications from the judge on legal points that would be required by a jury, so that trials could be shorter than in the Crown Court; and
- a mixed tribunal would also allow for a closer relationship between the lay and professional judiciary, letting lay magistrates learn from professional judges, and offering them a means of developing skills through experience.

Auld's proposal is that -

- decisions on facts would be made communally by the professional judge and lay magistrates (on the basis that three views are better than one),
- verdict would be by majority, the professional judge and lay members each having equal votes, but
- the judge alone would sentence.

This is because –

- sentencing would be of a different level of seriousness to that currently within the magistrates' courts,
- there is evidence of wide regional disparities in magistrates' sentencing, suggesting that they are not well qualified to sentence at a higher level;
- availability for sentencing following an adjournment might be a problem for lay magistrates, and
- it would otherwise be necessary to provide additional training in sentencing for large numbers of magistrates.

Responses during consultation

The response to the proposed intermediate tribunal has been mainly negative. The exclusion of magistrates from sentencing has alienated the lay magistracy, which might otherwise have been expected to favour the proposed intermediate tier. Magistrates point out that they already have sentencing powers of up to two years (Auld's suggested maximum for the new tribunal) in youth cases, and many have suggested that they may be unwilling to sit in a mixed tribunal in which they had no part in sentencing. Even if they were given such a role, magistrates would be less than enthusiastic about the proposal.

Most other respondents are opposed for a variety of reasons, including the following -

- the fear that judges might inappropriately dominate the lay magistrates during the fact finding exercise,
- the question who should formulate the reasons in cases where the lay members of the tribunal out-voted the judge,
- the practical concern that it might be difficult to find magistrates able to sit for the longer period of time that cases in the District Division might require (although this has not been the view expressed by the magistracy at many of the Ministerial discussion events),
- the objection that justice would not be seen to be done if the District Judge, having himself determined a question of admissibility of evidence, then retired with the lay justices to consider a verdict, and
- concern that the tribunal would not be a representative mini-jury, but would be perceived as 'white, male, middle-aged, middle-class, and case-hardened' (although a similarly-constituted tribunal hears current appeals against conviction from the magistrates' courts).

Alternative means of reducing the burden on the Crown Court

Many respondents, in particular magistrates, suggested that as an alternative to the intermediate tier there would be value in increasing magistrates' sentencing powers to 12 months; some suggested 2 years, pointing out that youth court magistrates can impose Detention & Training Orders up to 2 years. The senior judiciary opposed a potential increase to 2 years, but would support an increase to 12 months' custody, as long as the right to appeal by way of re-hearing

was maintained. But the Bar Council and Liberty were opposed to any increase in magistrates' sentencing powers.

Some change in magistrates' sentencing powers is inevitable if the Halliday proposals are introduced. The relevance of the Halliday review lies chiefly in the concept of 'custody-plus' which would replace prison sentences of less than 12 months. Such sentences would consist of a short period in custody (from two weeks to three months), followed by a period of supervision (up to a maximum of 9 months) under conditions which, if breached, would result in a return to custody. The introduction of custody-plus would have implications for the sentencing powers of magistrates' courts (as well as of the Magistrates' Division under Auld's scheme) since custodial sentences of less than 12 months - including the current maximum of 6 months - would cease to exist.

The question is what would be the effect of substituting custody-plus for 6 months' imprisonment as the maximum sentence available to the magistrates' courts. It is difficult to predict the effect of such changes, since much depends on how they are perceived. Allowing magistrates to impose custody-plus sentences in full might, on the one hand, be seen as little more than the equivalent of their current 6-month limit on the basis that the custodial element is only three months. (The intention is that magistrates should retain the power to impose consecutive sentences, the custodial element being doubled to six months' maximum, with supervision for up to nine months.) It is on the other hand arguable that the addition of a period of supervision amounts to an effective extension of magistrates' powers, and certainly the intention is that custody-plus should be used in place of current sentences of up to 12 months' imprisonment (ie sentences which magistrates could not now pass, otherwise than as consecutive ones).

How far magistrates would be ready to accept jurisdiction in cases which they would previously have directed to the Crown Court for trial would depend crucially on their being given effective and robust guidance both on the factors governing the mode of trial decision, and on the types of offence for which custody-plus would be an appropriate sentence. The latter advice would be for the proposed Sentencing Guidelines Council to formulate.

Effect on jury trial of the Auld proposals and alternatives

An assessment has been made of the effect on the cost-benefit analysis for the Auld proposals and alternatives of retaining the right to elect. Annex A examines the effect on the number of cases going to the Crown Court of Auld's proposal for an intermediate tier (with no right to elect) and of increasing magistrates' powers to encompass custody-plus, and a further extension to allow them to impose up to 24 months' imprisonment; a variety of scenarios show the outcomes with and without the right to elect, and with differing effects of misallocation and incentives to plead guilty early (the principal such incentive being sentence indication). Reclassification of either-way offences as summary would also have some impact, although on a limited scale. The commentary in Annex B explains how these factors might operate.

The cost-benefit implications, which are explained in detail in Annexes A and B, are summarised in the following table:

REDISTRIBUTION OF c.58,000 EITHER-WAY CASES NOW IN CROWN COURT

Option	Court	Right to elect abolished	Saving (long-term realisable)	Right to elect retained	Saving (long-term realisable)
Auld's 3-tier system	Magistrates' Division	13,800-19,100	£26-30 million	Not calculated	Not calculated
	District Division	20,500-21,800		Not calculated	
	Crown Division	18,400-22,400		Not calculated	
2-tier system, magistrates have custody-plus	Magistrates' courts	24,800-29,400	£22-26 million	13,300-17,900	£12-16 million
	Crown Court	28,600-33,200		40,100-44,500	
2-tier system, magistrates can impose 24 months	Magistrates' courts	31,400-37,200	£26-31 million	16,900-22,700	£14-19 million
	Crown Court	20,800-26,600		35,300-41,100	
Simple abolition of right to elect in 2-tier system, no change in max sentences	Magistrates' courts	11,000-16,600	£10-15 million	Not applicable	Not applicable
	Crown Court	41,400-47,000		Not applicable	

The salient points are that -

- even the most modest option - making 'custody-plus' available to magistrates' courts, with right of election retained - would deliver about half the potential savings expected from Auld's intermediate tribunal, and more than the savings from abolishing right of election on its own (which in cash terms would save £10-15 million a year);
- increasing magistrates' sentencing powers to 24 months (again with election retained) would deliver a further 10 per cent of the intermediate tribunal savings, ie about 60 per cent in total;
- and abolishing right of election is worth about another 35 per cent. The combination of this with the 24-month option would equal the savings from Auld.

Realisability of savings

The table above gives long-term realisable savings. The table in Annex A also gives higher estimates of opportunity costs, which represent Crown Court time which would be released. The question is how far this time could be made use of. The Court Service anticipate the need (and are bidding) for extra capacity to meet expected increases in workload in the Crown Court, eg because of work to reduce attrition, but will still be 8,000 Crown Court days short of what is likely to be required. It is likely that the Crown Court time saved under most of the options would be re-usable, if Ministers chose. (These savings would not actually negate the current bid, because implementation of Auld is not until 2005 and it is expected that there will be a 'bulge' of cases initially.)

The opportunity cost saving of £17-26 million pa from abolishing right of election compares with the estimated saving of £44-50 million pa (excluding prison costs) attributed to the Criminal Justice (Mode of Trial) Bill. The main reason for this discrepancy is that legal aid and CPS

savings were formerly overestimated, the whole (rather than the marginal) cost of a Crown Court case being treated as capable of being saved. The estimates for the Criminal Justice (Mode of Trial) Bill included a large element for savings in prison costs, on the basis that magistrates' courts would sentence more leniently than the Crown Court for elected cases. There is some evidence for such an effect, although it has been questioned. But these savings have been excluded from the present calculations on the basis that abolition of the right to elect (if agreed) would no longer take place in an otherwise static system, but would form part of a series of extensive changes, including measures to promote more uniform sentencing.

Caveat

These figures need to be treated with caution, for several reasons. First, it is difficult enough to predict the effect on the criminal justice system of a single initiative, and predicting the outcome of a number which are to be implemented at the same time is bound to be highly speculative. The simultaneous introduction of a new sentence of custody-plus, new sentencing and mode of trial guidelines and advance indication of sentence, combined with the removal of committal for sentence, means that magistrates would be operating in territory from which many of the familiar landmarks had been moved or taken away. There is anecdotal evidence that magistrates' current sentencing practice is more variable than the Crown Court's. We hope that magistrates, relying on sentencing guidelines and properly advised by the CPS, will both accept jurisdiction in many cases which would now be directed to the Crown Court, and – if the outcome is a conviction – impose a sentence which is at least no longer, and perhaps shorter, than that which the Crown Court would have imposed. But this cannot be guaranteed; if they are given more extensive powers, the result may be <u>longer</u> sentences.

Yet more uncertainty would result from retaining the right to elect jury trial. We have little enough information about why defendants now elect, but how they would do so in the changed circumstances of our alternative options can be little better than a guess. Their behaviour cannot be controlled, and whilst it may be possible to influence it by means (for example) of sentence discounts and advance indication, the effect is uncertain. This is why the impact of each scenario is represented as a range of cases in each court tier and a range of cost savings.

ANNEX A

Costs and Savings Scenarios

Workload Projections

- All workload projections came from Home Office modelling based on 2000 data.

Factors adversely affecting correct allocation

- Workloads were based on the assumption that whilst in an ideal world all cases would be tried in the most appropriate tribunal to their eventual sentence, a proportion of cases falling within any sentencing parameters would be 'misallocated' to a higher tribunal. (Possible reasons for this include the case being linked to another warranting higher sentencing jurisdiction, charges being downgraded, the defendant electing or the magistrates' courts declining jurisdiction).
- It is assumed that borderline cases at the upper end of any sentencing parameter will have a greater chance of misallocation, as magistrates' courts are more likely to decline jurisdiction.

Factors improving allocation

- In the new scenarios being considered there will be 'building blocks' in place which help to inform and improve the decision for both the court, as to whether to retain jurisdiction, and the defendant.
- These include improving information at the outset and consistency of the charge from beginning to case completion through better case management, CPS role in charging, and better allocation and sentencing guidelines for the court.

Workload Modelling Assumptions

Right to elect abolished

- Where the right to elect has been abolished, it has been assumed that 11,000 of the current 17,000 elections to the Crown will be retained in the magistrates' courts.
- The other 6,000 will go to the intermediate tier in the full Auld option, or the Crown Court in the 2 tier options. (This 6,000 represent those cases where the antecedents of the defendant require a sentence beyond magistrates' courts powers, though in the present system this would not be known until after the trial, necessitating committal for sentence. Since committal for sentence would be abolished, we assume these cases would now need to be heard in the Crown.)
- The 11,000 are assumed to have sentences of 6 months or less and the remaining 6,000 split equally between 6-12 months and 12-24 months (i.e. 3,000 in each)
- For the models with incentives to plead guilty earlier we have assumed that these could affect all timeous or late guilty pleas left in the Crown Court after the 11,000 have been removed, with a success rate of 15%.

Right to elect retained

- Where the right to elect has been retained, it has been assumed that 14,500 of the original 17,000 will still choose to elect. The remaining 2,500 would instead choose to remain in the magistrates' courts swayed by such factors as cap on sentence (as committal for sentence after trial will disappear), consistency of charging (CPS involvement throughout), and improved case management and sentence information discouraging defendants from 'playing the odds'.
- The 2,500 in the magistrates' courts are assumed to have sentences of 6 months or less and the 14,500 in the Crown Court are distributed as follows: 8,500 as 6 months or less; 3,000 as 6-12 months and 3,000 as 12-24 months.
- For the models with incentives to plead guilty earlier we have assumed that these could affect all timeous or late guilty pleas left in the Crown Court after the 2,500 have been removed, with a success rate of 15%.

Dealing with non-elections

- From the remaining pool of defendants (41,000) we assume that the table below of agreed percentages will apply to the portion of 41,000 within each sentencing band.

e.g. For the Intermediate tier workload (highlighted below) we assume the total is made up of:
25% of the 0-6 month sentence portion (56%) of the 41,000 cases
75% of the 6-12 month sentence portion (14%) of the 41,000 cases
50% of the 12-24 month sentence portion (16%) of the 41,000 cases

The percentages used are estimates intended to encompass both sets of factors above, and as such we have worked up an *optimistic* set of percentages and a *pessimistic* set of percentages for each system based on how the factors might interact.

Option 1: Full Auld (no elections)				
Cases currently tried in CC receiving sentence of:	0-6 months	6-12months	12-24	24+
Optimistic	%	%	%	%
Magistrates' Courts	50	0	0	0
Intermediate tier	25	75	50	0
Crown	25	25	50	100
Pessimistic				
Magistrates' Courts	25	0	0	0
Intermediate tier	50	60	40	0
Crown	25	40	60	100

Option 2: Auld without intermediate tribunal, magistrates' powers extended to 12 months			
Cases currently tried in CC Receiving sentence of:	0-6 months	6-12months	12+
	%	%	%
Optimistic			
Magistrates' Courts	75	50	0
Crown	25	50	100
Pessimistic			
Magistrates' Courts	60	40	0
Crown	40	60	100

Option 3: Auld without intermediate tribunal, magistrates' powers extended to 24 months				
Cases currently tried in CC receiving sentence of:	0-6 months	6-12months	12-24months	24+
	%	%	%	%
Optimistic				
Magistrates' Courts	75	60	40	0
Crown	25	40	60	100
Pessimistic				
Magistrates' Courts	60	50	25	0
Crown	40	50	75	100

Option 4: Right to Elect Abolished				
Cases currently tried in CC receiving sentence of:	0-6 months	6-12months	12-24months	24+
	%	%	%	%
Optimistic				
Magistrates' Courts	50	0	0	0
Crown	50	100	100	100
Pessimistic				
Magistrates' Courts	0	0	0	0
Crown	100	100	100	100

Costing Assumptions

Intermediate tier scenarios

- Costs and savings have been estimated on the assumptions that
  - The intermediate tier cases would be heard for the most part in magistrates' courts buildings sitting as 2 lay magistrates and a District Judge
  - An average of 2 cases per day (including guilty pleas and trials) has been assumed.

CPS data (prosecution costs)

Crown Court

- Figures come from CPS External Resources and Performance Branch based on average Crown Court costs for a burglary case in the Crown as this is almost always an either-way (rather than indictable) and is therefore used as a reasonable approximation. These have then been pro-rated according to plea rates in the Crown Court (50/14/36 for early/late/not guilty pleas respectively).

Non Crown Court work (Extended Magistrates Courts/ Intermediate tier):

- The CPS cost of non Crown Court cases to be tried (i.e. 12 months/ 24 months/ Intermediate tier) are based on

Guilty pleas	- in house representation
Late guilty/ Not guilty	- 50% in house, 50% bar costs

These have then been weighted according to costs for either way timely guilty pleas, and late guilty pleas and trials. In assessing the average CPS costs of cases moving to the magistrates courts the *same* (i.e.Crown Court) plea rates have been used, as it seemed unreasonable to assume that defendants would plead differently, purely because the venue of their case had changed.

PLSD data (defence costs)

Crown Court

- Average costs for the Crown Court have been estimated by their Operational Research Unit by ranking the cases categorised by Guilty pleas, Cracks, and Not Guilty pleas in order of expense, and then looking at the cheapest 40,000. This was done to avoid over-estimating the 'average' Crown Court case by including the few cases with enormous costs, as this would skew the results and potentially overestimate savings. The cheapest 40,000 were decided upon as indicative of the type of cases involved.

Non Crown Court work (Extended Magistrates Courts/ Intermediate tier):

- PLSD defence costs for non Crown Court cases (up to 12/24 months in magistrates' courts, or intermediate tier) are based on current magistrates' courts remunerations, but taking into account the representation the higher of these cases might require.

Crown Court savings

There is no definitive value of 'running costs of a Crown Court day' that may easily be used as a multiplier when calculating costs or savings, largely because the cost of an *additional* Crown Court day (in the long or short term) may not indicate the savings realisable in *avoiding* a Crown Court day.

- The smallest savings are realisable savings, which represent those which would be 'cashable' if a day were saved. These take no account for example of reducing staffing levels.
- Over the longer term, there are 'long term realisable savings' which reflect the long term changes e.g the reduced number of staff, judiciary etc that would be needed once a steady state has been reached.
- Savings can also be calculated on an 'opportunity cost' of a day saved which represents the value of a day saved if that day can be fully re-deployed.

Figures estimated for Crown Court days were converted into savings per case on the basis of either-way cases most likely to move taking approximately 0.75 day (estimated, but in line with the result from applying plea rates to hearing times from Crown Court statistics), and a Crown Court sitting day of approx. 5 hours).

Magistrates' Courts running costs

- The Financial Management Section of the Criminal Planning and Resources Division have estimated that the extra capacity anticipated could be absorbed by the courts at a cost of £400 per day.
- Figures for the incremental cost of a day were converted into costs per case based on estimates of an average length of case in a magistrates' court (estimated by magistrates court secondee), weighted according to early and late guilty pleas and trials, and magistrates courts sitting day of approx. 6 hours.
- For costing purposes, 1.2 defendants per case have been used to 'convert' case data into defendant data.

Intermediate Tier running costs

- As cases would be heard in a magistrates' courts building, magistrates' courts variable overheads have been assumed.
- The portion of Magistrates' Courts running costs related to magistrates' allowances has been divided by 2/3 as the intermediate tier would have 2 magistrates rather than a bench of 3 (as is usual, though not required in the magistrates' courts)
- The cost of a District Judge has been added

Set-up Costs

- The most significant of these are likely to be recruitment, deployment and training costs, though these are not likely to vary significantly between the options, as all will see a significant shift of cases towards lower tribunals. These costs are already covered by the JSB SR2002 bid, but are likely to be relatively small in comparison to the savings envisaged.
- The 'Full Auld' option would be likely to have the additional set up costs associated with making the court a Court of Record. This has been estimated at a £4m capital cost (again, already covered by an SR2002 bid) with annual running costs of £7m for maintenance, transcription etc. These costs are unlikely to be necessary for any of the other options, although the same equipment might be considered where the sentencing powers of magistrates' courts are *significantly* extended (ie to 24 months) as appeals to the Crown by re-hearing for the more serious cases might become impractical.

Further considerations

- It has been assumed for costings purposes that all cases with a sentence of 12-24 months would be heard by a District Judge, as this would be the more expensive scenario. Assuming that the difference between the caseloads under 12 months, and 24 months represent roughly the number of cases which would be reserved for DJs, and assuming the National Recruitment Strategy goes ahead as planned, Judicial Appointments Group feel it *should* be feasible to re-assign current cases to meet this, though this depends on how many of the 6-12 month cases would demand a DJ by the nature of their complexity.
- The likelihood of a greater number of appeals may also require caution in estimating overall savings, as it may be expected that a greater number of cases in the magistrates' courts may result in a higher overall number of appeals to Crown (although not necessarily a higher percentage in the longer term); the cost of these has been estimated at approx. £1200 per case.

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Appendix I

Predicted Workloads – Baseline data

	Magistrates' Courts	Crown Court	Jury Trials
Either Way	402000	58000	20880

Table above shows data for where triable either way cases are currently heard
15,000 cases of the 58,000 currently tried in the Crown Court were either acquitted or terminated early. These were assumed to follow the same sentencing distribution as the 43,000 defendants convicted and sentenced.
19,000 cases received non-custodial sentences. These have been dispersed across the sentencing bands towards the lower end with 60% in the 6 months and under sentencing range, 20% in the 6-12 month range, 15% in the 12-24 month range and 5% in the over 24 month sentencing range.
The proportion of Crown Court cases that go to trial is assumed to remain at the current rate of 36%.

The table below predicts the destination of the 58,000 either-way cases currently dealt with in the Magistrates' Courts under different scenarios.

Full Auld	**Optimistic**		**Pessimistic**	
Election Incentives	**Abolished No**	**Abolished Yes**	**Abolished No**	**Abolished Yes**
Mags	16600	19100	13800	16500
District	21600	20500	21800	20700
Crown	19800	18400	22400	20800
Reduction in Jury trials	13700	14200	12800	13400
Crown Court Days Saved	23875	24750	22250	23250

Mags 12	**Optimistic**				**Pessimistic**			
Election	**Retained**	**Abolished**	**Retained**	**Abolished**	**Retained**	**Abolished**	**Retained**	**Abolished**
Incentives	**No**		**Yes**		**No**		**Yes**	
Mags	15950	27450	17900	29400	13300	24800	15400	26900
Crown	42050	30550	40100	28600	44700	33200	42600	31100
Reduction in Jury trials	5700	9900	6400	10600	4800	8900	5500	9700
Crown Court Days Saved	9950	17150	11200	18375	8300	15500	9625	16800

Mags 24	**Optimistic**				**Pessimistic**			
Election	**Retained**	**Abolished**	**Retained**	**Abolished**	**Retained**	**Abolished**	**Retained**	**Abolished**
Incentives	**No**		**Yes**		**No**		**Yes**	
Mags	21100	35600	22700	37200	16900	31400	18700	33200
Crown	36900	22400	35300	20800	41100	26600	39300	24800
Reduction in Jury trials	7600	12800	8200	13400	6100	11300	6700	12000
Crown Court Days Saved	13200	22250	14200	23250	10550	19625	11700	20750

No right to Elect	**Optimistic**		**Pessimistic**	
Incentives	**Abolished No**	**Abolished Yes**	**Abolished No**	**Abolished Yes**
Mags	16600	16300	11000	13900
Crown	41400	41700	47000	44100
Reduction in Jury trials	6000	5900	4000	5000
Crown Court Days saved	10375	10200	6875	8700

Appendix II

Net Costs/ Savings per agency (£M)

The following table shows a breakdown of Total Net Savings per annum into net costs and savings for each agency/ court per annum (ie the net figure taking into account additional costs associated with more cases in the MC, and savings from fewer in the CC). All figures represent net savings unless otherwise stated.

	Legal Aid (£M)	CPS (£M)	Magistrates' Courts (£M)	Crown Court (ST realisable) (£M)	Crown Court (LT realisable) (£M)	Crown Court (opportunity cost) (£M)	Total Net Saving ST realisable (£M)	Total Net Saving LT realisable (£M)	Total Net Saving Opportunity Cost (£M)
Option 1: Full Auld	7-8	6	11 (cost)	18-20	24-27	49-54	20-23	26-30	51-57
Option 2: Magistrates' Courts < 12 months (right to elect retained)	3-4	2-3	2-3 (cost)	7-9	9-12	18-24	9-12	12-16	21-28
Option 2: Magistrates' Courts < 12 months (right to elect abolished)	5-6	4-5	4-5 (cost)	12-15	17-20	34-40	17-20	22-26	39-46
Option 3: Magistrates' Courts < 24 months (right to elect retained)	4-5	3-4	4-5 (cost)	8-11	12-15	23-31	11-15	14-19	26-34
Option 3: Magistrates' Courts < 24 months (right to elect abolished)	7-8	5-6	7-8 (cost)	16-18	21-25	43-51	20-24	26-31	48-56
Option 4: Abolish right to elect	2-3	2-3	2-3 (cost)	5-8	7-11	15-23	8-11	10-15	17-26

ST = Short term
LT= Long term

Appendix III

Gross expenditure and savings (£M)

This table shows a breakdown for each option of the Total Net Savings per annum in terms of the total costs and savings associated with each option. All costs and savings include costs and savings per agency (CPS/Legal Aid) as well as running costs/ savings.

	MC cost (£m)	Intermediate tier cost (£m)	CC savings (£m)			Total Net Saving (£M)		
			ST realisable	LT realisable	Opportunity Cost	ST realisable	LT realisable	Opportunity Cost
Option 1: Full Auld	19-26	32-34	73-81	79-88	104-115	20-23	26-30	51-57
Option 2: Magistrates' Courts < 12 months (right to elect retained)	18-24		27-37	30-40	39-52	9-12	12-16	21-28
Option 2: Magistrates' Courts < 12 months (right to elect abolished)	34-40		51-60	55-66	72-86	17-20	22-26	39-46
Option 3: Magistrates' Courts < 24 months (right to elect retained)	24-32		35-46	38-51	49-66	11-15	14-19	26-34
Option 3: Magistrates' Courts < 24 months (right to elect abolished)	44-52		64-76	70-83	91-108	20-24	26-31	48-56
Option 4: Abolish right to elect	15-22		22-34	25-37	32-48	8-11	10-15	17-26

ST= Short term
LT= Long term

ANNEX B

DISTRIBUTION OF EITHER-WAY CASES BETWEEN COURTS

The paper at Annex A illustrates the potential distribution of either-way cases between two/three levels of court in a number of possible scenarios.

OPTIONS

Option 1 (Auld's 3-tier scheme)

- creation of an intermediate tribunal with sentencing powers up to 2 years,
- allocation by the court (with a District Judge determining disputed cases) in the knowledge of the defendant's previous convictions, with no right to elect,
- abolition of committal for sentence,
- a clearer tariff of discounts on sentence for early guilty pleas, and
- sentence indication at the defendant's request.

Option 2 (2 tiers; 12-month sentence in magistrates' court)

- magistrates' courts' sentencing powers raised to **12 months** (equating to Halliday '**custody-plus**'),
- allocation by the court in the knowledge of the defendant's previous convictions,
- abolition of committal for sentence,
- a clearer tariff of discounts on sentence for early guilty pleas, and
- sentence indication at the defendant's request.

Option 3 (2 tiers; 24-month sentence in magistrates' court)

- magistrates' courts' sentencing powers raised to **2 years**,
- allocation by the court in the knowledge of the defendant's previous convictions,
- abolition of committal for sentence,
- a clearer tariff of discounts on sentence for early guilty pleas, and
- sentence indication at the defendant's request.
- It is assumed that District Judges would be involved in cases at the 12-24 month level, whether as part of a mixed tribunal (which might look rather like Auld's) or sitting alone; the latter would have the disadvantage of removing any lay element.

It will be seen that the main difference lies in the first measure on the list, respectively an intermediate tribunal which can impose a custodial sentence of up to 2 years, an increase to 12 months' imprisonment in the maximum sentencing powers of magistrates' courts, and an increase to 2 years' imprisonment. There is also some variation in the second item (case allocation): in the Auld scheme allocation in disputed cases is by a District Judge and there is no right to elect; in Options 2 and 3 it would usually be done by a lay bench and the right to elect might be retained. The tables show how these options work both with and without the right to elect. The other measures are common to all three options.

One measure which is not recommended by Auld but which would help to remove some cases from the Crown Court is the **reclassification** of some either-way offences as summary only.

The scope for reclassifying offences within the current 6-month maximum sentence available in the magistrates' courts, or even within a 12-month maximum, is very limited. There would be greater potential for reclassification if the sentencing power of magistrates were increased to 2 years, as this would permit the reclassification as summary of those either-way offences which now have a maximum penalty of 2 years or less. These offences include assault while resisting arrest, possession of a bladed article, and making off without payment. The effect of removing these offences from the Crown Court has been calculated at some 2,600 cases (2000 figures), but this total includes over 1,000 dangerous driving cases, an offence which is not a realistic candidate for reclassification (not least because consideration is being given to increasing the maximum penalty).

- Other measures that could contribute to reducing the number of Crown Court cases include better guidance/training for magistrates, to help improve the accuracy of allocation;
- ensuring that the appropriate charge was brought at the outset;
- prosecution recommendation as to the appropriate tribunal;
- timely disclosure of prosecution evidence, to encourage defendants to make early guilty pleas.

VARIABLES

The tables in Annex A show a range of possible scenarios based on optimistic and pessimistic assumptions for the following variables: misallocation, defendants electing, and incentives.

Misallocation

This represents the extent to which cases are allocated to a higher-level court (in terms of sentencing power) than turns out to be necessary.

- Because misallocation occurs only between contiguous tiers of court, the effect on Crown Court business (and hence on costs and how quickly cases are dealt with) is much greater in a two-tier system (where it results in the removal of cases from the magistrates' court to the Crown Court) than in a three-tier one, where the main effect is a transfer of cases from the lowest to the middle tier. Misallocation from the district to the Crown division would be on a far smaller scale
- The abolition of committal for sentence may lead to greater misallocation (in percentage terms) than now, because lay justices – deprived of this safety net – are likely to err on the side of caution in allocating cases, just as they now do in committing for sentence (60% of the cases so committed to the Crown Court result in no custodial sentence or one within the powers of the magistrates' court).
- The effect in terms of numbers of cases, however, should not be excessive, because the volume of cases at the 12-month and 24-month borderlines is far less that at the current 6-month boundary between the jurisdiction of the magistrates and the Crown Court.
- Involving District Judges (as Auld proposes where there is a dispute between the parties) is likely to result in better allocation decisions. If the decision is to be made by lay benches, they and the CPS (whose advice on venue is highly influential) would benefit from more training and clearer criteria.
- Pre-charge co-operation between the police and CPS should make it more likely that the right charge is brought at the outset. This in turn should help improve the accuracy of allocation.

Defendants electing

The efficiency of allocation between the magistrates' courts and the Crown Court would inevitably be reduced by continuing to allow defendants to elect trial by jury.

- It has been suggested that the limit on the maximum sentence available in the magistrates' courts, which would result from abolishing committal for sentence, might operate to reduce the election rate in cases allocated there.
- It is unlikely, however, that a sentence cap of two years would be a significant inducement for defendants not to elect jury trial. Since allocation would be on the basis of the prosecution case at its strongest, allocation to the magistrates' court would signal to the defendant that the maximum penalty he was likely to face was two years, and this would remain true even if he exercised his right to elect. He would therefore have nothing to lose by electing – except his sentence discount for an early guilty plea (see **Incentives** below).

Incentives

Incentives to plead guilty at an early point, such as sentence discount and advance indication of sentence, may help reduce the number of cases going up from the magistrates' courts.

- **Sentence discounts** for early guilty pleas already exist and are already graduated, although formalising and codifying the present arrangements could well help to raise defendants' awareness of them.
- **Sentence indication** (combined with discount) could be the most effective incentive for defendants not to elect but to plead guilty, if it were available in the magistrates' court. A powerful argument for making it available there is that allowing sentence indication in the Crown Court but not in the magistrates' courts would give defendants a perverse incentive to elect simply in order to get the indication.
- But sentence indication in the form recommended by Auld might not be appropriate for lay justices, particularly when combined with the introduction of custody-plus. It could be given in the magistrates' courts by District Judges if there were enough of them to make this practicable, but it would clearly be unfair if indication were available only in certain parts of the country. A possible alternative would be for the procedure in the magistrates' courts to take the more limited form of an indication (where appropriate) that the defendant would not face a custodial sentence.
- Another important incentive would be the knowledge that the offence charged is the one for which the defendant is likely to stand trial. One of the outcomes which it is hoped will emerge from the imminent CPS/ACPO charging pilots is that, as a result of pre-charge co-operation between the police and CPS, the right charge is brought. The belief that charges can be negotiated downwards is a powerful motive for guilty defendants to plead not guilty and to elect Crown Court trial.
- Early disclosure of prosecution evidence would remove another excuse for procrastination.

02072733965

PERSONAL & CONFIDENTIAL

PR
2/Feb
HA - Police #2.

Prime Minister

cc: JR
JH.

27 FEB 2002

NATIONAL LAW ENFORCEMENT AGENCY

I support the proposals in your letter of 14 February to Gordon Brown, subject to Gordon's agreement. The handling will be sensitive, especially so at a time when we are pushing through the police reform programme.

2. I was very interested indeed to read your letter and the propositions contained in it, including the suggestion for Sir Richard Wilson to convene a small group of senior officials to take this forward. These issues are of critical importance and I know that colleagues, as well as myself, will have been exercised about the need to be able to make progress over and above the Spedding Report recommendations.

3. Our response to organised crime has been sharpened over recent years by the cross-cutting strategic and operational planning structures which we have put in place, and by the more systematic use of intelligence. The Proceeds of Crime Bill and our target for increasing the criminal assets recovered represent a very substantial investment in the tools which law enforcement agencies need to disrupt and deter major criminals, and are also being taken forward on a multi-agency basis. We can and must continue to raise our game, and I warmly welcome your proposal for a new senior Ministerial group on organised crime.

4. The hard question is whether further step-changes in performance will need a more unified management structure than the present co-ordination arrangements can deliver. I agree with you that we should look at the case for moving to a different kind of body which pulls in expertise from around the various organisations and operates under clear direction and agreed priorities.

169DB

02072733965

PERSONAL & CONFIDENTIAL

5. We need to be clear about the scale of this undertaking and about the sensitivities, especially in the police world as we are pushing through the police reform programme. I suggest that we ask senior officials under Richard Wilson to propose a handling plan as part of their work.

6. I am also copying this to Gordon Brown, Jack Straw and Peter Goldsmith.

David Blunkett

DAVID BLUNKETT

27 February 2002

169DB

RESTRICTED: POLICY

Faxed 1.3.02

From: Michael Barber
Date: 27th February 2002

Cc: Jeremy Heywood, Jonathan Powell, Lord Macdonald, Richard Wilson, Andrew Adonis, Justin Russell

PRIME MINISTER

ROBBERY

In my previous note on the subject of robbery, you wrote: "All this confirms my view that we need a tough response now, advertised and followed through. We must get cracking on it."

I can understand your frustration at the lack of action during last year in response to your comments. As you know, David Blunkett is absolutely committed to urgent action on robbery. The Home Office (and the Met) are now on the case, not least in response to the pressure we have put on them through the stocktakes.

The chief operational activity at the moment is the Met's eight week Safer Streets initiative which has transferred 300 traffic police to tackling robbery. There is already evidence that this is having a significant impact but our joint review with Home Office colleagues of this and previous similar operations is that the results are not sustained once the initiative is concluded. In fact, after a previous successful initiative (Operation Strongbox) last year, the upward trend in robbery resumed almost unchanged. It is tempting to recommend to the Met that it should simply keeps the initiative going indefinitely but, since it depends on resources transferred from other important duties and on excessive overtime, it is not sustainable. In any case, there is no follow-through from these operations either in the Criminal Justice System or in the community.

For these reasons, we are now working with Kevin Bond, Head of the Police Standards Unit, and other colleagues at the Home Office to develop a more sustainable and effective approach to delivery that can be applied in London and elsewhere.

This will involve designing police operations which are based on rapid, accurate use of intelligence data, high visibility policing of hot spots and targeting the major perpetrators through plain clothes operations. The Chief Constables in the major metropolitan areas are keen to participate but it will only work in a sustainable way if a number of other steps are taken. These should include:

i) making more auxiliaries available to police hot spots on a permanent basis;
ii) improving identification procedures including identity parades and use of video evidence;
iii) ensuring the CPS has a fast-track process available for the people arrested under the initiative;
iv) bail not being granted wherever it can be avoided;
v) witnesses being protected;
vi) making the necessary secure accommodation available wherever necessary;
vii) the school system playing its part in assisting the police in dealing with the growing numbers of young people involved in these crimes;
viii) Crime and Disorder Reduction Partnerships becoming significantly more effective;
ix) the mobile phone industry getting its collective act together to immobilise stolen phones;
x) careful preparation for the operation through consultation with black community leaders (who have told us that they will support an intelligence-led operation, which doesn't depend on random stop-and-search approaches).

Our joint work with the Home office suggests all these conditions need to be met if a robbery strategy is to succeed. It also shows that there is no area where they are all in place currently. A national police initiative in the absence of these conditions will bring at best a fleeting improvement and at worst complete contempt for the law as young criminals are bailed and go on a robbery spree.

The key now is to ensure that a major policing initiative across the 10 major metropolitan areas which account for 83 per cent of all robbery is put in place with all the conditions for follow-through planned in advance. The steps need to be taken in the right sequence so that when perpetrators are arrested, their cases are processed rapidly, the chances of them being successfully prosecuted are increased and, if they are found guilty, there is sufficient secure accommodation available. In the meantime, the lack of co-operation between many schools and the police needs to be addressed (our review found that some schools refuse to allow police onto premises and others won't co-operate in helping to identify suspects). If necessary, I think we should change the law in this respect.

In short, effective action requires a carefully planned and sequenced strategy, which is what we will ensure the Home Office prepares. The full report of our review of robbery will be ready for you at the end of next week. We are already feeding the evidence from it into the plans being prepared by Kevin Bond and colleagues at the Home Office.

Michael

MICHAEL BARBER

I repeat my view that a high profile assault on this with w/e courts + extra steps applied could do the trick. Can you look into it?

In Matrix Inbox

10 DOWNING STREET
LONDON SW1A 2AA

From the Senior Policy Adviser

26 February 2002

Dear Martin

No.10 LECTURE - 13 MAY 2002

Many thanks for agreeing to give the No.10 lecture on criminal justice in May. Just to confirm that this will be on Monday, 13 May in the state rooms at No.10 starting at 6pm. If possible we would like you to speak for about 40 minutes to be followed by a Q&A session chaired by Cherie Blair and then a drinks reception. There will be about 100 people in the audience including a wide range of people working within the criminal justice system (chief probation officers, prison governors, judges, magistrates, court managers, senior police officers) plus representatives from the Bar Council, Law Society, voluntary sector and possibly a few media people.

Happy to discuss the theme of your lecture (and the invite list) in more detail but our initial thoughts are something fairly broad (ie wider than prisons policy) on 'the future of criminal justice'. Your views on how we deal with offenders at each stage of the criminal justice process would be very welcome - maybe drawing on your experiences from the work you did on delay as well as the more recent reports by John Halliday and Robin Auld. We are happy for you to be as blue-sky and wide-ranging as you wish.

Grateful if you could let me know if you're happy with this general title as soon as you can so that we can get the invites out. Many thanks again for agreeing to do this.

All the best

JUSTIN RUSSELL

Martin Narey
Director General, HM Prison Service

MEN

File

Home Office

The Private Secretary to the Home Secretary

Olivia McLeod
Private Secretary
No 10 Downing Street
LONDON
SW1A 2AA

25 FEB 2002

Dear Olivia,

PROCEEDS OF CRIME BILL

In your letter of 18 January to Peter Grime you asked for a minute illustrating how the Bill will remove the barriers to getting at the proceeds of crime, and for joint advice from the Home Office and Customs on an inter-agency strategy for tackling criminal assets. The Prime Minister has also asked to be kept informed of Bob Ainsworth's strategy for handling the rest of the Bill's legislative passage. This minute has been approved by Bob Ainsworth and the Home Secretary.

The Proceeds of Crime Bill. What it will achieve

2. The main provisions of the Bill are as follows:

- New investigation powers. In particular a customer information order (ie a circular to banks requiring them to report any account held under an identity that is under investigation), monitoring orders (requiring banks to report movements for a specified period through an account under investigation) and the disclosure order (described in Bob Ainsworth's letter of 8 January). These powers will make it easier to trace criminal assets and obtain evidence for money laundering, confiscation and civil recovery cases.

- Extension of investigation powers to accredited civilian financial investigators. This will make it easier for the police to expand their asset recovery capacity without using scarce police officers; and enable non police agencies such as the Inland Revenue to carry out confiscation investigations without relying on the help of the police.

- New restraint powers, to make it easier to freeze assets before they can be disposed of. Restraint will be available from the start of a criminal investigation instead of only at the point of charge, in the Crown Court instead of the High Court and on application by law enforcement agencies and the Director, as well as by prosecutors, instead of only by prosecutors as now. This should greatly increase the number of restraint orders obtained (currently only 250 per annum).

- Wider application of the reverse burden of proof in confiscation cases. Where the defendant is judged to have a criminal lifestyle (this is defined objectively in terms of the nature of the current or previous convictions) the court will be required to assume that all assets held since conviction, and all income and expenditure during the preceding six years, represent the proceeds of crime.

- The new civil recovery scheme referred to in earlier correspondence will enable recovery of criminal assets currently beyond the reach of the law.

- The cash forfeiture scheme is being extended in-country and to cash linked to any form of criminal conduct (instead of only to drug or terrorist cash). There will also be a new power to search people suspected of carrying cash above £10,000 linked to crime. This package is expected to have a major disruptive impact. Police and Customs are often at present unable to intervene when suspect cash is identified.

- A new power for the Director to tax people suspected of having made gains derived from criminal conduct. Unlike the Inland Revenue, the Director will be able to tax income the source of which has not been identified. This provision is based on the Irish Criminal Assets Bureau, which has had a great deal of success with this method of asset recovery.

- Reformed money laundering offences, designed to remove obstacles to prosecution. They include an offence of acquiring, using or possessing criminal proceeds (whether one's own or another's) and an offence for a person in a business or profession governed by the Money Laundering Regulations who fails to report money laundering, whether intentionally or negligently. The new offence will address slackness in the regulated sector, for example as identified in the FSA report last year on the Abacha case, and historically low levels of suspicious transaction reporting. It should have a significant impact combined with other measures such as the FSA's new powers under the Financial Services and Markets Act.

- Enhanced powers to assist foreign jurisdictions to freeze and confiscate proceeds located in the UK of crimes committed abroad. The Bill will enable removal of the obstacle which prevented the UK from assisting in the Abacha case because criminal charges were not pending in Nigeria.

3. Illustrative case studies are at Annex A.

4. The Home Secretary confirms that in his view the Bill, provided it is effectively applied, will permit a major improvement in the performance of the criminal justice system in this field.

Bill handling

5. You asked about Ministers' strategy for handling the remaining stages of the Bill. The Committee stage concluded on 5 February. Report and Third Reading will be on 25 and 26 February. Second Reading in the Lords is likely to be in the week beginning 11 March and there is a good prospect of securing Royal Assent by July.

Commons Report and Third Reading

6. Having taken stock of the Committee proceedings, the Home Secretary takes the view that no significant concessions should be made on any parts of the Bill. We propose to table a number of government amendments for Report, but these are a mixture of technical adjustments and minor concessions which will not affect the Bill's impact but for which a reasonable case has been made in debate. I attach at Annex B a list of the changes we envisage tabling (technical amendments are not included).

7. This approach has been informed by the following main factors:

- The Assets Recovery Agency itself has proved uncontroversial.

- There has been a welcome degree of all-party support for the civil recovery scheme, the policy and detail of which have stood up well in debate. The Opposition had some concerns about the position of people who themselves were not thought to have been involved in unlawful activity but who were nevertheless in possession of recoverable property. They carefully probed the protections for such people. However there was no attempt made to undermine the operation of the scheme set out in the Bill.

- The Opposition and Liberal Democrats have been highly critical of some of our proposals on confiscation. To the extent that they have been pressing to make the law less firm and effective than it is at present, the government's position has been relatively easy to defend. For example, the Opposition pressed to a vote amendments designed to convert confiscation from a mandatory to a discretionary procedure, and to weaken the burden of proof

on defendants under the assumptions procedure. More significantly, perhaps, they have criticised the fact that minor convictions and low value crimes could attract the assumptions procedure, but the justification of our approach has been strengthened by the judgment of the House of Lords on 24 January dismissing the appeal of Rezvi against a confiscation order of more than £200,000, which had been imposed under the assumptions procedure on the basis of a conviction on two counts of theft amounting to only £10,000.

- On money laundering, some of the Opposition's amendments would again weaken the current law. However, our proposals for extending the offences especially the proposed offence of negligently failing to report money laundering (punishable by five years) are seen by critics as draconian and have attracted heavy lobbying from interest groups, in particular the banking and accountancy sectors (including the banking union UNIFI). Concerns have focused on the impact of the negligence offence on junior bank staff, and on the obligation on persons in regulated sectors to report proceeds of even minor offences that come to their attention (with alleged harmful consequences in terms of additional costs, damage to client relationships and competitiveness). We propose to insert an additional defence for staff who did not receive training, but further concessions would risk weakening the impact of the policy.

- On investigation powers, the Opposition

  (i) argued against making the powers available for civil recovery, which would give the Director an advantage not available to private litigants. However, there can be no give on this if civil recovery is to be made to work, and there are at least partial precedents in investigation powers available for VAT and Revenue purposes; and

  (ii) expressed concern about the product of the Director's disclosure orders being itself discloseable to other agencies (we are reviewing this).

8. The Joint Committee on Human Rights published its final report on the Bill on 11 February. It argues that the government has not justified the proposed wider scope of the assumptions procedure, or its intention not to extend to the rest of the United Kingdom an existing discretion for Scottish courts (which the Bill preserves) to exclude the matrimonial home from confiscation in the interests of the defendant's spouse and children. We will review the Joint Committee's conclusions quickly, in advance of Report, but are unlikely to agree to any weakening of these measures. The Report also maintains the Joint Committee's earlier view that civil recovery is a criminal procedure. Subject to consulting the Law Officers, we are likely not to follow the Committee's view.

Lords handling

9. The Home Secretary and Lord Rooker are grateful to the Attorney General for offering to handle parts of the Bill in the Lords, including civil recovery. We are updating our Lords handling plan, in consultation with the Lords Whips office. It is likely to include an open meeting for Peers chaired by the Home Secretary or another Minister and contact with individual Peers or interest groups on specific issues.

Asset Recovery Strategy

10. A national Asset Recovery Strategy was drawn up by the Home Office chaired Asset Recovery Committee, approved by DA Committee and made public in November. The Strategy, which has been signed up to by all the relevant agencies and departments and ACPO, has been promulgated to the relevant services and practitioners. It includes the target of increasing receipts to £60 million by financial year 2004/5, reflecting the Manifesto commitment to double amounts recovered from drug traffickers and other criminals. There is a commitment to update the Strategy with revised targets in a year's time.

11. Measures the Government is taking in support of the Strategy include:

- a new grant to help police forces in England and Wales recruit 86 additional financial investigators (a significant increase on a low baseline of investigators devoted to asset recovery). Assuming a good take-up and good initial results, we have provision in the baseline to increase the number of additional financial investigators we subsidise to over 200;

- the Recovered Assets Fund, now up and running, is available to pump prime new asset recovery techniques by the prosecution and law enforcement agencies, as well as for anti-drugs and other purposes (the Fund recycles up to half of all recovered criminal assets) A first round of bids from a wide range of organisations has been received and is being assessed;

- the Crown Prosecution Service is gearing up to increase substantially its capacity to handle confiscation cases;

- the Bill will introduce three major new methods of asset recovery (civil recovery, in-country cash forfeiture and taxation of suspected criminal gains);

- enforcement of confiscation orders (currently poor) will be improved through technical measures in the Bill, new national guidance to area branches of key agencies and an enforcement role for the new Agency.

Implementation of Proceeds of Crime Bill

12. Your letter requested advice on an inter-agency plan which demonstrates how the new powers will be used to maximum effect immediately on Royal Assent. Both operational and administrative preparations are being made. Operationally, Customs are convening a group consisting of senior representatives from the National Crime Squad, National Criminal Intelligence Service and ACPO, with Home Office participation, to ensure that action is taken now by the law enforcement agencies to identify suitable cases for consideration when the new powers come in, including cases to be referred to the Agency, and that the necessary operational structures are in place.

13. We are also preparing the secondary legislation and administrative arrangements that the Bill requires. An inter-departmental Implementation Group, and a Project Board for the Agency, are in place. A Development Manager for the Financial Investigation Centre of Excellence, which will eventually be absorbed by the Agency, has been recruited and is setting up a team to deliver training on new powers to police investigators and the staff of the new Agency.

14. We propose to initiate recruitment of the Director of the Agency before Royal Assent (we will need to consult the Opposition, but there are precedents to begin the process once the Bill has received Second Reading in the Lords).

15. The target in the Home Office Business Plan is to implement the Bill and establish the Agency within six months of Royal Assent. We hope that it may be possible to implement parts of the Bill more quickly than that.

16. I am copying this letter to Caroline Bartlett (Law Officers), Helen Watson (HMT), Richard Broadbent (Customs and Excise) and to Andrew Albery (Cabinet Office).

Yours,

Emily Miles

EMILY MILES

2261EM

Annex A

PROCEEDS OF CRIME BILL

CASE STUDIES ILLUSTRATING HOW MEASURES IN THE BILL WILL REMOVE CURRENT OBSTACLES TO ASSET RECOVERY AND PROSECUTION OF MONEY LAUNDERING

Case 1 (The need for Customer Information Orders)

In 1995, three subjects were arrested at Felixstowe Docks in possession of two tonnes of cannabis resin. It was estimated that the discovery was worth £6.5million, and after further investigation evidence was found of two similar consignments, which had already entered the UK undetected.

HM Customs and Excise as a consequence of this began an investigation into the financial side of the drugs trafficking and unearthed a complex and intricate laundering scheme, taking place over 4 years and involving a large number of individuals and financial institutions. The scheme largely involved the family of one of the subjects originally arrested at Felixstowe.

Over £1 million was kept under the floorboards at the subject's family home. Members of the family and other friends and acquaintances had opened numerous bank and building society accounts with over 40 financial institutions. They often had large numbers of accounts in their names, and several within an individual institution. The cash was then deposited into the accounts in comparatively small amounts, often between £1,000 and £5,000. This tended to take place over a short period of a few months until a substantial amount of money had been placed within the system, usually totalling around £25,000.

The money was then transferred to other accounts either by cheque or by electronic transfer, sometimes into an account held by the same person, or into accounts held by others. From there it would be split into smaller amounts and forwarded onto another account. After several repetitions of this cycle, the money would by then have undergone a highly complex system of layering and would usually end up in an investment policy. Some of the money was also invested into mortgage accounts. At least 17 people, 28 financial institutions and 116 accounts facilitated this system, which was estimated to have laundered in the region of £130 million.

Under current legislation there is no requirement for financial institutions to identify any account held by a person under investigation, this burden would fall to the financial investigator. The resources required to do this are often not available to law enforcement agencies, which means that complex financial investigations such as this may not be undertaken. Accounts may go undetected if there is no information available to alert the officer to their existence or whereabouts. These problems will be addressed by the proposed Customer Information Order (in Part 8 of the Bill), which would require banks

and financial institutions to identify any account held by a person under investigation.

Case 2 (The need for earlier and easier restraint)

A example to show how this would assist often occurs in distraction burglaries. A recent Home Office report identified these as making up to £40 million per year involving a large number of elderly victims (average age 80).

The burglar is aware of the current legislation and has usually taken steps to protect his assets from being taken as any accounts are held in the name of his/her partner. The police may have taken steps to protect the assets by seizing any passbooks but even this does not work as immediately upon the burglar's arrest, the wife goes into the building society and says that she has lost her passbook, a new one is issued and she immediately withdraws all the money in the account which disappears.

In one of the Central Confiscation Branch cases this occurred whilst the restraint order was being obtained. The order had been prepared but by the time it had been processed the money had been withdrawn and simply vanished.

Under the Bill (Part 2), applications for a restraint order will be able to be made from the start of a criminal investigation, before the suspect becomes aware that he is under suspicion and takes action to conceal his assets. Police and Customs officers, other accredited law enforcement officers and members of the Agency, instead of just prosecutors as now, will be able to make applications, and these will be heard in the Crown Court instead of the High Court. All of this will make restraint much more accessible (and affordable), removing the constraints which currently mean that restraint is relatively rarely used (only about 250 orders are made each year).

Case 3 (Confiscation. The need to make the assumptions procedure mandatory)

Two defendants pleaded guilty in October 2000 to selling cars with falsely reduced mileage and asked for similar offences to be taken into account. The benefit from the particular offences that were established was £350,000 for each defendant. The prosecution however applied for the application of the assumptions procedure and argued that the defendants' benefit from their general criminal conduct amounted to £1.58 million and £780,000 respectively. The judge refused to apply the assumptions procedure, on the grounds that any additional frauds alleged against the defendants should be the subject of separate prosecutions.

At present, the assumptions procedure is mandatory under the Drug Trafficking Act 1994, but it is discretionary in non-drug cases and there is resistance to its use by the courts. The PIU study in 2000 reported that "practitioners have described numerous instances in which the courts have not used the powers allowed under the law, leading to uncertainty and lack of confidence in the confiscation system". This is reflected in the statistics. In 2000/01 the number of confiscation orders made was 1219 under the 1994 Act (only about 15 % of those sentenced for drug trafficking receive such an order), but the number of orders made in all other categories of acquisitive crime was only 191 – a tiny fraction of those sentenced for such crimes. Confiscation is in fact rarely used

at present. That is why the Bill (Part 2) extends the criteria for the use of the assumptions procedure and makes its use mandatory where the criteria apply.

Case 4 (Failure to report money laundering)

A man had been claiming unemployment benefit fraudulently for 10 years. During this time, it is estimated that he defrauded the Government of £4.7 million. When he was arrested, Production Orders revealed that all of this money had gone through his personal account and some had been used secure a mortgage. Even though his bank and mortgage lender knew he was claiming to be unemployed they did not disclose the amount of money going through his account. £500,000 was recovered.

Case 5 (Failure to report money laundering)

A solicitor was taking large amounts of cash from members of a family to buy local properties and businesses. In one instance, £22,000 in used notes was produced to purchase a Post Office. No disclosures where made by the solicitor on the family. The buyers were convicted for the supply of heroin and money laundering in 1998, with sentences of 12 years for the drugs related crimes, and 7 for the money laundering. A number of properties and monies were recovered.

The solicitor stated that, as the buyers were Asian, using large amounts of cash was "their way". Although this was not believed, it was decided that there was insufficient evidence to convict the solicitor.

Case 6 (Failure to report money laundering)

Following a disclosure from NCIS relating to large cash transactions carried out by an Asian male at a Bureau de Change further inquiries were made. These led to a firm of solicitors and on receipt of a production order, they provided information to the effect that the Asian male had purchased a property in cash for £30,000. When this was queried, the solicitors stated that this was quite normal for this family and the Asian community in general. They said that they often dealt with cash property purchases, and had been given £60,000 and 70,000 in cash on previous occasions, but this was "just the Asian way of doing business".

Case 7 (Failure to report money laundering)

In December 1999 an Irish female, with no address in the UK, produced £110,000 in cash at a solicitors in Wales with which she had had no dealings before. The money was used to purchase a house. The solicitor did not question the deal or the source of the money, and did not disclose the transaction to NCIS.

After a Production Order was issued, and the solicitor questioned about the transaction, they stated that they did not consider it suspicious as "that is how the Irish operate".

The above cases demonstrate the subjective nature of the current legislation, and the option for professionals to give 'cultural' reasons for non-disclosure, even though it would appear that the transactions are suspicious. The negligence test for failing to report money laundering, proposed in the Proceeds of Crime Bill (Part 7), will remove this option.

Case 8. Project Rutland (The need for an inland cash seizure and forfeiture scheme)

This project involved a network of small companies, travel agents, in different parts of England who were processing large amounts of criminal cash. 'Street' cash was aggregated by intermediaries into significant amounts. Boxes, each containing £250,000, were regularly taken into these travel agents. The money was then banked and wire transferred overseas.

The case started in the 1990s and over a period of years suspect transaction reports were made to NCIS by major banks. Initial assessment by the police forces involved did not identify a major problem, believing the businesses were providing Hawalla banking services to ethnic communities.

In 1999 CIDA's financial sub-group, working with NCIS analysts, identified links between a number of these UK businesses and a company in Dubai. This intelligence was progressed by Customs in co-operation with the NCS and intelligence agencies. Customs investigation action focused on five businesses in the North of England - one small travel agent had received and moved £700 million in cash overseas in 2 years! POCB provisions would have enabled us to secure these funds before disposal.

Case 9. Operation Execution (The need for an inland cash seizure and forfeiture scheme)

On four occasions during 2001 a man entered a bureau de change in London carrying large amounts of low denomination sterling bank notes. The cash was then exchanged for bank drafts totalling 1.4 million US dollars. The individual was arrested on suspicion of money laundering by Customs when he picked up the final draft in the sum of 679,000 US dollars. During interview he stated that the money was for investment and trading.

Forensic analysis of two holdalls left at the bureau de change and an amount of money found on an associate both showed traces of a Class A drug.

The bank draft was initially retained by Customs and Excise as evidence. However, the requirements of Section 22 (4) PCEA 1984 states that nothing may be retained for evidence or examination if a photograph or copy would suffice. The draft was therefore copied and returned to the suspect at his request.

The Proceeds of Crime Bill will assist in two ways. Firstly, cash or bankers' drafts may be seized under the provisions for the recovery of cash in summary proceedings (Part 5, Chapter 3) where there are reasonable grounds for suspecting that it is recoverable property or intended for use in unlawful conduct. Secondly, a restraint order may be obtained once a criminal investigation starts (Part 2), securing assets at a much earlier stage, rather than waiting until criminal proceedings have been instituted.

(Note. Cases 1 and 4-7 have been provided by NCIS, cases 2-3 by the Crown Prosecution Service and cases 8 and 9 by HM Customs and Excise.)

Financial Crime Team
Organised Crime, Drugs and International Group
Home Office

February 2002

ANNEX B

PROCEEDS OF CRIME BILL GOVERNMENT AMENDMENTS FOR REPORT STAGE

(This Annex does not list technical and drafting changes.)

Part 1: Assets Recovery Agency

Require the Agency's senior officer responsible for Northern Ireland to have the title "Assistant Director".

Require the Director to consult the Secretary of State for Northern Ireland in making the Assistant Director's appointment.

Parts 2, 3, and 4 – confiscation: England and Wales

Agree in principle that a list of lifestyle crimes already identified will be set out in an amendable schedule. The schedule to be inserted by government amendment in the House of Lords.

Require the prosecutor's statement to set out all information available to him that may be relevant for the purpose of the court's consideration of whether using the assumptions procedure will give rise to a serious risk of injustice. (At present, the obligation in the Bill is only to include information where the prosecutor <u>believes</u> there would be a serious risk of injustice.)

Amend the time limit within which a returning absconder must apply for a variation of a confiscation order made in his absence, in order to remove a potential unfairness.

Provide that, where the court orders compensation to be awarded to a victim out of confiscated monies, the cost of enforcing the confiscation order are no longer to be deducted from the victim's money.

Part 5 – civil recovery

Ensure that the interim receiver's powers to obtain information will be subject to legal privilege.

Ensure that the interim receiver's power to enter any property in the UK will be restricted to property specified in the interim receiving order.

Part 5 – cash forfeiture

Allow the claimed true owner of the cash the right to apply for the return of the cash – where there is no objection from the person from whom it was seized.

Part 7 – money laundering

In the "failure to report money laundering" offence, insert an additional defence of not having received training from an employer where the employee did not actually know or suspect money laundering was going on. (NB. If the defence is successfully established, the employer would be at risk of criminal prosecution for non compliance with the Money Laundering Regulations 1993.)

Under the Bill it will not be an offence to acquire criminal proceeds for adequate consideration, but giving adequate consideration will not be a defence if it involves providing goods or services which help the recipient carry out criminal conduct. We propose to table an amendment that those who provide goods or services for adequate consideration, and have no knowledge that they will later be used for criminal purposes, have a defence.

Part 8 – investigation powers

Insert a requirement for the Secretary of State to issue a code of practice on the exercise of the Part 8 investigation powers. (There are precedents for this in Northern Ireland legislation.)

Consider whether to table special restrictions on the Director's disclosing the product of disclosure orders (any amendment would not be ready for Report).

Allow any judge of the Crown Court to hear applications for investigation powers (this is currently limited to Circuit judges and would not allow hearings by Recorders).

Part 10 – information

Make clear that the Director will be bound, in the context of disclosures overseas for criminal investigations or proceedings, by a direction given under Section 18 of the Anti-Terrorism Crime and Security Act. (This allows the Home Secretary to impose

certain restrictions on disclosure of information to foreign law enforcement authorities.)

Empower the Director to disclose information to other agencies, not only for the purposes of any criminal investigation and any criminal proceedings, but also for the purposes of the initiation or bringing to an end of any such investigation or proceedings. And for the purpose of facilitating a determination of whether any such investigation or proceedings should be initiated or brought to an end. (This brings the Bill into line with the Anti-Terrorism Crime and Security Act.)

From: Olivia Mcleod
Date: 25 February 2002

PRIME MINISTER

cc: Jeremy Heywood
Andrew Adonis
Jonathan Powell
Sally Morgan
Clare Sumner
Justin Russell
Michael Barber

MODE OF TRIAL

You are meeting with the CJS Ministers tomorrow to discuss Auld's recommendations on mode of trial and an intermediate tier. You saw the cost-benefit analysis over the weekend (on which there will be a brief presentation tomorrow). As we expected, **CJS Ministers have come back today with a joint recommendation (Annex A) to (a) retain right to elect (b) reject intermediate tier and (c) extend magistrates sentencing powers from 6 to 12 months**. This option delivers about half the potential savings of full Auld with less than half the reduction in jury trials.

You have signalled that you continue to favour Auld's approach. You may want to press Ministers on the following points:

- Given that the principle of abolishing right to elect is supported by most of the judiciary and the magistracy, and has been recommended by successive independent reviews (Runciman, Narey, Auld), are we right to back down now?

- What is the risk that defendants will react to extended magistrates' sentencing powers by increasing the rate at which they exercise the right to elect? Doesn't this mean that the savings from Derry and David's option are much less certain than if we were to abolish right to elect?

- Could we not extend magistrates sentencing powers to 12 months (Derry's model) but also abolish right to elect, which would realise 85% of Auld savings?

- Given that the Bar Council, civil liberties groups and their friends in the HoL are likely to oppose any reduction in the use of jury trial won't Derry's option – which would lead to a 20% drop in jury trials – still run into problems? Can we be sure that we would not have to Parliament Act this option as well?

- If we accept retaining the right to elect, would it not be better to extend magistrates powers to 24 months, in line with the youth court, to maximise reduction in Crown Court caseload? Wouldn't that in any case be a better starting position from which to negotiate in the Lords (conceding a reduction to 12 months if that became necessary?)

OLIVIA MCLEOD

Note from CJS ministers

Annex A.

THE AULD REVIEW OF THE CRIMINAL COURTS

INTERMEDIATE TIER/RIGHT TO ELECT

Executive Summary

What are the issues?

1. There are two main issues:

   a) whether to proceed with abolition of the defendant's right to elect for Crown Court (jury) trial in "either-way" cases which would otherwise not be allocated to the Crown Court; and

   b) whether the "intermediate tier" proposal made by Sir Robin Auld is the best way to proceed.

Stakeholder attitudes

2. Most of the judiciary, a majority of magistrates, and some outside commentators (eg Professor Zander), favour abolition of the right to elect, which is Government policy in line with the recommendation of several reviews and reports over the last 10-15 years. But other opinion - in particular the Bar Council and Law Society – remains strongly opposed to abolition.

3. Comments received during consultation are generally against the intermediate tier, even amongst those who support abolishing the right of election. There is a view that extension of magistrates' sentencing powers would be preferable as a means of allowing more cases to be diverted from the Crown Court, magistrates proposing an increase to two years; the judiciary would oppose this, but would support one year. The Bar Council would oppose any extension, however.

4. Sir Robin Auld sticks to his view that the intermediate tier would be the best way to proceed. He points out in particular that extension of magistrates' sentencing powers to two years would have to be exercised wholly or largely by District Judges; either they would be sitting with lay magistrates, in arrangements similar to those of the intermediate tier, or they would sit alone, in which case there would be no lay involvement in this level of justice.

The Options

5. Accordingly, four options have been evaluated, as requested at the meeting on 17 January:

   Option 1 – the full Auld proposal, with intermediate tier and right to elect abolished. Other changes would include –
   pre-charge consultation between police and CPS to improve accuracy of charge;
   abolition of committal for sentence;

better sentencing guidance for the prosecutor and for magistrates, leading to fewer committals for trial of defendants not actually at risk of sentence outside magistrates' powers;
advance indication of sentence and clearer tariff of discounts to encourage guilty pleas at the allocation stage (but note concern amongst some judiciary and others about sentence indication);

Option 2 – right to elect maintained, but magistrates' powers extended to 12 months, equating to 'custody-plus' as recommended by Halliday. Other changes as above;

Option 3 – the same as Option 2, but with magistrates' powers extended to two years;

Option 4 – right to elect abolished, no other change.

The impact of abolishing right to elect in conjunction with Options 2 and 3 has also been evaluated. Option 3 combined with abolition is (as Sir Robin Auld has pointed out) closely equivalent to the intermediate tier.

The Options – impact on Jury Trials

6. Evaluations have been based on experience in 2000 when there were 58,000 either-way cases in the Crown Court of which 41,000 were directed there by the magistrates and 17,000 through defendant's election. The cases resulted in about 21,000 jury trials (36% of the total). There were also about 6,000 jury trials of indictable only cases, making a total of 27,000 jury trials. Either-way cases taken in magistrates' courts totalled some 400,000.

7. The options are estimated to result in the following reductions in jury trials:

   Option 1 (full Auld) – about 14,000, ie two thirds of either way trials and half of all trials;

   Option 2 (12 months, with right to elect) – about 6,000, ie 30% of either-way trials and over one fifth of all trials;

   Option 3 (2 years, with right to elect) – about 7,000 to 8,000, ie over a third of either-way trials and over a quarter of all trials; and

   Option 4 (abolish right to elect) – about 4,000 to 6,000, ie a quarter of either-way trials and a fifth of all trials.

The Options – Costs and benefits

8. Once new arrangements had settled down, savings could be expected because magistrates' courts or intermediate tier trials would be somewhat quicker than Crown Court trials and could require fewer advocates in court. There would be no economy in case preparation costs – earlier calculations assumed there would be, and this is why they suggested savings which we now feel were too high. We have also assumed that sentencing policies in all types of court are made more consistent through better

guidance, so that change of venue has no overall effect on prison occupancy and costs. Such an assumed effect accounted for a large part of savings calculated at the time of consideration of the Mode of Trial Bills.

9. A Crown Court day saved on either-way cases can be valued in several ways depending on what use is made of it. A full evaluation would need to be made as part of a detailed business plan for the whole Criminal Justice System and so the figures that have been worked out cannot be used now for detailed financial calculations. However, the relativities amongst the options are the same for all cost assumptions.

10. On a mid-range cost assumption, the full Auld proposal (Option 1) would save around £26-30 million a year (higher and lower assumptions lead to savings of £51-57 million a year and just over £20 million a year respectively). Other options produce the following savings in proportion:

    Option 2 (12 months, with right to elect) - £12-16 million per year, 50% of full Auld

    Option 3 (2 years, with right to elect) - £14-19 million per year, 60% of full Auld

    Option 4 (abolish right to elect) - £10-15 million a year. Similar additional savings, around 35% of full Auld, arise if abolition is combined with Options 2 and 3.

11. All these calculations have to be treated with some caution, because it is extremely difficult to predict the effect of introducing so many changes simultaneously.

Recommendation

12. That –

- the intermediate tribunal should not be adopted;
- magistrates' sentencing powers should be extended to include custody-plus, as recommended by Halliday; and
- right to elect should be retained, pending research to establish whether it has any genuine value to the criminal justice system.

Attorney General **Home Secretary** **Lord Chancellor**

25 February 2002

673266

From: The Rt Hon. Lord Justice Auld

Annex B

ROYAL COURTS OF JUSTICE
STRAND, LONDON, WC2A 2LL

13 February 2002

The Right Honourable The Lord Irvine Of Lairg,
House of Lords,
London, SW1A 0PW

Dear Lord Chancellor,

REVIEW OF THE CRIMINAL COURTS OF ENGLAND AND WALES

Thank you for your letter of 5th February 2002. It is good of you to invite my view on the responses to my recommendations for a District Division.

As I hope my Report indicates, the recommendations are designed to achieve a number of objectives:

(1) to provide a more suitable and efficient mode of trial for many of the middle range and less serious cases that now go to the Crown Court;

(2) to ensure a lay element in all cases presently tried by juries that would fall within the jurisdiction of the District Court;

(3) to make better use of District Judges, the present parity of whose *maximum* jurisdiction with lay magistrates I consider to be anomalous;

(4) to enable the best and flexible use to be made of existing court accommodation and court staffs;

To the extent that comparative costs are likely to be a factor in deciding for or against a District Court, for the reasons given in sub-paras. (1), (3) and (4), the judgement between benefits from savings in jury trials when weighed against likely substitute trial time in the District Division may be, as you say, a "very nice" one. But unless a District Court would cost significantly more than the savings from reductions in jury trials and speedier conduct of cases, it should not be an important factor. It should not, in any event, be determinative.

77/21/02

If the District Court option were accompanied by a uniform court and administrative structure, and flexible use of existing court buildings, it should not be administratively more expensive or burdensome than the two tier structure in its present form or with an enhanced summary jurisdiction

As to your concern about recruitment of District Judges, this should be balanced against the likely need for more and better-qualified legal advisers and additional training for Magistrates if you were to opt for any significant extension of their summary jurisdiction. In addition, any short-term shortage of District Judges could be alleviated by my proposal that Recorders should also preside in the District Court.

Concerns have been expressed that many Magistrates would be unwilling to sit in the District Court without participating as full members of the Court and/or because they could not commit themselves to the longer sittings that that would entail.

As to full participation in trials, my intention, as should appear from Cap. 7, paras. 29 and 30 and Cap. 11, para. 58 of the Report, was largely to replicate the way in which the old county quarter sessions used to work. I do not suggest that Magistrates should be relegated to the role of magisterial jurors. They would defer to the District Judge or Recorder on matters of law, just as they now do, for all practical purposes, to their legal adviser when exercising their summary jurisdiction. And they could outvote him on the facts. They would remain in court when matters of law, procedure and evidence are discussed, save only where it would be potentially unfair to a defendant for them to be present.

As to full participation in sentencing, I was initially minded to recommend that Magistrates should take a full part in the sentencing decision, though deferring to the District Judge or Recorder on matters of law. For two reasons, which might be re-visited, I decided against it. First, the short experience in the mid 1990s of Circuit Judges sitting with Magistrates on committals for sentence was that Magistrates' lack of experience in sentencing beyond their normal jurisdiction caused great difficulties and, as you know, significantly slowed the disposal rate. Training could, in part, alleviate that. Sentencing would still be slower than Crown Court sentencing, but so would sentencing by Magistrates alone exercising an enhanced summary jurisdiction under either of your alternative options.

Another difficulty advanced by some in the Review – but, interestingly, not by many Magistrates, was that they could not find the extra time that District Court sittings might entail and/or that it would be difficult to reconvene courts on adjourned sentencing hearings. The Magistrates' Courts Association did not

regard such possible problems as insuperable and nor did many Magistrates with whom I discussed the point. In any event, these too would be features of either of your two alternative options for an enhanced summary jurisdiction.

Turning now to your alternative options of preserving a defendant's ability to elect trial by judge and jury for any offences carrying more than a maximum of six months custody (in pre-Halliday terms) and extending summary jurisdiction to 12 months custody (Halliday's "custody plus") or up to two years custody:

Either option would, in my view, be unsatisfactory for two main reasons:

(1) It would not meet the point of principle that, with Runciman, I believe to be unanswerable. Mode of trial in such cases should be a matter for objective decision by a court in the interests of justice, and in accordance with statutory and broadly drawn criteria, not a subjective decision by a defendant in his own interests (Report, Cap. 5, paras166-172 and Cap. 7, para. 27). For the reasons given in Cap. 5, paras.162-164 of my Report, I do not believe that there are any respectable economic or other arguments against that principle. There may be political reasons for not attempting to achieve it, but I make no comment on that issue beyond the criticisms I have already made in Cap. 5, paras. 157-164, of the Report.

(2) Either of your suggested options, in enlarging the existing overlapping jurisdiction between the present two tiers and in leaving defendants with their present right of election, would aggravate the present anomalous over-lap resulting from either-way election and would achieve little.

As to the comparative merits of my proposals for a District Court, coupled with abolition of the right of election as against extension of Magistrates' sentencing powers to one or two years with or without such abolition, if the lower maximum of one year's custody were adopted, it would not be so very different from Magistrates' ability to sentence up to one year' custody in consecutive sentences in either-way cases. And if the higher maximum of two years' custody were taken, it would fit with the summary jurisdiction already exercised in the Youth Court. But I rejected both possibilities for the following reasons:

(1). Much of the more difficult work, particularly trials, would be allocated to District Judges under suitably modified form of the Venne Rules (Report, pp. 111-112, paras. 44-47, thus depriving defendants of *any* lay element in determination of their guilt or innocence. This would be particularly unfortunate under your option 2 if you were to restrict the extension of summary jurisdiction

to District Judges sitting alone. It would also cause much bad feeling among Magistrates.

(2) There would be an increase in the present unhealthy polarisation of roles District Judges and Magistrates;

(3) If District Judges are to continue taking their share of all levels of summary work, as many additional District Judges would be required to exercise the enhanced jurisdiction as would be necessary for a District Court.

(4) Magistrates called upon to deal with heavier and more complex trials and sentences under the extended jurisdiction would require more assistance from their legal advisers than at present, with all the procedural interruptions and post-interruption repetition of advice for the parties that that would entail. It would impose greater burdens on justices' clerks and their legal advisers, with the likelihood that more of a higher standard of legal qualification and experience would be required. If Magistrates dealing with heavier cases within the enhanced jurisdiction are to depend more heavily on legal guidance, it would be more efficient and more consistent with Article 6 canons of fairness for it to be provided by a professional judge in open court than a legal adviser in the "back-room".

(5) To extend such a jurisdiction to Magistrates would require additional expenditure on their training, but, I believe it would be significantly less if Magistrates were to exercise the jurisdiction with a professional judge, whether in a District Court or in an enhanced summary jurisdiction. And either system would require more Magistrates to exercise their enhanced jurisdiction in it, an increase that should be at least off-set in the long term by savings in the Crown Court.

(6) To the extent that the cheaper option may be a deciding factor, for the reasons given in paras. (3), (4) and (5) I do not believe it can be said with confidence that the establishment of a District Court would be significantly more expensive than extending summary jurisdiction. It would be markedly more efficient and certainly more acceptable in its maintenance of a form of lay justice.

Finally, you mention as a possible feature of the option to extend summary jurisdiction to two years custody, "a "worthwhile" re-classification of some either-way offences to summary-only. There are some examples of such re-classification in the relatively recent past, but mostly of a piece-meal nature and at the bottom of the range; see my Report, Cap. 5, para. 127. But I suspect that any significant "down-grading" of that sort would be seen as simply another way of removing "the right to trial by judge and

jury" in those cases. It would have the same political difficulties that you may see as attaching to abolition of the right to elect.

I would be pleased to meet you and talk to you about any of these matters if you think it would help.

Yours sincerely,

Robin Cook

File Rec'd by Fax

FROM THE PRIVATE SECRETARY

HOUSE OF LORDS,
LONDON SW1A 0PW

22 February 2002

Clare Sumner
Senior Policy Adviser
No 10 Downing Street
London SW1A 2AA

Dear Clare,

LEGISLATION ON AULD AND HALLIDAY

Thank you for your letter of 21 January to Jonathan Sedgewick, asking how the Home Office and LCD will meet the timetable for introduction of Auld and Halliday legislation in mid November/Early December.

Ministers are still deciding how to proceed on Auld and Halliday in the light of comments received on the Auld Report (the closing date for which was 31 January). Until final decisions on how to proceed are made, it is difficult to be sure about the final configuration of the legislation and impossible to finalise instructions to Counsel.

On the assumption that final Ministerial decisions on the important recommendations are made at (or around) the meeting of the criminal justice Ministers on 7 March, we would anticipate final instructions to Counsel on the Court Administration Bill being ready by the end of March. Draft legislation would then be ready for collective Ministerial approval in June and ready for public consultation in July, as promised in the Queen's speech. It would be difficult to allow full consultation and Parliamentary scrutiny of the legislation and for the Bill to be ready for introduction November/December, but in the Lord Chancellor's view an abbreviated period for consultation can be justified.

I am copying this letter to Jonathan Sedgewick (Home Office), Carolyn Bartlett (Attorney General's Office), Glynne Jones (President of the Council's Office), Roy Stone (Chief Whip's Office), Mary Robertson (Lords' Chief Whip's Office) and Sir Edward Caldwell (First Parliamentary Counsel).

Yours sincerely

SARAH ALBON
Principal Private Secretary

SKP 27/2/02

CJPol PT 7 0108

1. JR
2. MB

All this confirms my view that we need a tough response now, advertised & followed thro'. We must get cracking on it

From: Michael Barber
Date: 22nd February 2002

cc: Gus Macdonald
Jeremy Heywood
Sir Richard Wilson
Justin Russell

PRIME MINISTER

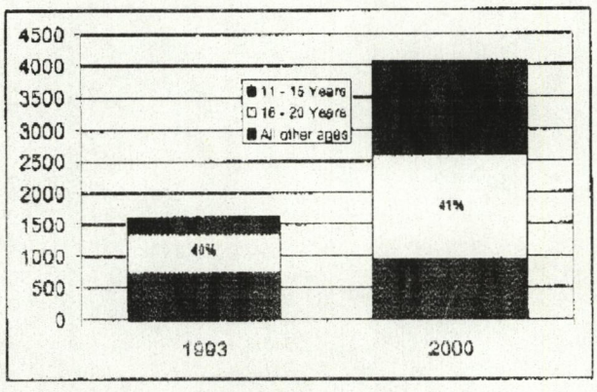
DELIVERY UPDATE: ROBBERY

The Home Office stocktake on 12 February set out the new initiative to tackle robbery in 10 police force areas. This week, a joint team from the Delivery Unit and the Home Office are reviewing the effectiveness (or otherwise) of current policy and generating practical options for strengthening proposed initiatives. We will provide you with a thorough analysis of our conclusions within about two weeks. In the meantime, I thought you would be interested in some of the headlines from the data.

Shockingly, in London the proportion of suspects charged with robbery aged between 11 and 15 has risen by almost 500% since 1993. The proportion of **victims** aged 11-15 has also risen. The dominant theory is that robbery has become an extension of school bullying with young people victimising vulnerable peers inside and outside schools.

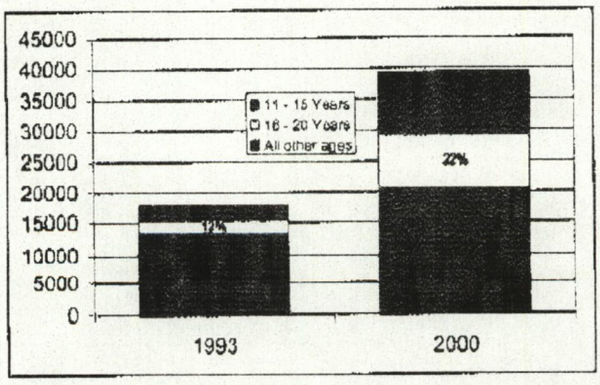
Number of suspects charged with an offence of personal robbery by age (Metropolitan Police District)

11-15 suspects up from 251 to 1464 (+483%)



Number of victims of personal robbery by age (Metropolitan Police District)

11-15 victims up from 2293 to 10062 (+320%)



Though the data is hard to pin down, a growing proportion of robberies are by first time offenders. All of this confirms your view that robbery is often an opportunistic crime which has become a "fashion" in some quarters.

Its attraction is reinforced by the fact that detection rates are abysmally low.

- **The detection rate for robbery is 18% compared to 24% for all crime** (national figures).

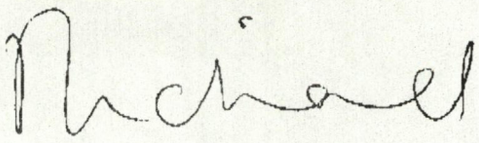
- **Performance varies considerably at BCU level** for example between 11% in Islington and 23% in Lewisham although both have about 1,500 recorded robberies per year.

- **Only 4% of recorded robberies were brought to justice in 2000/01 compared to 9% of all crime nationally** (based on Met. Police figures). There may be links between the age of victims, high likelihood of intimidation and an unwillingness to testify in court which could contribute to this very low rate.

We are doing urgent further work to investigate each of these factors and generate solutions.

A Home Office Programme Board (in which we will participate) to steer progress on the robbery project will meet for the first time next week. Separately, we have asked Kevin Bond to provide us with a weekly robbery note to give frequent updates on trends in the data. I hope this will include data from the wider CJS system, as well as from the police.

I will update you again in two weeks time with a full report from the Delivery Unit/Home Office Robbery Review.



Professor Michael Barber

From: **Michael Barber**
Date: **22nd February 2002**

cc: **Gus Macdonald**
Jeremy Heywood
Sir Richard Wilson
Justin Russell

PRIME MINISTER

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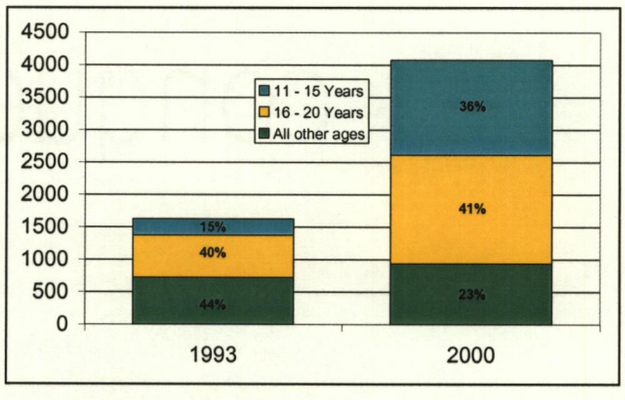

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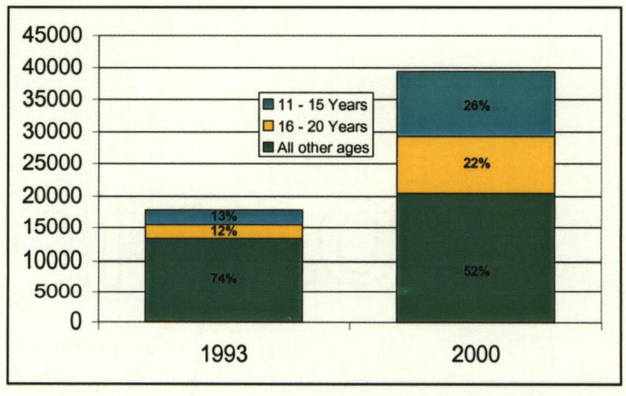

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I will update you again in two weeks time with a full report from the Delivery Unit/Home Office Robbery Review.

Michael

Professor Michael Barber

From: Olivia McLeod
Date: 22 February 2002

PRIME MINISTER

cc: Jeremy Heywood Justin Russell Andrew Adonis Jonathan Powell Sally Morgan Clare Sumner Michael Barber

MODE OF TRIAL

You are meeting with the CJS Ministers on Tuesday to **take a decision on Auld's proposal for an intermediate tier and the abolition of the right to elect mode of trial**. Attached is a final version of the HO/LCD cost-benefit analysis of the Auld model and a range of alternatives, including extending magistrates' sentencing powers to 12 or 24 months, with and without the right to elect (there will be a short presentation of this analysis at the meeting). The CJS Ministers will write with their collective view on Monday, but are likely to stick **to Derry's preferred option of extending mags' powers to 12 months while retaining the right to elect.**

As you can see from the summary table below, Derry's option delivers about **half the potential savings of Auld** with less than half the reduction in jury trials (but more than the savings from abolishing right of election on its own which has been calculated at £10-15m realisable). Increasing mags' sentencing powers to 24 months increases savings to 60% of full Auld and abolishing right of election is worth another 35%. But savings wouldn't come on stream under any option until well after 2005.

Option	Saving pa (long-term realisable)	Savings pa, inc in kind (eg court capacity for attrition)	% reduction in jury trials
Auld (3 tiers, right to elect abolished)	**£26-30m**	**£51-57 m**	**51%**
Mags < 24 mths abolish right to elect	£26-31m	£48-56m	47%
Mags < 12 mths, abolish right to elect	£22-26m	£39-46m	38%
Mags < 24 mths retain right to elect	£14-19m	26-34m	27%
Mags < 12 mths retain right to elect	**£12-16m**	**£21-28m**	**22%**
Simple abolition of right to elect (original Mode of Trial bill)	£10-15m	£17-26	20%

The figures are no more than best estimates, and you will see the savings are significantly lower than those calculated at the time of the last Mode of Trial bill (£126m). Most of the difference is accounted for by previous assumptions about savings in prison costs. We're now told that we can't assume that mags will sentence less severely than the crown court for similar offences transferred to the lower court. The cost-benefit analysis assumes (for all options) abolition of committal for sentence, and other reforms which we could make a start on now including better allocation between tiers and sentencing guidelines, CPS to take over charging, and more use of incentives for early guilty plea.

Derry will argue that the political cost of abolishing right to elect is not worth it when half the savings could be realised under his model. But **the beneficial impact of his approach could be neutralised if defendants responded by increasing the rate at which they exercise their right to elect**. By abandoning the principle that mode of trial should be a matter for the court not the defendant, we forfeit control of allocation in either-way cases.

There is also the fact that Auld (like Runciman and Narey before him), having carried out a major and serious review of the criminal courts, believed this was the right thing to do. On your request, Derry wrote seeking his views on the options, and he has replied (Annex B) asserting that belief in the strongest terms.

Set against those points, there seems no doubt that **we would need the Parliament Act to abolish the right to elect.** Derry's option is likely to get broad support, though there is always the risk that having conceded so much so soon we find opponents rallying against our alternative model – you might want to press Derry on this point.

Intermediate tier

There is the related but separate question of Auld's intermediate tier (tribunal of two magistrates sitting with a District Judge to hear cases between 6 months and 2 years). There is a strong consensus against it (mags particularly oppose proposal that DJ alone is responsible for sentencing) and Derry will argue that it is both cheaper and more popular simply to extend mags powers. Auld in his letter responds by pointing out that mags' lack of experience combined with their track record for inconsistent sentencing will mean either (a) spending a lot more money on training and legal advisors making this option as expensive as an intermediate tier or (b) giving DJs responsibility for more serious cases – likely to be Derry's plan – thus depriving defendants of any lay element, and potentially more controversial. **You may want to press Derry on this point**.

I'll come back to you on Monday with CJS Ministers' recommendations.

From: Ian Chisholm
Criminal Justice Reform Unit
Room 333, QAG
☎ 273 3487
22 February 2002

cc Permanent Under-Secretary
Moira Wallace
Mike Boyle
David Cooke
Ian Chisholm
Rowena Collins-Rice
Nichola Samuel
Cecilia French
Richard Chown
Katharine Raymond

Keith Bradley } **simultaneously**
Home Secretary }

AULD: INTERMEDIATE TIER/RIGHT TO ELECT

Issue

How to respond to Lord Justice Auld's proposals on mode of trial for either-way offences.

Timing

2. Immediate. You, the Lord Chancellor and the Attorney General are to meet the Prime Minister on Tuesday 26 February to discuss this issue.

Summary

3. In order that criminal cases should be allocated to the tribunal which is appropriate to their gravity and complexity, Auld proposes –

i) the removal of defendants' right to elect trial in the Crown Court for either-way offences, and
ii) the creation of a new tribunal (consisting of a District Judge and two lay magistrates) intermediate between the Crown Court and the magistrates' courts, to hear cases likely to attract a sentence of between 6 months and two years.

4. The arguments of principle for removing the right to elect are undoubtedly strong, but it is a matter of judgement how far the benefits would justify the effort which would be necessary to overcome such opposition. As for the intermendiate tribunal, responses to the consultation exercise show that there is little support for this proposal: the judiciary oppose it, as do the two branches of the legal profession. The lay magistracy (who might have been expected to welcome the prospect of involvement in more serious cases) dislike their proposed exclusion from the sentencing process. Some respondents, including the magistracy, have suggested instead that the maximum sentence available to magistrates' courts should be raised from the present 6 months.

5. As agreed at the meeting on 17 January, therefore, officials from the criminal justice departments have considered how far it might be possible to achieve the objective of matching offences with the appropriate tribunal within a two-tier system and without removing the right to elect, relying instead on different sentencing powers and some of Auld's other recommendations. Their conclusions are set out in detail in the attached paper, but may be summarised thus:

- that extending magistrates' courts' sentencing powers, either to include 'custody-plus' (as recommended by Halliday) or alternatively up to 24 months, should result in a substantial

transfer of business from the Crown Court to the magistrates' courts. This would not be negated, although it would to an uncertain extent be reduced, by retaining the right to elect;

- the change would need to be backed up with clearer guidance and more effective training for magistrates about which cases are appropriate for hearing in the Crown Court;
- the effect of retaining election could to some degree be offset by offering greater incentives for defendants who ultimately plead guilty to do so at the outset. Auld has proposed a system whereby a defendant who is considering making an early guilty plea could seek an advance indication of the likely sentence, and the signs are that (with minor modifications) the idea would be acceptable to most respondents.
- There is also some, albeit limited, scope for reclassifying either-way offences as summary, which would effect a small reduction in the number of elections.

6. The cost-benefit implications are explained in detail in Annexes A and B to the attached paper, but are summarised in the following table:

REDISTRIBUTION OF c.58,000 EITHER-WAY CASES NOW IN CROWN COURT

Option	Court	Right to elect abolished	Saving (long-term realisable)	Right to elect retained	Saving (long-term realisable)
Auld's 3-tier system	Magistrates' Division	13,800-19,100	£26-30 million	Not calculated	Not calculated
	District Division	20,500-21,800		Not calculated	
	Crown Division	18,400-22,400		Not calculated	
2-tier system, magistrates have custody-plus	Magistrates' courts	24,800-29,400	£22-26 million	13,300-17,900	£12-16 million
	Crown Court	28,600-33,200		40,100-44,500	
2-tier system, magistrates can impose 24 months	Magistrates' courts	31,400-37,200	£26-31 million	16,900-22,700	£14-19 million
	Crown Court	20,800-26,600		35,300-41,100	
Simple abolition of right to elect in 2-tier system, no change in max sentences	Magistrates' courts	11,000-16,600	£10-15 million	Not applicable	Not applicable
	Crown Court	41,400-47,000		Not applicable	

The salient points are that -

- even the most modest option - making 'custody-plus' available to magistrates' courts, with right of election retained - would deliver about half the potential savings expected from Auld's intermediate tribunal, and more than the savings from abolishing right of election on its own (which in cash terms would save £10-15 million a year);
- increasing magistrates' sentencing powers to 24 months (again with election retained) would deliver a further 10 per cent of the intermediate tribunal savings, ie about 60 per cent in total;
- and abolishing right of election is worth about another 35 per cent. The combination of this with the 24-month option would nearly equal the savings from Auld.

Caveat

7. These figures need to be treated with caution, for several reasons. First, it is difficult enough to predict the effect on the criminal justice system of a single initiative, and predicting the outcome of a number which are to be implemented at the same time is bound to be highly speculative. The simultaneous introduction of a new sentence of custody-plus, new sentencing and mode of trial guidelines and advance indication of sentence, combined with the removal of committal for sentence, means that magistrates would be operating in territory from which many of the familiar landmarks had been moved or taken away. There is anecdotal evidence that magistrates' current sentencing practice is more variable than the Crown Court's. We hope that magistrates, relying on sentencing guidelines and properly advised by the CPS, will both accept jurisdiction in many cases which would now be directed to the Crown Court, and – if the outcome is a conviction – impose a sentence which is at least no longer, and perhaps shorter, than that which the Crown Court would have imposed. But this cannot be guaranteed; if they are given more extensive powers, the result may be <u>longer</u> sentences.

8. Yet more uncertainty would result from retaining the right to elect jury trial. We have little enough information about why defendants now elect, but how they would do so in the changed circumstances of our alternative options can be little better than a guess. Their behaviour cannot be controlled, and whilst it may be possible to influence it by means (for example) of sentence discounts and advance indication, the effect is uncertain. This is why the impact of each scenario is represented as a range of cases in each court tier and a range of cost savings.

9. The SR2002 bids have been made on the basis of the Auld recommendations (intermediate tribunal, right to elect abolished) on the ground that these have the highest start-up costs, and that it is preferable to reduce a bid than to seek to increase it.

<u>Recommendation</u>

10. That you, the Lord Chancellor and the Attorney (to whom similar advice is going forward) send the attached paper to the Prime Minister on Monday, and that at Tuesday's meeting you propose –

- that the intermediate tribunal should not be adopted;
- that magistrates' sentencing powers should be extended to include custody-plus, as recommended by Halliday; and
- that the right to elect should be retained, pending research to establish whether it has any genuine value to the criminal justice system.

11. I attach at Annex C Lord Justice Auld's reply to an invitation from the Lord Chancellor to comment on the alternative options. A copy of this letter, in which the judge defends his recommendations, has been sent to Number 10.

IAN CHISHOLM

THE AULD REVIEW OF THE CRIMINAL COURTS

INTERMEDIATE TIER/RIGHT TO ELECT

Summary

In order that criminal cases should be allocated to the tribunal which is appropriate to their gravity and complexity, Auld proposes –

- the removal of defendants' right to elect trial in the Crown Court for either-way offences, and
- the creation of a new tribunal (consisting of a District Judge and two lay magistrates) intermediate between the Crown Court and the magistrates' courts, to hear cases likely to attract a sentence of between 6 months and two years.

The arguments of principle for removing the right to elect are undoubtedly strong, but it is a matter of judgement how far the benefits would justify the effort which would be necessary to overcome such opposition. As for the intermediate tribunal, responses to the consultation exercise show that there is little support for this proposal: the judiciary oppose it, as do the two branches of the legal profession. The lay magistracy (who might have been expected to welcome the prospect of involvement in more serious cases) dislike their proposed exclusion from the sentencing process. Some respondents, including the magistracy, have suggested instead that the maximum sentence available to magistrates' courts should be raised from the present 6 months.

As agreed at the meeting on 17 January, therefore, officials from the criminal justice departments have considered how far it might be possible to achieve the objective of matching offences with the appropriate tribunal within a <u>two-tier system</u> and <u>without removing the right to elect</u>, relying instead on different sentencing powers and some of Auld's other recommendations. Their conclusions are set out in detail in the attached paper, but may be summarised thus:

- extending magistrates' courts' sentencing powers, either to include 'custody-plus' (as recommended by Halliday) or alternatively up to 24 months, should result in a substantial transfer of business from the Crown Court to the magistrates' courts. This would not be negated, although it would to an uncertain extent be reduced, by retaining the right to elect;
- the change would need to be backed up with clearer guidance and more effective training for magistrates about which cases are appropriate for hearing in the Crown Court;
- the effect of retaining election could to some degree be offset by offering greater incentives for defendants who ultimately plead guilty to do so at the outset. Auld has proposed a system whereby a defendant who is considering making an early guilty plea could seek an advance indication of the likely sentence, and the signs are that (with minor modifications) the idea would be acceptable to most respondents.
- There is also some, albeit limited, scope for reclassifying either-way offences as summary, which would effect a small reduction in the number of elections.

The cost-benefit implications are explained in detail in Annexes A and B, but can be summarised in the following table:

REDISTRIBUTION OF c.58,000 EITHER-WAY CASES NOW IN CROWN COURT

Option	Court	Right to elect abolished	Saving (long-term realisable)	Right to elect retained	Saving (long-term realisable)
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	Crown Court	20,800-26,600		35,300-41,100	
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The salient points are that -

- even the most modest option - making 'custody-plus' available to magistrates' courts, with right of election retained - would deliver about half the potential savings expected from Auld's intermediate tribunal, and more than the savings from abolishing right of election on its own (which in cash terms would save £10-15 million a year);
- increasing magistrates' sentencing powers to 24 months (again with election retained) would deliver a further 10 per cent of the intermediate tribunal savings, ie about 60 per cent in total;
- and abolishing right of election is worth about another 35 per cent. The combination of this with the 24-month option would equal the savings from Auld.

Realisability of savings

The table above gives long-term realisable savings. The table in Annex A also gives higher estimates of opportunity costs, which represent Crown Court time which would be released. The question is how far this time could be made use of. The Court Service anticipate the need (and are bidding) for extra capacity to meet expected increases in workload in the Crown Court, eg because of work to reduce attrition, but will still be 8,000 Crown Court days short of what is likely to be required. It is likely that the Crown Court time saved under most of the options would be re-usable, if Ministers chose. (These savings would not actually negate the current bid, because implementation of Auld is not until 2005 and it is expected that there will be a 'bulge' of cases initially.)

Caveat

These figures need to be treated with caution, for several reasons. First, it is difficult enough to predict the effect on the criminal justice system of a single initiative, and predicting the outcome of a number which are to be implemented at the same time is bound to be highly speculative. The simultaneous introduction of a new sentence of custody-plus, new sentencing and mode of trial guidelines and advance indication of sentence, combined with the removal of committal for sentence, means that magistrates would be operating in territory from which many of the familiar landmarks had been moved or taken away. There is anecdotal evidence that magistrates' current sentencing practice is more variable than the Crown Court's. We hope that magistrates, relying on sentencing guidelines and properly advised by the CPS, will both accept jurisdiction in many cases which would now be directed to the Crown Court, and – if the outcome is a conviction – impose a sentence which is at least no longer, and perhaps shorter, than that which the Crown Court would have imposed. But this cannot be guaranteed; if they are given more extensive powers, the result may be longer sentences.

Yet more uncertainty would result from retaining the right to elect jury trial. We have little enough information about why defendants now elect, but how they would do so in the changed circumstances of our alternative options can be little better than a guess. Their behaviour cannot be controlled, and whilst it may be possible to influence it by means (for example) of sentence discounts and advance indication, the effect is uncertain. This is why the impact of each scenario is represented as a range of cases in each court tier and a range of cost savings.

Right to elect

Auld strongly endorses the principle that it should be for the court to determine where either-way cases are tried, whether in a two-tier or a three-tier system, and is supported in this by most of the judiciary and the magistracy. It is clear, on the other hand, that the Bar Council and the Law Society remain deeply opposed to the abolition of the right to elect, and the history of the Criminal Justice (Mode of Trial) Bills shows how difficult it is likely to be to secure the passage through Parliament (especially the House of Lords) of legislation effecting abolition.

One difficulty is that there is no evidence which can be used to rebut the argument, deployed by the Bar and others, that the right to elect can be of genuine value to defendants who properly wish to establish their innocence. If it were decided to retain the right, it would be prudent to emphasise that this would be as an interim measure. Research could then be carried out into cases where the right to elect was exercised, which would in due course show how far it is abused (as the Government believes), and how far it is justified by its exercise in cases where a defendant needs and goes on to receive jury trial.

If the right to elect were retained, the link might be made between that and other Auld proposals: jury waiver, and the proposals to allow jury trial to be dispensed with in serious fraud cases and in grave crimes involving young defendants. But jury waiver is arguably quite consistent with the existence of the right to elect, and it may be that the political credit gained by not abolishing election would serve to curb any opposition to the other measures.

Intermediate tribunal

Auld argues that some cases dealt with by the Crown Court do not warrant the time and expense of jury trial; that on the other hand magistrates have shown weaknesses in dealing with cases at the upper end of their jurisdiction; and that 'it is time for a further step along the Beeching road

towards greater flexibility in matching cases around the borderline between the present two tiers of jurisdiction to the right level and form of tribunal'. He therefore proposes the creation of an intermediate tribunal (the 'District Division') consisting of a District Judge and two lay magistrates, in order -

- to provide a more suitable and efficient mode of trial for many of the middle range and less serious cases that now go to the Crown Court;

- to ensure a lay element in all cases presently tried by juries that would fall within the jurisdiction of the District Division;

- to make better use of District Judges, the present parity of whose *maximum* jurisdiction with lay magistrates he considers to be anomalous;

- to enable the best and most flexible use to be made of existing court accommodation and court staffs.

Auld argues that -

- the presence of a judge would bring legal knowledge and experience,
- the ability to deploy different levels of judge would provide a degree of flexibility in dealing with cases of varying seriousness and complexity,
- the lay magistrates would be representative of the community, but
- would not need the lengthy explanations and clarifications from the judge on legal points that would be required by a jury, so that trials could be shorter than in the Crown Court; and
- a mixed tribunal would also allow for a closer relationship between the lay and professional judiciary, letting lay magistrates learn from professional judges, and offering them a means of developing skills through experience.

Auld's proposal is that -

- decisions on facts would be made communally by the professional judge and lay magistrates (on the basis that three views are better than one),
- verdict would be by majority, the professional judge and lay members each having equal votes, but
- the judge alone would sentence.

This is because –

- sentencing would be of a different level of seriousness to that currently within the magistrates' courts,
- there is evidence of wide regional disparities in magistrates' sentencing, suggesting that they are not well qualified to sentence at a higher level;
- availability for sentencing following an adjournment might be a problem for lay magistrates, and
- it would otherwise be necessary to provide additional training in sentencing for large numbers of magistrates.

Responses during consultation

The response to the proposed intermediate tribunal has been mainly negative. The exclusion of magistrates from sentencing has alienated the lay magistracy, which might otherwise have been

expected to favour the proposed intermediate tier. Magistrates point out that they already have sentencing powers of up to two years (Auld's suggested maximum for the new tribunal) in youth cases, and many have suggested that they may be unwilling to sit in a mixed tribunal in which they had no part in sentencing. Even if they were given such a role, magistrates would be less than enthusiastic about the proposal.

Most other respondents are opposed for a variety of reasons, including the following -

- the fear that judges might inappropriately dominate the lay magistrates during the fact finding exercise,
- the question who should formulate the reasons in cases where the lay members of the tribunal out-voted the judge,
- the practical concern that it might be difficult to find magistrates able to sit for the longer period of time that cases in the District Division might require (although this has not been the view expressed by the magistracy at many of the Ministerial discussion events),
- the objection that justice would not be seen to be done if the District Judge, having himself determined a question of admissibility of evidence, then retired with the lay justices to consider a verdict, and
- concern that the tribunal would not be a representative mini-jury, but would be perceived as 'white, male, middle-aged, middle-class, and case-hardened' (although a similarly-constituted tribunal hears current appeals against conviction from the magistrates' courts).

Alternative means of reducing the burden on the Crown Court

Many respondents, in particular magistrates, suggested that as an alternative to the intermediate tier there would be value in increasing magistrates' sentencing powers to 12 months; some suggested 2 years, pointing out that youth court magistrates can impose Detention & Training Orders up to 2 years. The senior judiciary opposed a potential increase to 2 years, but would support an increase to 12 months' custody, as long as the right to appeal by way of re-hearing was maintained. But the Bar Council and Liberty were opposed to any increase in magistrates' sentencing powers.

Some change in magistrates' sentencing powers is inevitable if the Halliday proposals are introduced. The relevance of the Halliday review lies chiefly in the concept of 'custody-plus' which would replace prison sentences of less than 12 months. Such sentences would consist of a short period in custody (from two weeks to three months), followed by a period of supervision (up to a maximum of 9 months) under conditions which, if breached, would result in a return to custody. The introduction of custody-plus would have implications for the sentencing powers of magistrates' courts (as well as of the Magistrates' Division under Auld's scheme) since custodial sentences of less than 12 months - including the current maximum of 6 months - would cease to exist.

The question is what would be the effect of substituting custody-plus for 6 months' imprisonment as the maximum sentence available to the magistrates' courts. It is difficult to predict the effect of such changes, since much depends on how they are perceived. Allowing magistrates to impose custody-plus sentences in full might, on the one hand, be seen as little more than the equivalent of their current 6-month limit on the basis that the custodial element is only three months. (The intention is that magistrates should retain the power to impose consecutive sentences, the custodial element being doubled to six months' maximum, with supervision for up to nine months.) It is on the other hand arguable that the addition of a period of supervision amounts to an effective extension of magistrates' powers, and certainly the intention is that custody-plus should be used in place

of current sentences of up to 12 months' imprisonment (ie sentences which magistrates could not now pass, otherwise than as consecutive ones).

How far magistrates would be ready to accept jurisdiction in cases which they would previously have directed to the Crown Court for trial would depend crucially on their being given effective and robust guidance both on the factors governing the mode of trial decision, and on the types of offence for which custody-plus would be an appropriate sentence. The latter advice would be for the proposed Sentencing Guidelines Council to formulate.

Effect on jury trial of the Auld proposals and alternatives

An assessment has been made of the effect on the cost-benefit analysis for the Auld proposals and alternatives of retaining the right to elect. Annex A examines the effect on the number of cases going to the Crown Court of Auld's proposal for an intermediate tier (with no right to elect) and of increasing magistrates' powers to encompass custody-plus, and a further extension to allow them to impose up to 24 months' imprisonment; a variety of scenarios show the outcomes with and without the right to elect, and with differing effects of misallocation and incentives to plead guilty early (the principal such incentive being sentence indication). Reclassification of either-way offences as summary would also have some impact, although on a limited scale. The commentary in Annex B explains how these factors might operate.

The opportunity cost saving of £17-26 million pa from abolishing right of election compares with the estimated saving of £44-50 million pa (excluding prison costs) attributed to the Criminal Justice (Mode of Trial) Bill. The main reason for this discrepancy is that legal aid and CPS savings were formerly overestimated, the whole (rather than the marginal) cost of a Crown Court case being treated as capable of being saved. The estimates for the Criminal Justice (Mode of Trial) Bill included a large element for savings in prison costs, on the basis that magistrates' courts would sentence more leniently than the Crown Court for elected cases. There is some evidence for such an effect, although it has been questioned. But these savings have been excluded from the present calculations on the basis that abolition of the right to elect (if agreed) would no longer take place in an otherwise static system, but would form part of a series of extensive changes, including measures to promote more uniform sentencing.

ANNEX B

DISTRIBUTION OF EITHER-WAY CASES BETWEEN COURTS

The paper at Annex A illustrates the potential distribution of either-way cases between two/three levels of court in a number of possible scenarios.

OPTIONS

Option 1 (Auld's 3-tier scheme)

- creation of an intermediate tribunal with sentencing powers up to 2 years,
- allocation by the court (with a District Judge determining disputed cases) in the knowledge of the defendant's previous convictions, with no right to elect,
- abolition of committal for sentence,
- a clearer tariff of discounts on sentence for early guilty pleas, and
- sentence indication at the defendant's request.

Option 2 (2 tiers; 12-month sentence in magistrates' court)

- magistrates' courts' sentencing powers raised to **12 months** (equating to Halliday '**custody-plus**'),
- allocation by the court in the knowledge of the defendant's previous convictions,
- abolition of committal for sentence,
- a clearer tariff of discounts on sentence for early guilty pleas, and
- sentence indication at the defendant's request.

Option 3 (2 tiers; 24-month sentence in magistrates' court)

- magistrates' courts' sentencing powers raised to **2 years**,
- allocation by the court in the knowledge of the defendant's previous convictions,
- abolition of committal for sentence,
- a clearer tariff of discounts on sentence for early guilty pleas, and
- sentence indication at the defendant's request.
- It is assumed that District Judges would be involved in cases at the 12-24 month level, whether as part of a mixed tribunal (which might look rather like Auld's) or sitting alone; the latter would have the disadvantage of removing any lay element.

It will be seen that the main difference lies in the first measure on the list, respectively an intermediate tribunal which can impose a custodial sentence of up to 2 years, an increase to 12 months' imprisonment in the maximum sentencing powers of magistrates' courts, and an increase to 2 years' imprisonment. There is also some variation in the second item (case allocation): in the Auld scheme allocation in disputed cases is by a District Judge and there is no right to elect; in Options 2 and 3 it would usually be done by a lay bench and the right to elect might be retained. The tables show how these options work both with and without the right to elect. The other measures are common to all three options.

One measure which is not recommended by Auld but which would help to remove some cases from the Crown Court is the **reclassification** of some either-way offences as summary only.

The scope for reclassifying offences within the current 6-month maximum sentence available in the magistrates' courts, or even within a 12-month maximum, is very limited. There would be greater potential for reclassification if the sentencing power of magistrates were increased to 2 years, as this would permit the reclassification as summary of those either-way offences which now have a maximum penalty of 2 years or less. These offences include assault while resisting arrest, possession of a bladed article, and making off without payment. The effect of removing these offences from the Crown Court has been calculated at some 2,600 cases (2000 figures), but this total includes over 1,000 dangerous driving cases, an offence which is not a realistic candidate for reclassification (not least because consideration is being given to increasing the maximum penalty).

- Other measures that could contribute to reducing the number of Crown Court cases include better guidance/training for magistrates, to help improve the accuracy of allocation;
- ensuring that the appropriate charge was brought at the outset;
- prosecution recommendation as to the appropriate tribunal;
- timely disclosure of prosecution evidence, to encourage defendants to make early guilty pleas.

VARIABLES

The tables in Annex A show a range of possible scenarios based on optimistic and pessimistic assumptions for the following variables: misallocation, defendants electing, and incentives.

Misallocation

This represents the extent to which cases are allocated to a higher-level court (in terms of sentencing power) than turns out to be necessary.

- Because misallocation occurs only between contiguous tiers of court, the effect on Crown Court business (and hence on costs and how quickly cases are dealt with) is much greater in a two-tier system (where it results in the removal of cases from the magistrates' court to the Crown Court) than in a three-tier one, where the main effect is a transfer of cases from the lowest to the middle tier. Misallocation from the district to the Crown division would be on a far smaller scale
- The abolition of committal for sentence may lead to greater misallocation (in percentage terms) than now, because lay justices – deprived of this safety net – are likely to err on the side of caution in allocating cases, just as they now do in committing for sentence (60% of the cases so committed to the Crown Court result in no custodial sentence or one within the powers of the magistrates' court).
- The effect in terms of numbers of cases, however, should not be excessive, because the volume of cases at the 12-month and 24-month borderlines is far less that at the current 6-month boundary between the jurisdiction of the magistrates and the Crown Court.
- Involving District Judges (as Auld proposes where there is a dispute between the parties) is likely to result in better allocation decisions. If the decision is to be made by lay benches, they and the CPS (whose advice on venue is highly influential) would benefit from more training and clearer criteria.
- Pre-charge co-operation between the police and CPS should make it more likely that the right charge is brought at the outset. This in turn should help improve the accuracy of allocation.

Defendants electing

The efficiency of allocation between the magistrates' courts and the Crown Court would inevitably be reduced by continuing to allow defendants to elect trial by jury.

- It has been suggested that the limit on the maximum sentence available in the magistrates' courts, which would result from abolishing committal for sentence, might operate to reduce the election rate in cases allocated there.
- It is unlikely, however, that a sentence cap of two years would be a significant inducement for defendants not to elect jury trial. Since allocation would be on the basis of the prosecution case at its strongest, allocation to the magistrates' court would signal to the defendant that the maximum penalty he was likely to face was two years, and this would remain true even if he exercised his right to elect. He would therefore have nothing to lose by electing – except his sentence discount for an early guilty plea (see **Incentives** below).

Incentives

Incentives to plead guilty at an early point, such as sentence discount and advance indication of sentence, may help reduce the number of cases going up from the magistrates' courts.

- **Sentence discounts** for early guilty pleas already exist and are already graduated, although formalising and codifying the present arrangements could well help to raise defendants' awareness of them.
- **Sentence indication** (combined with discount) could be the most effective incentive for defendants not to elect but to plead guilty, if it were available in the magistrates' court. A powerful argument for making it available there is that allowing sentence indication in the Crown Court but not in the magistrates' courts would give defendants a perverse incentive to elect simply in order to get the indication.
- But sentence indication in the form recommended by Auld might not be appropriate for lay justices, particularly when combined with the introduction of custody-plus. It could be given in the magistrates' courts by District Judges if there were enough of them to make this practicable, but it would clearly be unfair if indication were available only in certain parts of the country. A possible alternative would be for the procedure in the magistrates' courts to take the more limited form of an indication (where appropriate) that the defendant would not face a custodial sentence.
- Another important incentive would be the knowledge that the offence charged is the one for which the defendant is likely to stand trial. One of the outcomes which it is hoped will emerge from the imminent CPS/ACPO charging pilots is that, as a result of pre-charge co-operation between the police and CPS, the right charge is brought. The belief that charges can be negotiated downwards is a powerful motive for guilty defendants to plead not guilty and to elect Crown Court trial.
- Early disclosure of prosecution evidence would remove another excuse for procrastination.

ANNEX A

Costs and Savings Scenarios

Workload Projections

- All workload projections came from Home Office modelling based on 2000 data.

Factors adversely affecting correct allocation

- Workloads were based on the assumption that whilst in an ideal world all cases would be tried in the most appropriate tribunal to their eventual sentence, a proportion of cases falling within any sentencing parameters would be 'misallocated' to a higher tribunal. (Possible reasons for this include the case being linked to another warranting higher sentencing jurisdiction, charges being downgraded, the defendant electing or the magistrates' courts declining jurisdiction).
- It is assumed that borderline cases at the upper end of any sentencing parameter will have a greater chance of misallocation, as magistrates' courts are more likely to decline jurisdiction.

Factors improving allocation

- In the new scenarios being considered there will be 'building blocks' in place which help to inform and improve the decision for both the court, as to whether to retain jurisdiction, and the defendant.
- These include improving information at the outset and consistency of the charge from beginning to case completion through better case management, CPS role in charging, and better allocation and sentencing guidelines for the court.

Workload Modelling Assumptions

Right to elect abolished

- Where the right to elect has been abolished, it has been assumed that 11,000 of the current 17,000 elections to the Crown will be retained in the magistrates' courts.
- The other 6,000 will go to the intermediate tier in the full Auld option, or the Crown Court in the 2 tier options. (This 6,000 represent those cases where the antecedents of the defendant require a sentence beyond magistrates' courts powers, though in the present system this would not be known until after the trial, necessitating committal for sentence. Since committal for sentence would be abolished, we assume these cases would now need to be heard in the Crown.)
- The 11,000 are assumed to have sentences of 6 months or less and the remaining 6,000 split equally between 6-12 months and 12-24 months (i.e. 3,000 in each)
- For the models with incentives to plead guilty earlier we have assumed that these could affect all timeous or late guilty pleas left in the Crown Court after the 11,000 have been removed, with a success rate of 15%.

Right to elect retained

- Where the right to elect has been retained, it has been assumed that 14,500 of the original 17,000 will still choose to elect. The remaining 2,500 would instead choose to remain in the magistrates' courts swayed by such factors as cap on sentence (as committal for sentence after trial will disappear), consistency of charging (CPS involvement throughout), and improved case management and sentence information discouraging defendants from 'playing the odds'.
- The 2,500 in the magistrates' courts are assumed to have sentences of 6 months or less and the 14,500 in the Crown Court are distributed as follows: 8,500 as 6 months or less; 3,000 as 6-12 months and 3,000 as 12-24 months.
- For the models with incentives to plead guilty earlier we have assumed that these could affect all timeous or late guilty pleas left in the Crown Court after the 2,500 have been removed, with a success rate of 15%.

D[redacted]ng with non-elections

- From the remaining pool of defendants (41,000) we assume that the table below of agreed percentages will apply to the portion of 41,000 within each sentencing band.

e.g. For the Intermediate tier workload (highlighted below) we assume the total is made up of:
25% of the 0-6 month sentence portion (56%) of the 41,000 cases
75% of the 6-12 month sentence portion (14%) of the 41,000 cases
50% of the 12-24 month sentence portion (16%) of the 41,000 cases

The percentages used are estimates intended to encompass both sets of factors above, and as such we have worked up an *optimistic* set of percentages and a *pessimistic* set of percentages for each system based on how the factors might interact.

Option 1: Full Auld (no elections)				
Cases currently tried in CC receiving sentence of:	0-6 months	6-12months	12-24	24+
Optimistic	%	%	%	%
Magistrates' Courts	50	0	0	0
Intermediate tier	25	75	50	0
Crown	25	25	50	100
Pessimistic				
Magistrates' Courts	25	0	0	0
Intermediate tier	50	60	40	0
Crown	25	40	60	100

Option 2: Auld without intermediate tribunal, magistrates' powers extended to 12 months			
Cases currently tried in CC Receiving sentence of:	0-6 months %	6-12months %	12+ %
Optimistic			
Magistrates' Courts	75	50	0
Crown	25	50	100
Pessimistic			
Magistrates' Courts	60	40	0
Crown	40	60	100

Option 3: Auld without intermediate tribunal, magistrates' powers extended to 24 months				
Cases currently tried in CC receiving sentence of:	0-6 months %	6-12months %	12-24months %	24+ %
Optimistic				
Magistrates' Courts	75	60	40	0
Crown	25	40	60	100
Pessimistic				
Magistrates' Courts	60	50	25	0
Crown	40	50	75	100

Option 4: Right to Elect Abolished				
Cases currently tried in CC receiving sentence of:	0-6 months %	6-12months %	12-24months %	24+ %
Optimistic				
Magistrates' Courts	50	0	0	0
Crown	50	100	100	100
Pessimistic				
Magistrates' Courts	0	0	0	0
Crown	100	100	100	100

C[redacted]ng Assumptions

Intermediate tier scenarios

- Costs and savings have been estimated on the assumptions that
  - The intermediate tier cases would be heard for the most part in magistrates' courts buildings sitting as 2 lay magistrates and a District Judge
  - An average of 2 cases per day (including guilty pleas and trials) has been assumed.

CPS data (prosecution costs)

Crown Court

- Figures come from CPS External Resources and Performance Branch based on average Crown Court costs for a burglary case in the Crown as this is almost always an either-way (rather than indictable) and is therefore used as a reasonable approximation. These have then been pro-rated according to plea rates in the Crown Court (50/14/36 for early/late/not guilty pleas respectively).

Non Crown Court work (Extended Magistrates Courts/ Intermediate tier):

- The CPS cost of non Crown Court cases to be tried (i.e. 12 months/ 24 months/ Intermediate tier) are based on

Guilty pleas - in house representation
Late guilty/ Not guilty - 50% in house, 50% bar costs

These have then been weighted according to costs for either way timely guilty pleas, and late guilty pleas and trials. In assessing the average CPS costs of cases moving to the magistrates courts the *same* (i.e.Crown Court) plea rates have been used, as it seemed unreasonable to assume that defendants would plead differently, purely because the venue of their case had changed.

PLSD data (defence costs)

Crown Court

- Average costs for the Crown Court have been estimated by their Operational Research Unit by ranking the cases categorised by Guilty pleas, Cracks, and Not Guilty pleas in order of expense, and then looking at the cheapest 40,000. This was done to avoid over-estimating the 'average' Crown Court case by including the few cases with enormous costs, as this would skew the results and potentially overestimate savings. The cheapest 40,000 were decided upon as indicative of the type of cases involved.

Non Crown Court work (Extended Magistrates Courts/ Intermediate tier):

- PLSD defence costs for non Crown Court cases (up to 12/24 months in magistrates' courts, or intermediate tier) are based on current magistrates' courts remunerations, but taking into account the representation the higher of these cases might require.

Crown Court savings

There is no definitive value of 'running costs of a Crown Court day' that may easily be used as a multiplier when calculating costs or savings, largely because the cost of an *additional* Crown Court day (in the long or short term) may not indicate the savings realisable in *avoiding* a Crown Court day.

- The smallest savings are realisable savings, which represent those which would be 'cashable' if a day were saved. These take no account for example of reducing staffing levels.
- Over the longer term, there are 'long term realisable savings' which reflect the long term changes e.g the reduced number of staff, judiciary etc that would be needed once a steady state has been reached.
- Savings can also be calculated on an 'opportunity cost' of a day saved which represents the value of a day saved if that day can be fully re-deployed.

Figures estimated for Crown Court days were converted into savings per case on the basis of either-way cases most likely to move taking approximately 0.75 day (estimated, but in line with the result from applying plea rates to hearing times from Crown Court statistics), and a Crown Court sitting day of approx. 5 hours).

Magistrates' Courts running costs

- The Financial Management Section of the Criminal Planning and Resources Division have estimated that the extra capacity anticipated could be absorbed by the courts at a cost of £400 per day.
- Figures for the incremental cost of a day were converted into costs per case based on estimates of an average length of case in a magistrates' court (estimated by magistrates court secondee), weighted according to early and late guilty pleas and trials, and magistrates courts sitting day of approx. 6 hours.
- For costing purposes, 1.2 defendants per case have been used to 'convert' case data into defendant data.

Intermediate Tier running costs

- As cases would be heard in a magistrates' courts building, magistrates' courts variable overheads have been assumed.
- The portion of Magistrates' Courts running costs related to magistrates' allowances has been divided by 2/3 as the intermediate tier would have 2 magistrates rather than a bench of 3 (as is usual, though not required in the magistrates' courts)
- The cost of a District Judge has been added

Set-up Costs

- The most significant of these are likely to be recruitment, deployment and training costs, though these are not likely to vary significantly between the options, as all will see a significant shift of cases towards lower tribunals. These costs are already covered by the JSB SR2002 bid, but are likely to be relatively small in comparison to the savings envisaged.
- The 'Full Auld' option would be likely to have the additional set up costs associated with making the court a Court of Record. This has been estimated at a £4m capital cost (again, already covered by an SR2002 bid) with annual running costs of £7m for maintenance, transcription etc. These costs are unlikely to be necessary for any of the other options, although the same equipment might be considered where the sentencing powers of magistrates' courts are *significantly* extended (ie to 24 months) as appeals to the Crown by re-hearing for the more serious cases might become impractical.

Further considerations

- It has been assumed for costings purposes that all cases with a sentence of 12-24 months would be heard by a District Judge, as this would be the more expensive scenario. Assuming that the difference between the caseloads under 12 months, and 24 months represent roughly the number of cases which would be reserved for DJs, and assuming the National Recruitment Strategy goes ahead as planned, Judicial Appointments Group feel it *should* be feasible to re-assign current cases to meet this, though this depends on how many of the 6-12 month cases would demand a DJ by the nature of their complexity.
- The likelihood of a greater number of appeals may also require caution in estimating overall savings, as it may be expected that a greater number of cases in the magistrates' courts may result in a higher overall number of appeals to Crown (although not necessarily a higher percentage in the longer term); the cost of these has been estimated at approx. £1200 per case.

Kirsten Cownie
Jo Peacock

Appendix I

Predicted Workloads – Baseline data

	Magistrates' Courts	Crown Court	Jury Trials
Either Way	402000	58000	20880

Table above shows data for where triable either way cases are currently heard
15,000 cases of the 58,000 currently tried in the Crown Court were either acquitted or terminated early. These were assumed to follow the same sentencing distribution as the 43,000 defendants convicted and sentenced.
19,000 cases received non-custodial sentences. These have been dispersed across the sentencing bands towards the lower end with 60% in the 6 months and under sentencing range, 20% in the 6-12 month range, 15% in the 12-24 month range and 5% in the over 24 month sentencing range.
The proportion of Crown Court cases that go to trial is assumed to remain at the current rate of 36%.

The table below predicts the destination of the 58,000 either-way cases currently dealt with in the Magistrates' Courts under different scenarios.

Full Auld Election Incentives	Optimistic		Pessimistic	
	Abolished No	Abolished Yes	Abolished No	Abolished Yes
Mags	16600	19100	13800	16500
District	21600	20500	21800	20700
Crown	19800	18400	22400	20800
Reduction in Jury trials	13700	14200	12800	13400
Crown Court Days Saved	23875	24750	22250	23250

Mags 12 Election Incentives	Optimistic				Pessimistic			
	Retained	Abolished	Retained	Abolished	Retained	Abolished	Retained	Abolished
	No		Yes		No		Yes	
Mags	15950	27450	17900	29400	13300	24800	15400	26900
Crown	42050	30550	40100	28600	44700	33200	42600	31100
Reduction in Jury trials	5700	9900	6400	10600	4800	8900	5500	9700
Crown Court Days Saved	9950	17150	11200	18375	8300	15500	9625	16800

Mags 24 Election Incentives	Optimistic				Pessimistic			
	Retained	Abolished	Retained	Abolished	Retained	Abolished	Retained	Abolished
	No		Yes		No		Yes	
Mags	21100	35600	22700	37200	16900	31400	18700	33200
Crown	36900	22400	35300	20800	41100	26600	39300	24800
Reduction in Jury trials	7600	12800	8200	13400	6100	11300	6700	12000
Crown Court Days Saved	13200	22250	14200	23250	10550	19625	11700	20750

No right to Elect Incentives	Optimistic		Pessimistic	
	Abolished No	Abolished Yes	Abolished No	Abolished Yes
Mags	16600	16300	11000	13900
Crown	41400	41700	47000	44100
Reduction in Jury trials	6000	5900	4000	5000
Crown Court Days saved	10375	10200	6875	8700

Appendix II

Net Costs/ Savings per agency (£M)

The following table shows a breakdown of Total Net Savings per annum into net costs and savings for each agency/ court per annum (ie the net figure taking into account additional costs associated with more cases in the MC, and savings from fewer in the CC). All figures represent net savings unless otherwise stated.

	Legal Aid (£M)	CPS (£M)	Magistrates' Courts (£M)	Crown Court (ST realisable) (£M)	Crown Court (LT realisable) (£M)	Crown Court (opportunity cost) (£M)	Total Net Saving		
							ST realisable (£M)	LT realisable (£M)	Opportunity Cost (£M)
Option 1: Full Auld	7-8	6	11 (cost)	18-20	24-27	49-54	20-23	26-30	51-57
Option 2: Magistrates' Courts < 12 months (right to elect retained)	3-4	2-3	2-3 (cost)	7-9	9-12	18-24	9-12	12-16	21-28
Option 2: Magistrates' Courts < 12 months (right to elect abolished)	5-6	4-5	4-5 (cost)	12-15	17-20	34-40	17-20	22-26	39-46
Option 3: Magistrates' Courts < 24 months (right to elect retained)	4-5	3-4	4-5 (cost)	8-11	12-15	23-31	11-15	14-19	26-34
Option 3: Magistrates' Courts < 24 months (right to elect abolished)	7-8	5-6	7-8 (cost)	16-18	21-25	43-51	20-24	26-31	48-56
Option 4: Abolish right to elect	2-3	2-3	2-3 (cost)	5-8	7-11	15-23	8-11	10-15	17-26

ST = Short term
LT= Long term

Appendix III

Gross expenditure and savings (£M)

This table shows a breakdown for each option of the Total Net Savings per annum in terms of the total costs and savings associated with each option. All costs and savings include costs and savings per agency (CPS/Legal Aid) as well as running costs/ savings.

	MC cost (£m)	Intermediate tier cost (£m)	CC savings (£m)			Total Net Saving (£M)		
			ST realisable	LT realisable	Opportunity Cost	ST realisable	LT realisable	Opportunity Cost
Option 1: Full Auld	19-26	32-34	73-81	79-88	104-115	20-23	26-30	51-57
Option 2: Magistrates' Courts < 12 months (right to elect retained)		18-24	27-37	30-40	39-52	9-12	12-16	21-28
Option 2: Magistrates' Courts < 12 months (right to elect abolished)		34-40	51-60	55-66	72-86	17-20	22-26	39-46
Option 3: Magistrates' Courts < 24 months (right to elect retained)		24-32	35-46	38-51	49-66	11-15	14-19	26-34
Option 3: Magistrates' Courts < 24 months (right to elect abolished)		44-52	64-76	70-83	91-108	20-24	26-31	48-56
Option 4: Abolish right to elect		15-22	22-34	25-37	32-48	8-11	10-15	17-26

ST= Short term
LT= Long term

673266

From: The Rt. Hon. Lord Justice Auld

ROYAL COURTS OF JUSTICE
STRAND, LONDON, WC2A 2LL

13 February 2002

The Right Honourable The Lord Irvine Of Lairg,
House of Lords,
London, SW1A 0PW

Dear Lord Chancellor,

REVIEW OF THE CRIMINAL COURTS OF ENGLAND AND WALES

Thank you for your letter of 5th February 2002. It is good of you to invite my view on the responses to my recommendations for a District Division.

As I hope my Report indicates, the recommendations are designed to achieve a number of objectives:

(1) to provide a more suitable and efficient mode of trial for many of the middle range and less serious cases that now go to the Crown Court;

(2) to ensure a lay element in all cases presently tried by juries that would fall within the jurisdiction of the District Court;

(3) to make better use of District Judges, the present parity of whose *maximum* jurisdiction with lay magistrates I consider to be anomalous;

(4) to enable the best and flexible use to be made of existing court accommodation and court staffs;

To the extent that comparative costs are likely to be a factor in deciding for or against a District Court, for the reasons given in sub-paras. (1), (3) and (4), the judgement between benefits from savings in jury trials when weighed against likely substitute trial time in the District Division may be, as you say, a "very nice" one. But unless a District Court would cost significantly more than the savings from reductions in jury trials and speedier conduct of cases, it should not be an important factor. It should not, in any event, be determinative.

74/1

If the District Court option were accompanied by a uniform court and administrative structure, and flexible use of existing court buildings, it should not be administratively more expensive or burdensome than the two tier structure in its present form or with an enhanced summary jurisdiction

As to your concern about recruitment of District Judges, this should be balanced against the likely need for more and better-qualified legal advisers and additional training for Magistrates if you were to opt for any significant extension of their summary jurisdiction. In addition, any short-term shortage of District Judges could be alleviated by my proposal that Recorders should also preside in the District Court.

Concerns have been expressed that many Magistrates would be unwilling to sit in the District Court without participating as full members of the Court and/or because they could not commit themselves to the longer sittings that that would entail.

As to full participation in trials, my intention, as should appear from Cap. 7, paras. 29 and 30 and Cap. 11, para. 58 of the Report, was largely to replicate the way in which the old county quarter sessions used to work. I do not suggest that Magistrates should be relegated to the role of magisterial jurors. They would defer to the District Judge or Recorder on matters of law, just as they now do, for all practical purposes, to their legal adviser when exercising their summary jurisdiction. And they could outvote him on the facts. They would remain in court when matters of law, procedure and evidence are discussed, save only where it would be potentially unfair to a defendant for them to be present.

As to full participation in sentencing, I was initially minded to recommend that Magistrates should take a full part in the sentencing decision, though deferring to the District Judge or Recorder on matters of law. For two reasons, which might be re-visited, I decided against it. First, the short experience in the mid 1990s of Circuit Judges sitting with Magistrates on committals for sentence was that Magistrates' lack of experience in sentencing beyond their normal jurisdiction caused great difficulties and, as you know, significantly slowed the disposal rate. Training could, in part, alleviate that. Sentencing would still be slower than Crown Court sentencing, but so would sentencing by Magistrates alone exercising an enhanced summary jurisdiction under either of your alternative options.

Another difficulty advanced by some in the Review – but, interestingly, not by many Magistrates, was that they could not find the extra time that District Court sittings might entail and/or that it would be difficult to reconvene courts on adjourned sentencing hearings. The Magistrates' Courts Association did not

regard such possible problems as insuperable and nor did many Magistrates with whom I discussed the point. In any event, these too would be features of either of your two alternative options for an enhanced summary jurisdiction.

Turning now to your alternative options of preserving a defendant's ability to elect trial by judge and jury for any offences carrying more than a maximum of six months custody (in pre-Halliday terms) and extending summary jurisdiction to 12 months custody (Halliday's "custody plus") or up to two years custody:

Either option would, in my view, be unsatisfactory for two main reasons:

(1) It would not meet the point of principle that, with Runciman, I believe to be unanswerable. Mode of trial in such cases should be a matter for objective decision by a court in the interests of justice, and in accordance with statutory and broadly drawn criteria, not a subjective decision by a defendant in his own interests (Report, Cap. 5, paras166-172 and Cap. 7, para. 27). For the reasons given in Cap. 5, paras.162-164 of my Report, I do not believe that there are any respectable economic or other arguments against that principle. There may be political reasons for not attempting to achieve it, but I make no comment on that issue beyond the criticisms I have already made in Cap. 5, paras. 157-164, of the Report.

(2) Either of your suggested options, in enlarging the existing overlapping jurisdiction between the present two tiers and in leaving defendants with their present right of election, would aggravate the present anomalous over-lap resulting from either-way election and would achieve little.

As to the comparative merits of my proposals for a District Court, coupled with abolition of the right of election as against extension of Magistrates' sentencing powers to one or two years with or without such abolition, if the lower maximum of one year's custody were adopted, it would not be so very different from Magistrates' ability to sentence up to one year' custody in consecutive sentences in either-way cases. And if the higher maximum of two years' custody were taken, it would fit with the summary jurisdiction already exercised in the Youth Court. But I rejected both possibilities for the following reasons:

(1). Much of the more difficult work, particularly trials, would be allocated to District Judges under suitably modified form of the Venne Rules (Report, pp. 111-112, paras. 44-47, thus depriving defendants of *any* lay element in determination of their guilt or innocence. This would be particularly unfortunate under your option 2 if you were to restrict the extension of summary jurisdiction

to District Judges sitting alone. It would also cause much bad feeling among Magistrates.

(2) There would be an increase in the present unhealthy polarisation of roles District Judges and Magistrates;

(3) If District Judges are to continue taking their share of all levels of summary work, as many additional District Judges would be required to exercise the enhanced jurisdiction as would be necessary for a District Court.

(4) Magistrates called upon to deal with heavier and more complex trials and sentences under the extended jurisdiction would require more assistance from their legal advisers than at present, with all the procedural interruptions and post-interruption repetition of advice for the parties that that would entail. It would impose greater burdens on justices' clerks and their legal advisers, with the likelihood that more of a higher standard of legal qualification and experience would be required. If Magistrates dealing with heavier cases within the enhanced jurisdiction are to depend more heavily on legal guidance, it would be more efficient and more consistent with Article 6 canons of fairness for it to be provided by a professional judge in open court than a legal adviser in the "back-room".

(5) To extend such a jurisdiction to Magistrates would require additional expenditure on their training, but, I believe it would be significantly less if Magistrates were to exercise the jurisdiction with a professional judge, whether in a District Court or in an enhanced summary jurisdiction. And either system would require more Magistrates to exercise their enhanced jurisdiction in it, an increase that should be at least off-set in the long term by savings in the Crown Court.

(6) To the extent that the cheaper option may be a deciding factor, for the reasons given in paras. (3), (4) and (5) I do not believe it can be said with confidence that the establishment of a District Court would be significantly more expensive than extending summary jurisdiction. It would be markedly more efficient and certainly more acceptable in its maintenance of a form of lay justice.

Finally, you mention as a possible feature of the option to extend summary jurisdiction to two years custody, "a "worthwhile" re-classification of some either-way offences to summary-only. There are some examples of such re-classification in the relatively recent past, but mostly of a piece-meal nature and at the bottom of the range; see my Report, Cap. 5, para. 127. But I suspect that any significant "down-grading" of that sort would be seen as simply another way of removing "the right to trial by judge and

jury" in those cases. It would have the same political difficulties that you may see as attaching to abolition of the right to elect.

I would be pleased to meet you and talk to you about any of these matters if you think it would help.

Yours sincerely,

Rob E Carter

→ Justin Russell

→ DoP to fix up with Alun + Gus.
osp

From: Ed Richards
Date: 18 February 2002

PRIME MINISTER

cc: Jonathan Powell
Jeremy Heywood
Justin Russell
Wendy Thomson
Michael Barber
Katie Kay
William Perrin

IT AND THE CRIMINAL JUSTICE SYSTEM

I think today's seminar on NHS IT has galvanised DoH and given them crucial support to act decisively in driving forward progress.

In particular, as a result of the seminar, I think we will see faster progress in establishing 'standards' and in driving forward a centralised approach to IT procurement and efficiency/quality of service gains.

As you said in the seminar, there is huge scope for improvements in the NHS from the effective deployment of IT. Personally, I think there is as great, if not greater, scope for improvements in the criminal justice system.

I suggest that we organise a similar seminar for the criminal justice system where I anticipate that 45 minutes of your time would have a similarly positive impact.

Do you agree?

Yes & let us really push this hard across Govt. I think DfT is doing quite well (least by mid 2004

Ed Richards.

ED RICHARDS

The Lord Goldsmith QC

9 BUCKINGHAM GATE
LONDON SW1E 6JP

020-7271 2460

MATRIX

on
Lc. JE
JJH

The Rt Hon Tony Blair MP
Prime Minister
10 Downing Street
London, SW11 2AA

19th February 2002

Dear Tony,

ORGANISED CRIME

I read with considerable interest your letter of 14 February to Gordon Brown.

As you will be aware, I have been considering separately the arrangements for prosecuting fraud. This includes the possibility of establishing a National Fraud Squad. I wrote to David Blunkett, with a copy to you, on 13 February, proposing a meeting to discuss the various options for strengthening our response to the fact that diminishing resources are being devoted to fraud investigation. There are clear links with your own proposal.

I am also about to assume responsibility for the Customs and Excise Prosecution Group. The change of responsibility will strengthen the independent decision-making role of the prosecutors in Customs and Excise. Independence does not mean, however, that investigators and prosecutors should not work together. Experience suggests that the involvement of prosecutors at the outset, whether in an advisory capacity as is the case with the CPS, or through having overall responsibility, as is the case with the SFO, ensures that investigations and prosecutions are much more effective.

Against this background, I would like to suggest that Rosalind Wright should be included on the group of officials which is to develop a more worked-up proposal, so that she can contribute her expertise in

ATTORNEY GENERAL

running an agency which combines investigations and prosecutions. It would be valuable also to obtain the views of David Calvert-Smith. He has a great deal of experience of prosecuting the most serious types of crime, and the CPS currently prosecutes the NCS work. Both will have views on how the structure of the new agency can enhance the working relationship between the investigators and prosecutors.

I am copying this letter to the recipients of yours.

Yours ever

Lord Goldsmith

Annex A: The Review of the Crown Prosecution Service
Annex B: STREET CRIME ACTION GROUP

niceday by Guilbert

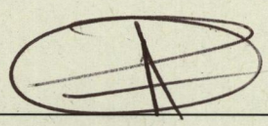
No.181088 Red
No.181126 Blue
No.181164 Green
No.181203 Yellow
No.181242 Pink
No.181089 Buff
No.181127 Orange
No.181165 Assorted

Published Papers

The following document, which was enclosed on this file, has been removed and destroyed.
Published items are not kept by the Cabinet Office.

The Review of The Crown Prosecution Service: A Report, May 1998.
Rt. Hon. Sir Iain Glidewell

Copies of this document can be obtained via the request form on Assets Publishing Service Online website
https://assets.publishing.service.gov.uk/media/5a7c761640f0b62aff6c1d45/3972.pdf

Signed  Date 10/04/24

COPRA
Cabinet Office

STREET CRIME ACTION GROUP

Meeting to be held in **Cabinet Office Briefing Rooms, 70 Whitehall at 8.00 am on Tuesday, 26 March 2002**

(Prime Minister in the chair)

AGENDA

1. Situation report since meeting on 20 March

2. Draft Street Crime Action Plan
(Summary flowchart attached. Full paper to be tabled at the meeting.)

3. Media communications strategy

4. Local management and monitoring arrangements

5. Next steps

Cabinet Office
25 March 2002

Home Office
BUILDING A SAFE, JUST AND TOLERANT SOCIETY

CRIME LET'S BRING IT DOWN

ACTION ON STREET CRIME

PRIME MINISTER'S BRIEFING

FORCE MAPS SHOWING EXTENT OF ROBBERY

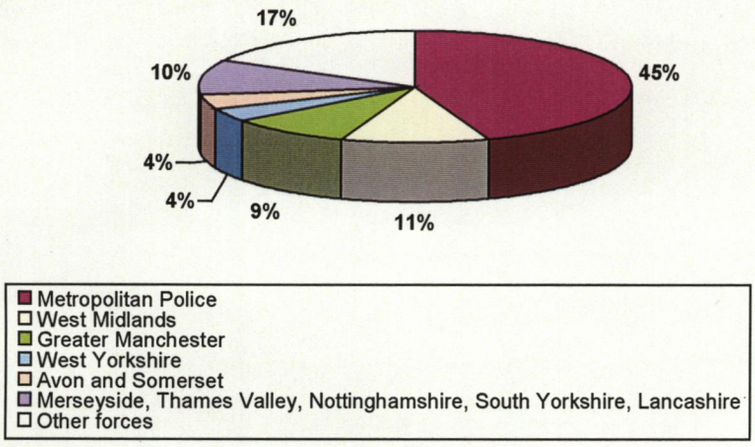
TUESDAY 26th MARCH

The concentration of robbery in England and Wales

- Robbery is concentrated predominately in urban metropolitan areas.

- The ten police forces involved in the robbery reduction initiative accounted for 83% of all recorded robbery in the nine months to January 2001, according to latest unpublished Home Office Data. Five of these police forces accounted for 73% of recorded robbery during this period (Figure 1).

Figure 1. Recorded robbery in England and Wales, March- December 2001



Note:
1. Source: Home Office Unpublished

- Within forces, the pattern of robbery is concentrated in particular force basic command units (BCUs). The twenty highest robbery BCUs- or 6% of all BCUs in England and Wales- accounted for 40% of all recorded robbery in the nine months to December 2001.

- Within these basic command units, robbery is further concentrated in particular urban areas, in town centres and along transport routes. The attached maps provided by participating police forces present some idea of the concentration of robbery in particular 'hot spots' at both a force and local BCU level.

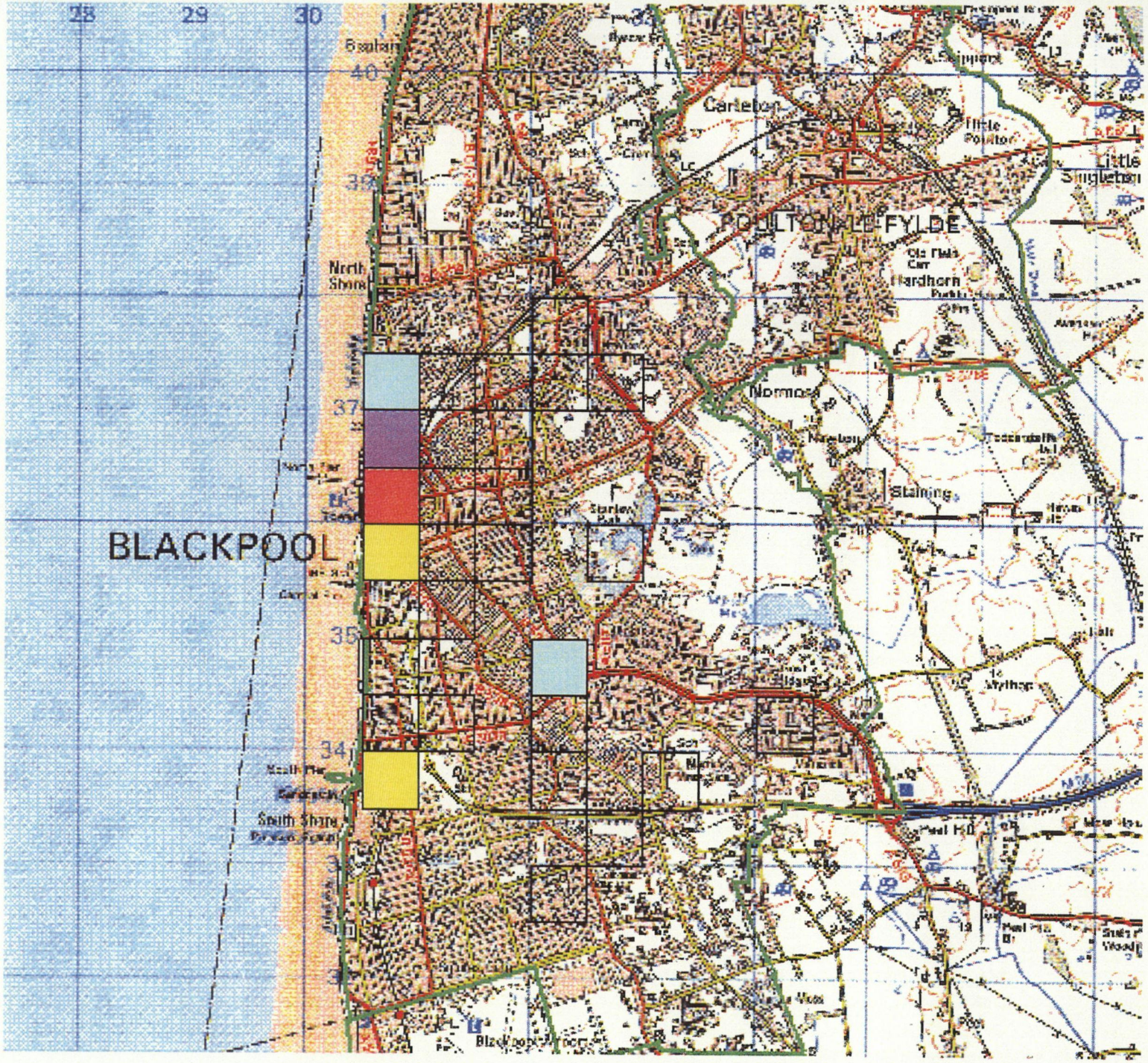
Lancashire Force - Hotspot Map of All Recorded Robbery
15 January – 15 March 2002

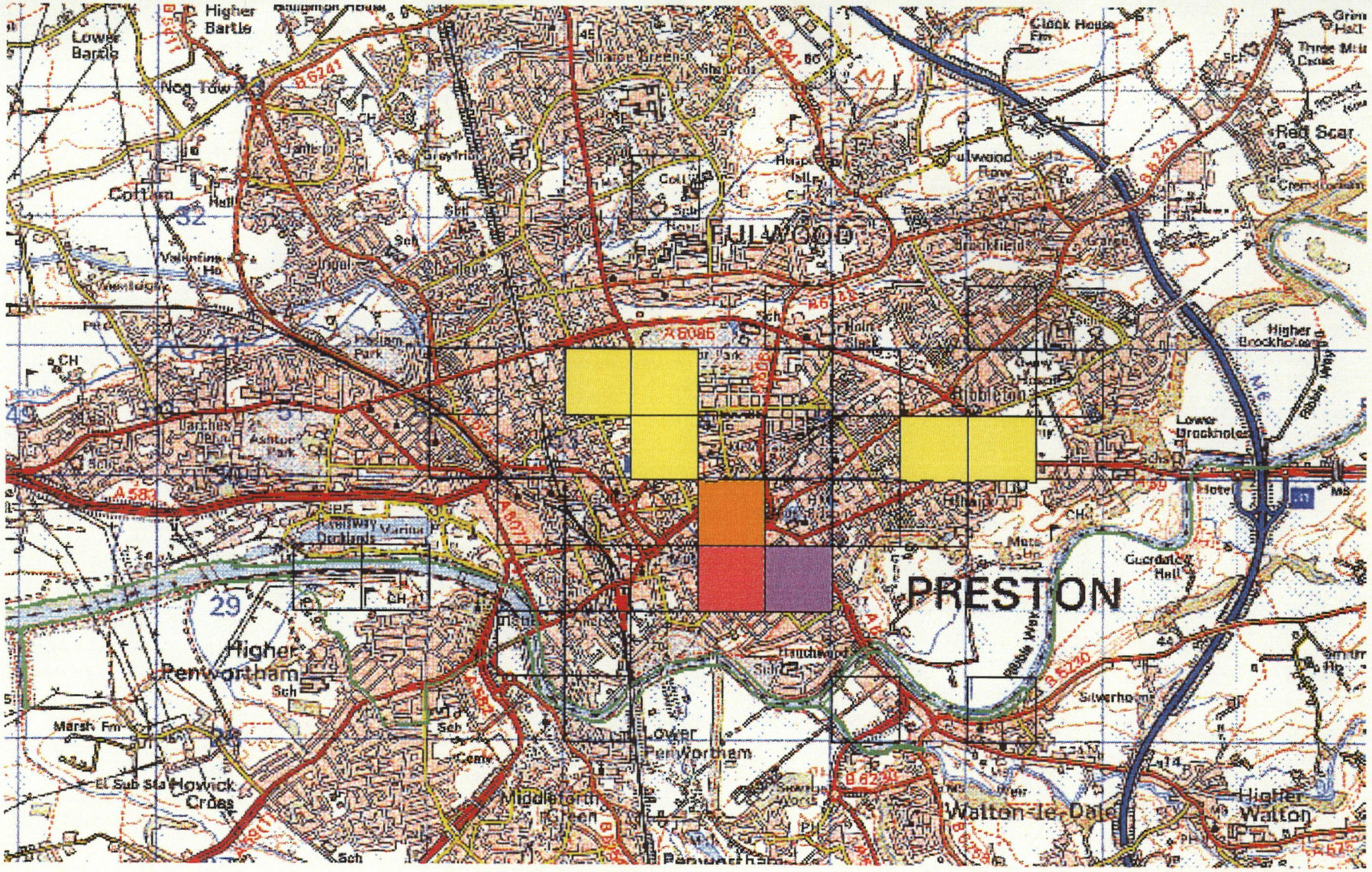
Hotspot Map of all Robbery for the Lancashire Force Area 15 Jan - 15 Mar 2002
by Force 500m grid

12 to 14	(2)
7 to 9	(1)
6 to 7	(2)
4 to 6	(4)
3 to 4	(10)
1 to 3	(149)

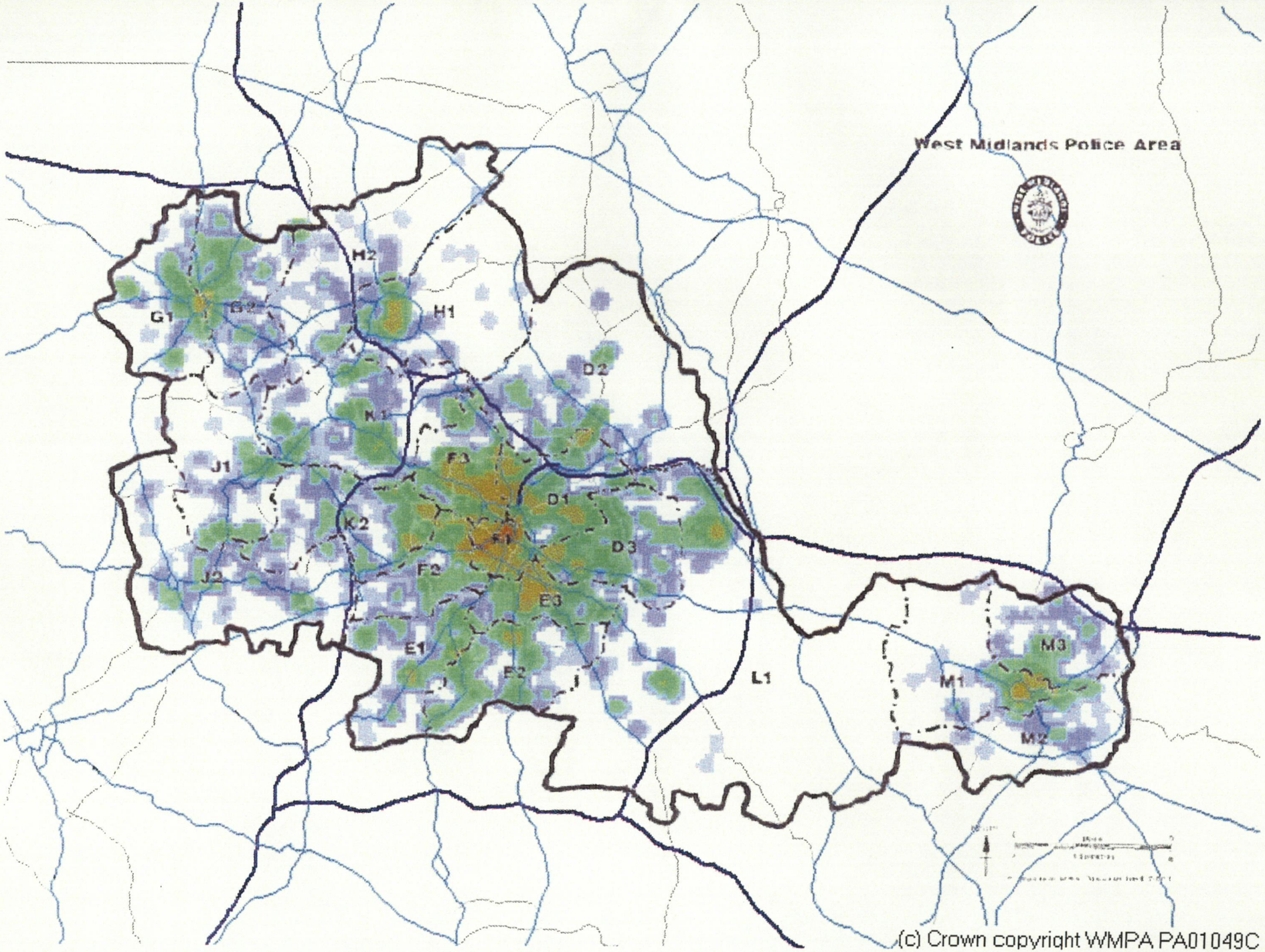
LANCASHIRE

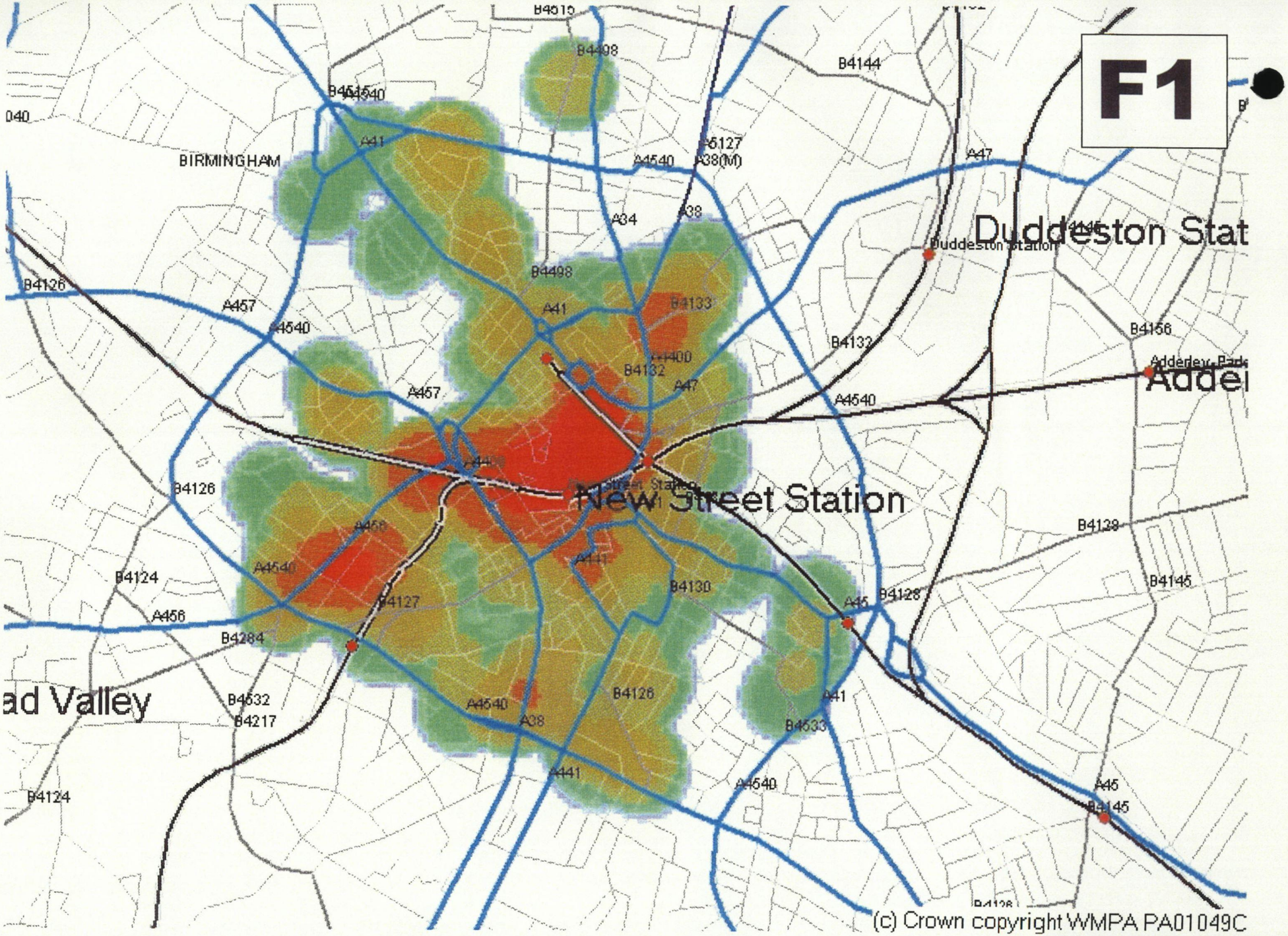
Blackpool Hotspot





Lancashire - Preston Hotspot


West Midlands Police Area
G1
G2
H2
H1
D2
K1
J1
F3
D1
K2
F1
D3
J2
F2
E3
E1
F2
L1
M3
M1
M2
(c) Crown copyright WMPA PA01049C


F1
BIRMINGHAM
New Street Station
Duddeston Stat
Duddeston Station
Adderley Park
ad Valley
A41
A38
A38(M)
A34
A47
A457
A4540
A456
A45
B4498
B4144
B4126
B4133
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B4156
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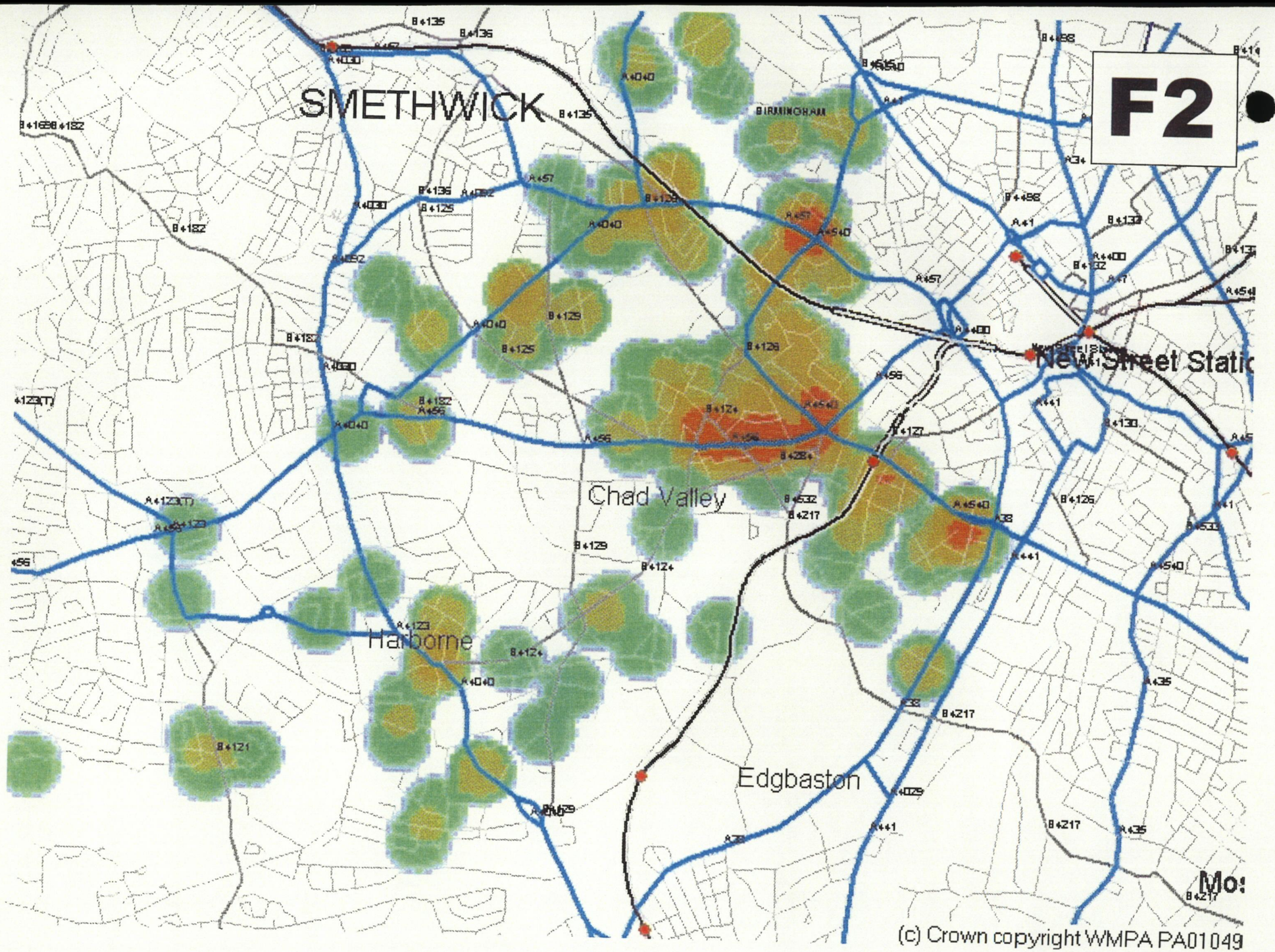
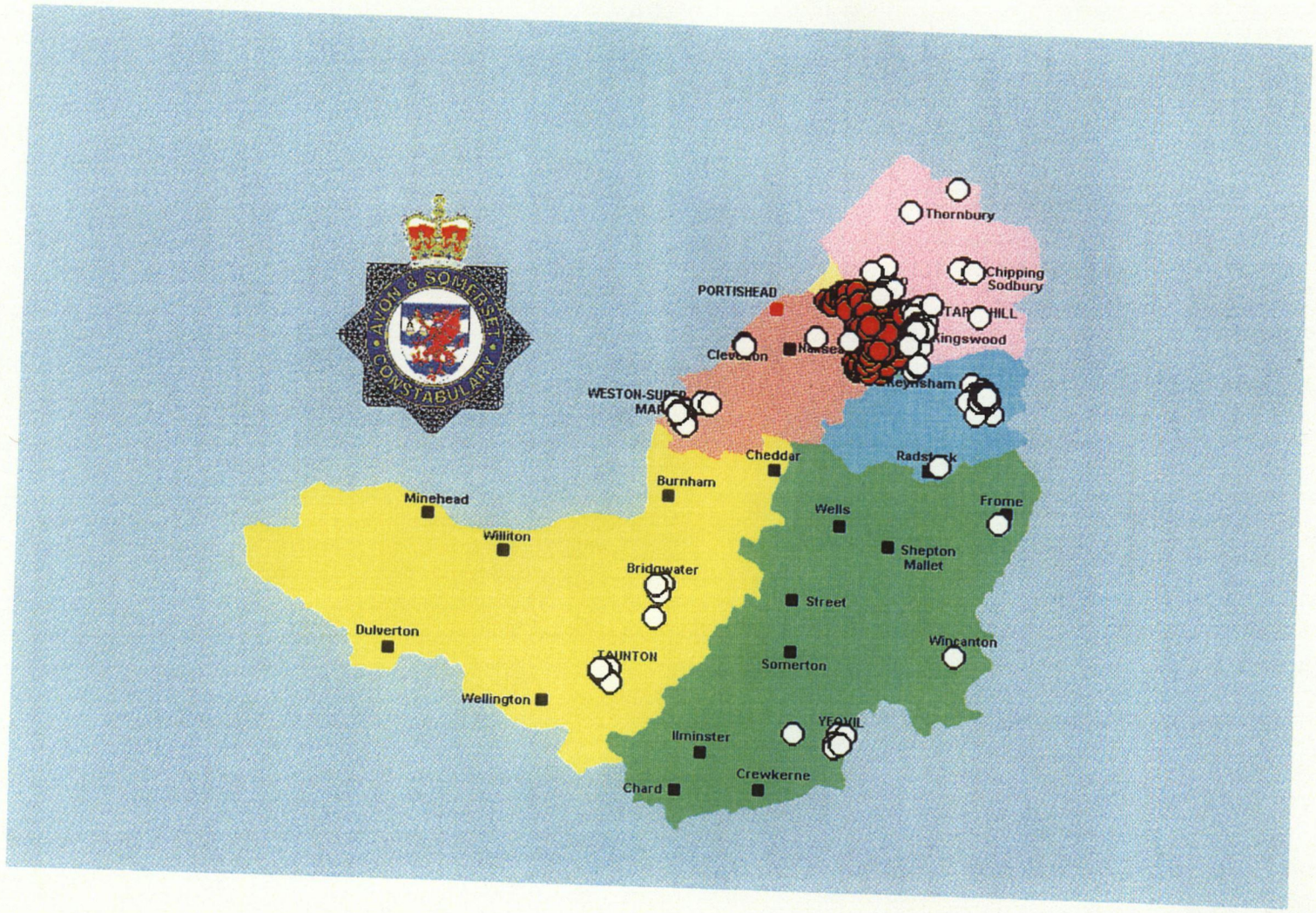
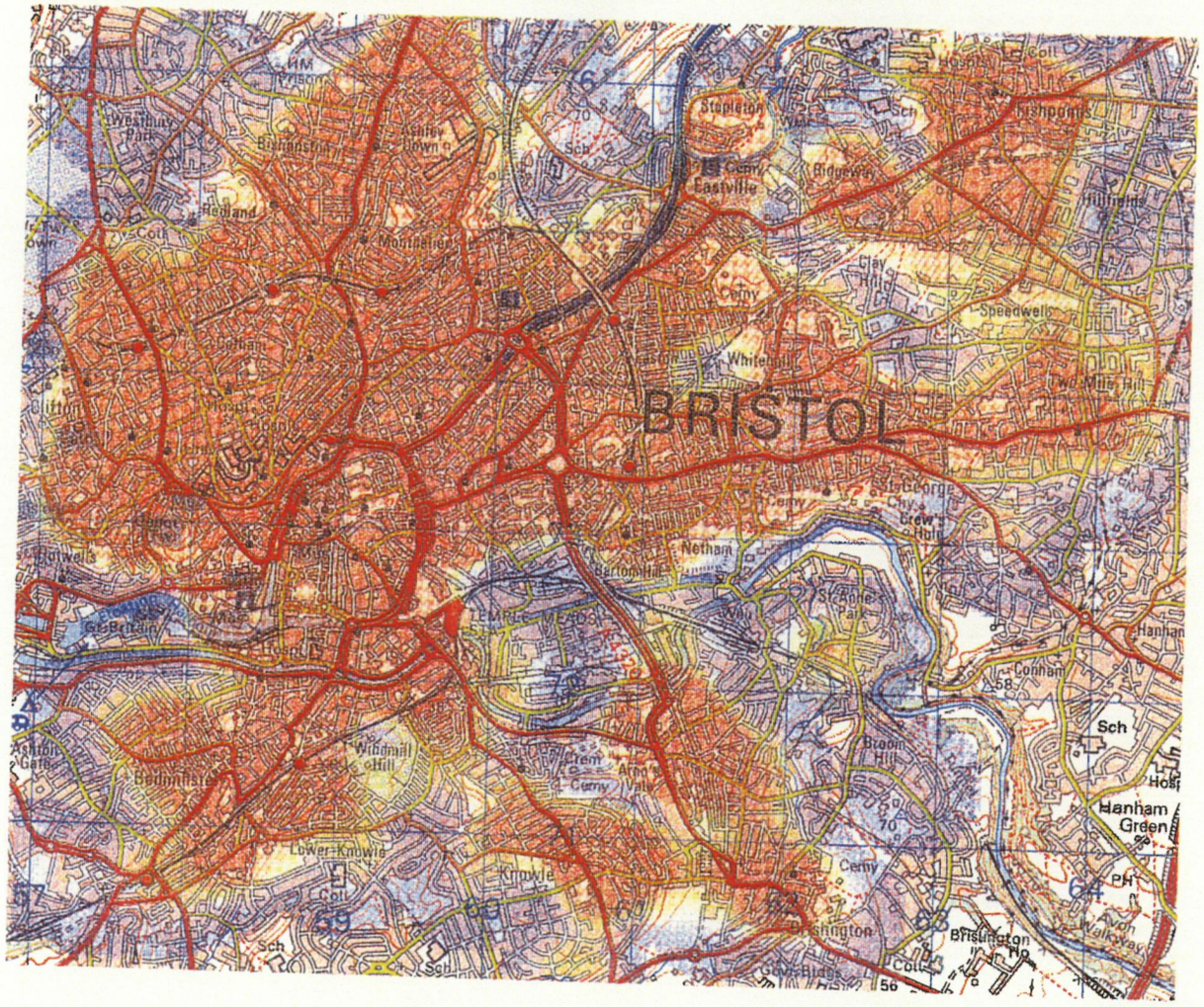

F2
SMETHWICK
BIRMINGHAM
Chad Valley
Harborne
Edgbaston
New Street Statio
(c) Crown copyright WMPA PA01049

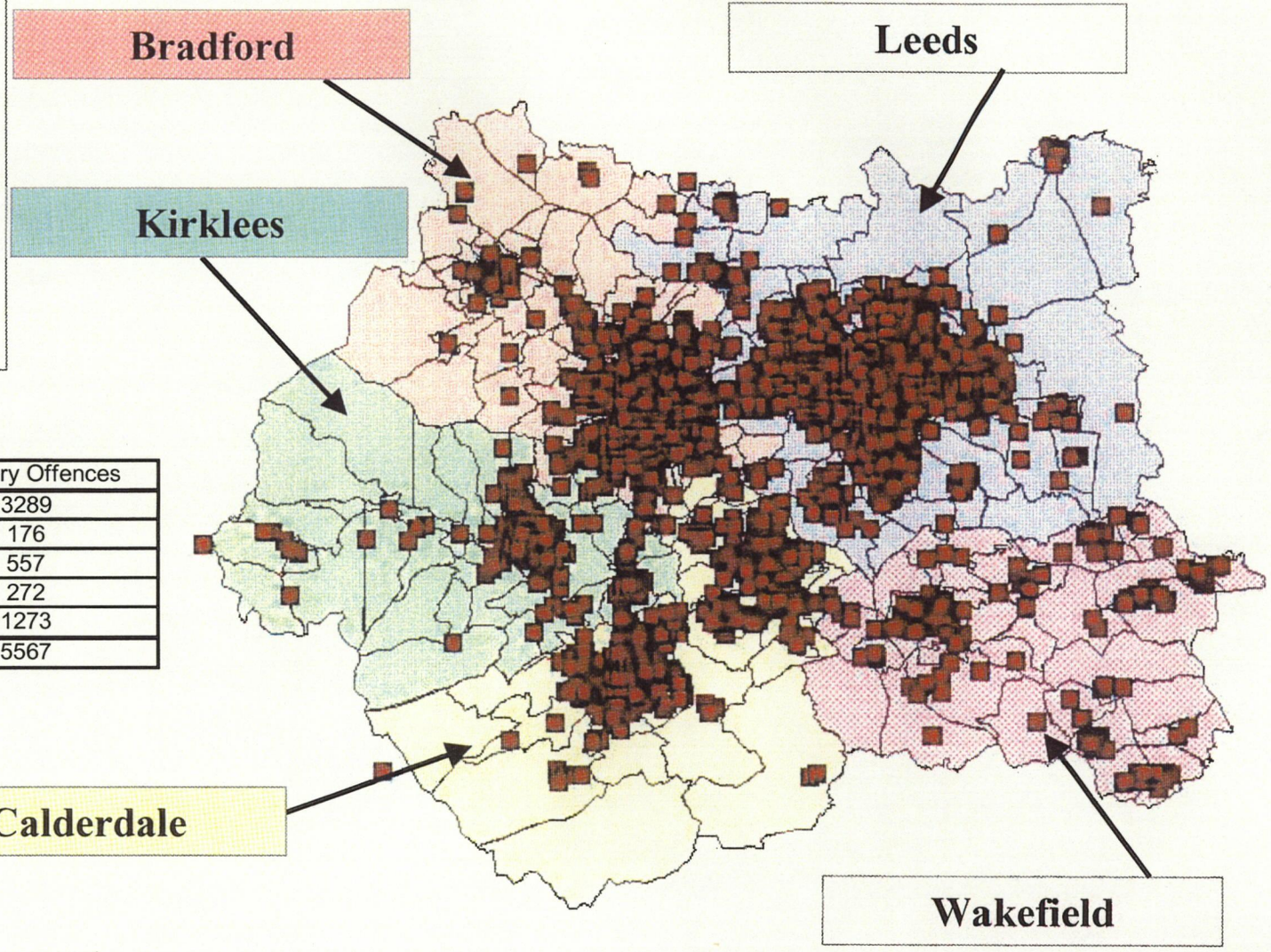
AVON & SOMERSET



Concentration of Robberies in the City of Bristol:
Map Comprises North, Central and South Bristol BCU's



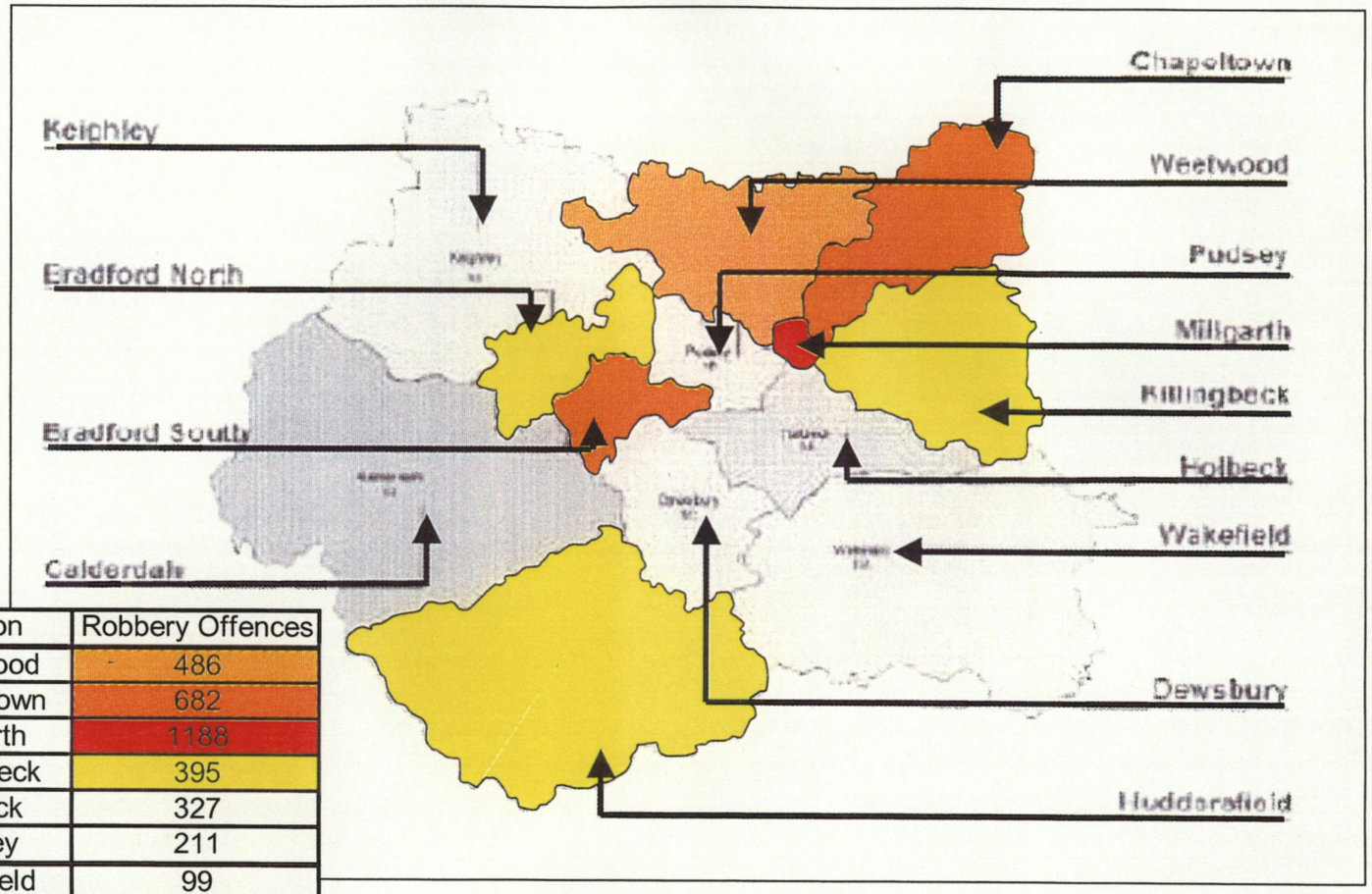
Force Wide Police District Overview Personal Robbery 15/01/01 - 15/03/02



Police District	Robbery Offences
LEEDS	3289
WAKEFIELD	176
KIRKLEES	557
CALDERDALE	272
BRADFORD	1273
Total	5567

West Yorkshire Police

Force Wide Divisional Overview Personal Robbery 15/01/01 - 15/03/02

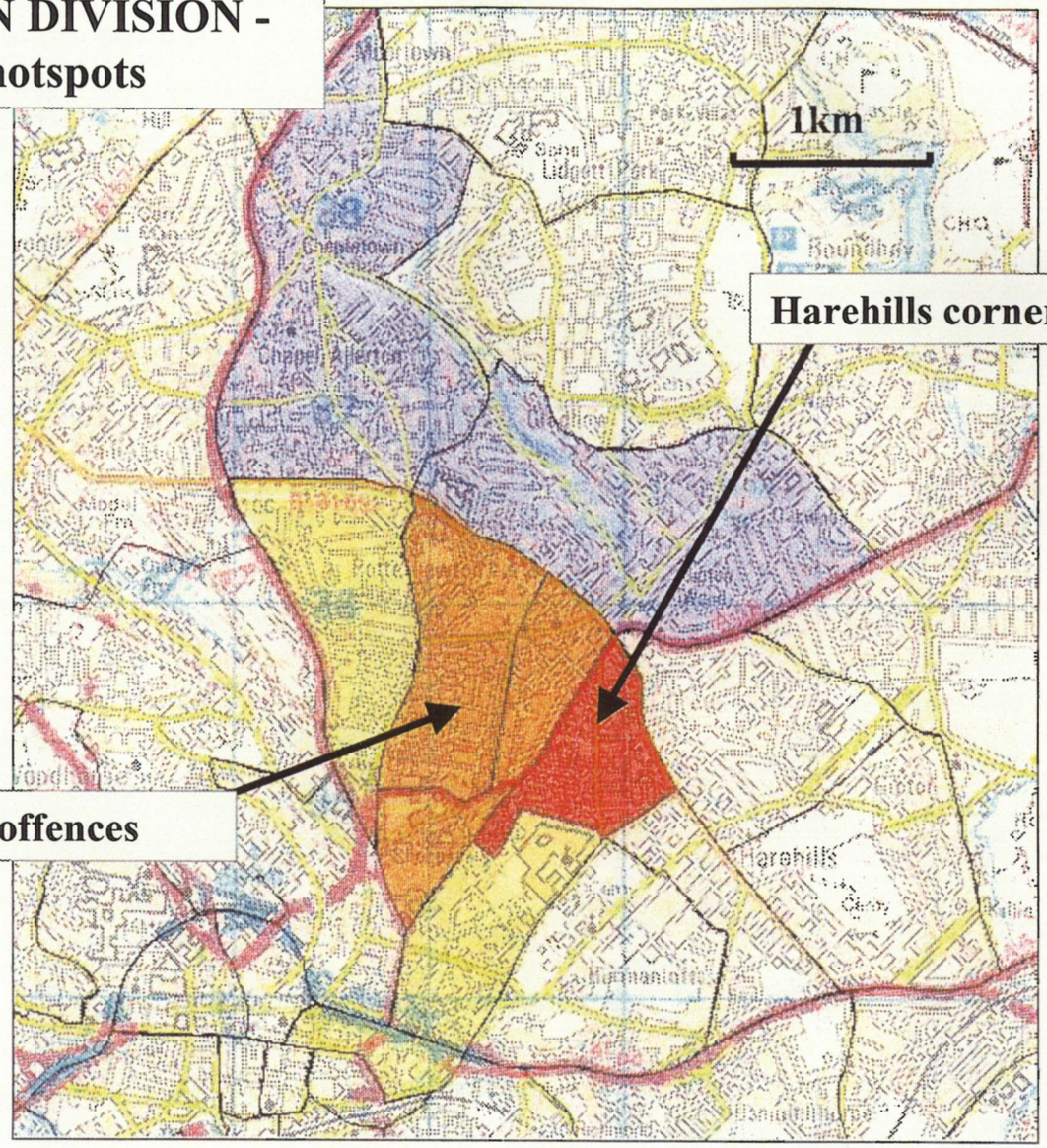


Police District	Division	Robbery Offences
LEEDS	Weetwood	486
	Chapeltown	682
	Millgarth	1188
	Killingbeck	395
	Holbeck	327
	Pudsey	211
WAKEFIELD	Wakefield	99
	Pontefract	77
KIRKLEES	Huddersfield	354
	Dewsbury	203
CALDERDALE	Calderdale	272
BRADFORD	Bradford Sth	714
	Bradford Nth	363
	Keighley	196
Total		5567

West Yorkshire Police

Localised Divisional Personal Robbery Hotpots 15/01/01 - 15/03/02

CHAPELTOWN DIVISION - localised hotspots



West Yorkshire Police

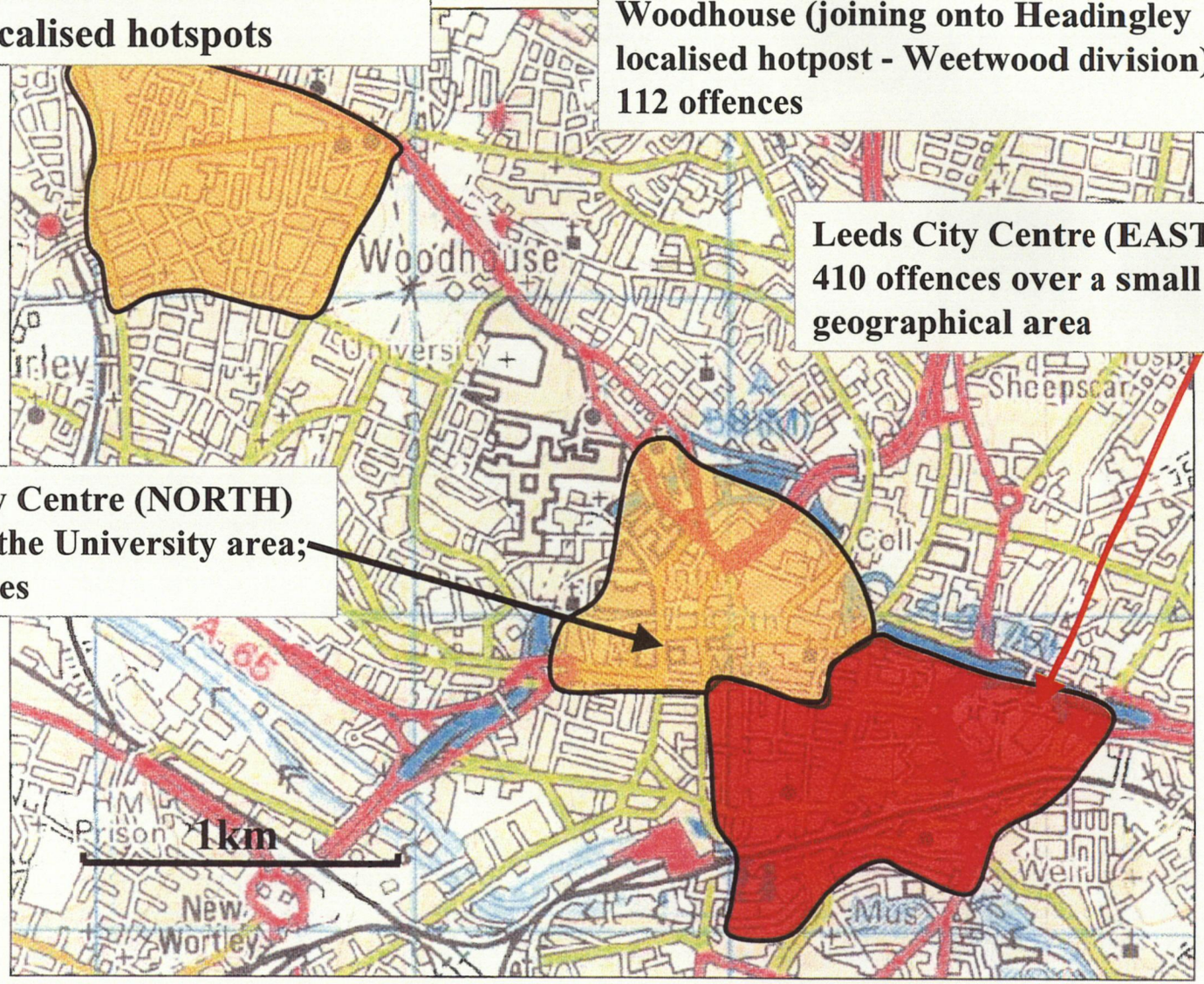
Localised Divisional Personal Robbery Hotpots 15/01/01 - 15/03/02

MILLGARTH DIVISION - localised hotspots

Woodhouse (joining onto Headingley localised hotpost - Weetwood division) 1km 112 offences

Leeds City Centre (EAST) 410 offences over a small geographical area

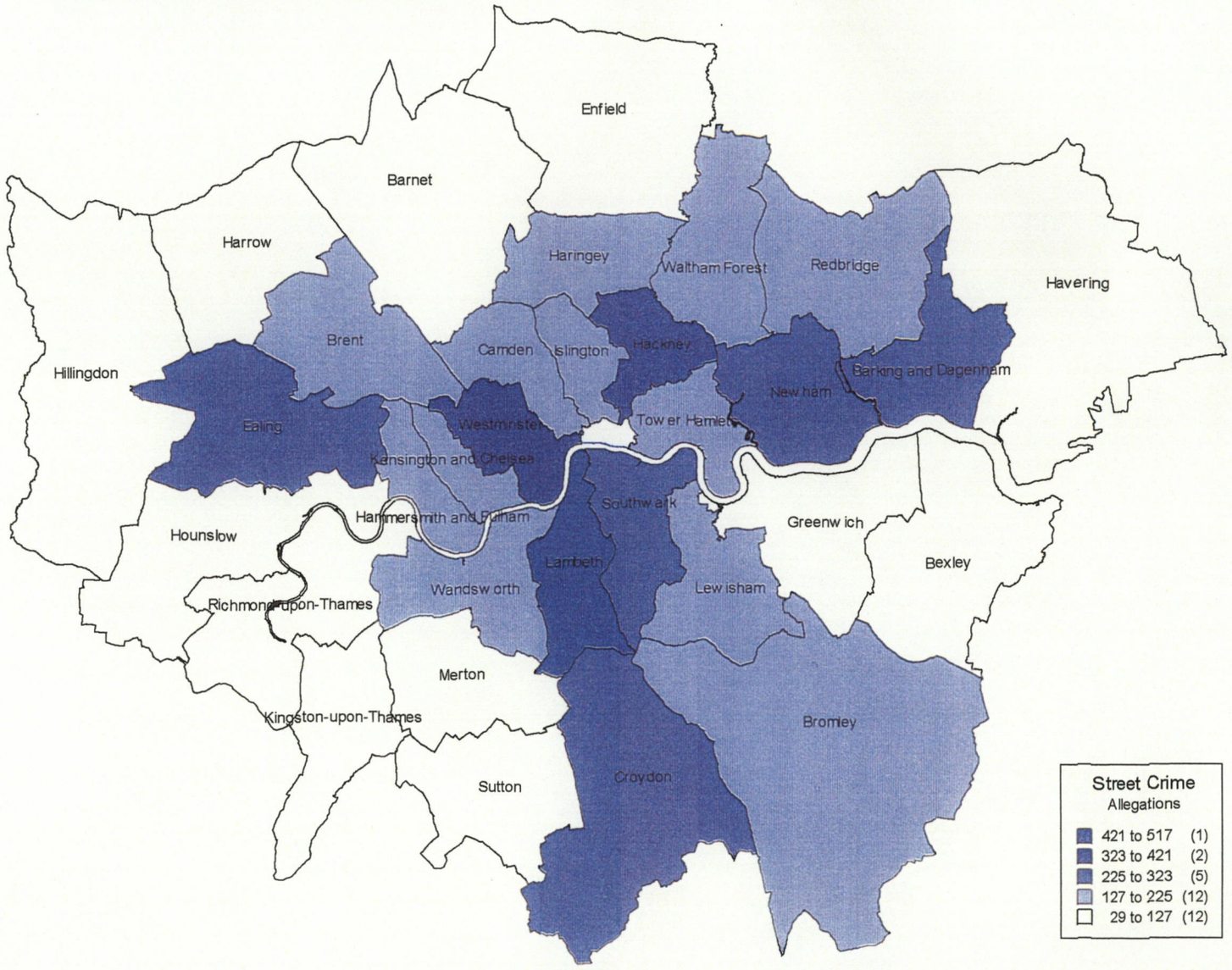
Leeds City Centre (NORTH) including the University area; 179 offences



West Yorkshire Police

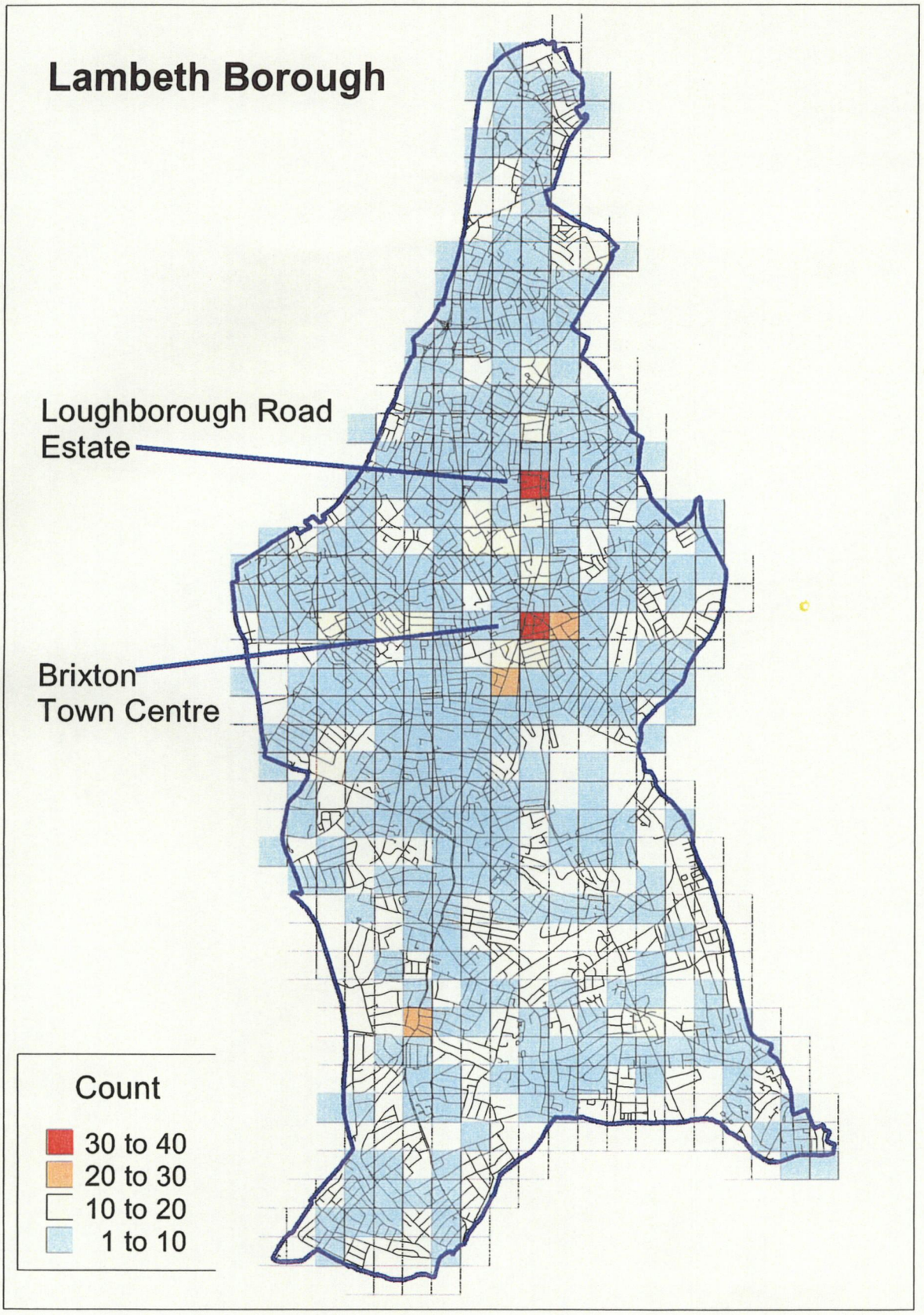
METROPOLITAN POLICE SERVICE

Street crime allegations - 18/2/02 to 17/3/02



METROPOLITAN POLICE SERVICE - SAFER STREETS

Street Crime Hotspots 15th Jan - 15th Mar 2002

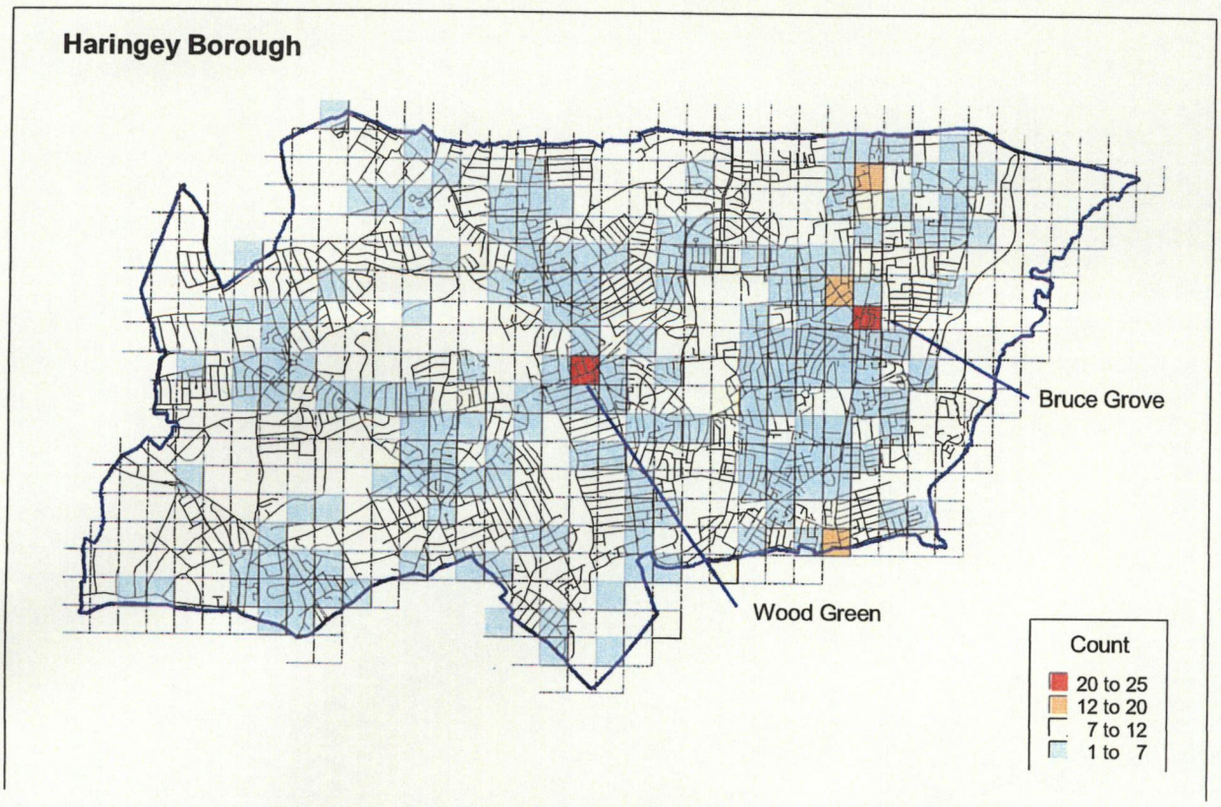


METROPOLITAN POLICE Working for a safer London

Produced by Ian Oldfield & Peter Beakley (TPHQ)

METROPOLITAN POLICE SERVICE - SAFER STREETS

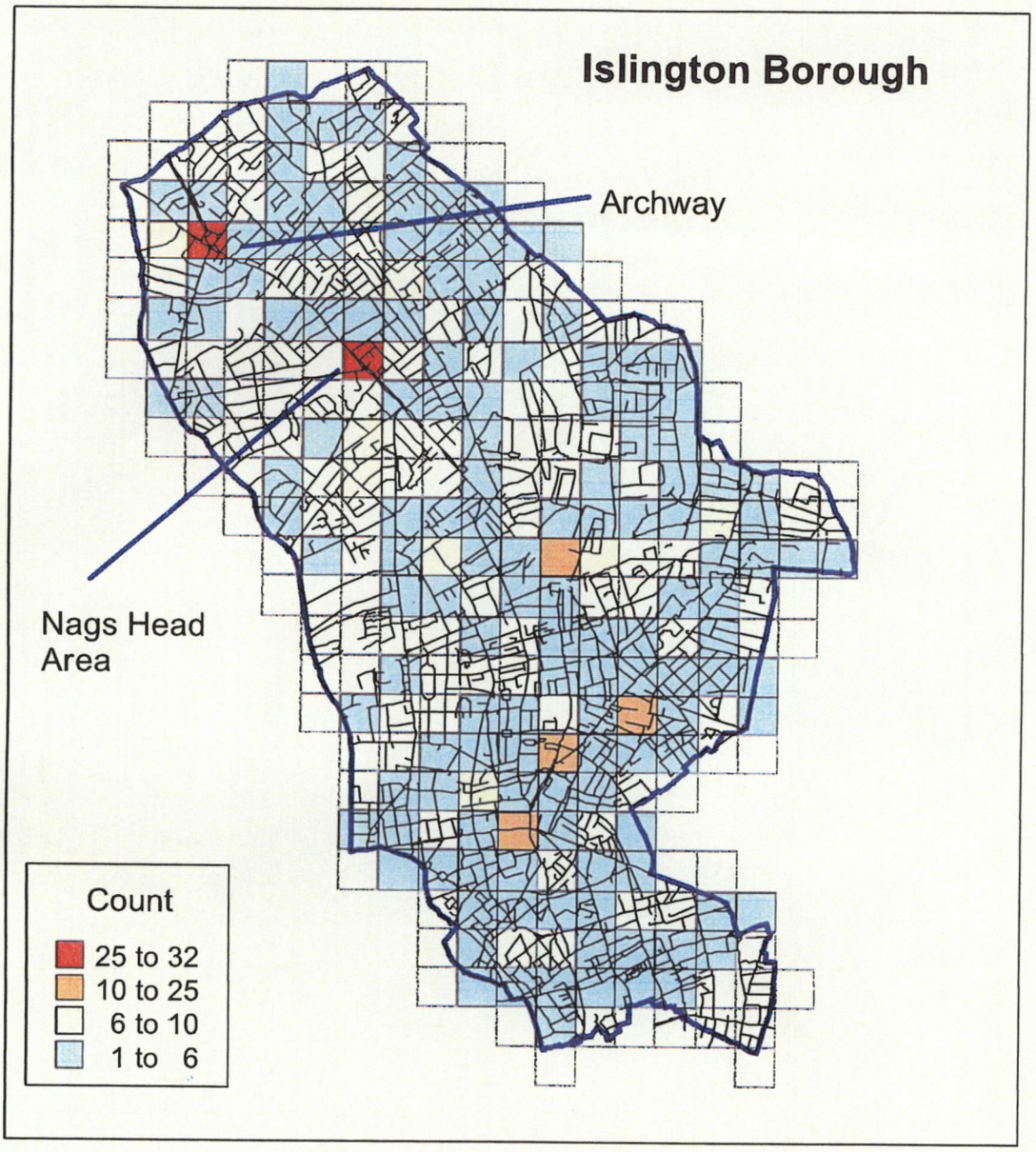
Street Crime Hotspots 15th Jan - 15th Mar 2002



Produced by: Ian Oldfield & Peter Beakley (TPHQ)

METROPOLITAN POLICE SERVICE - SAFER STREETS

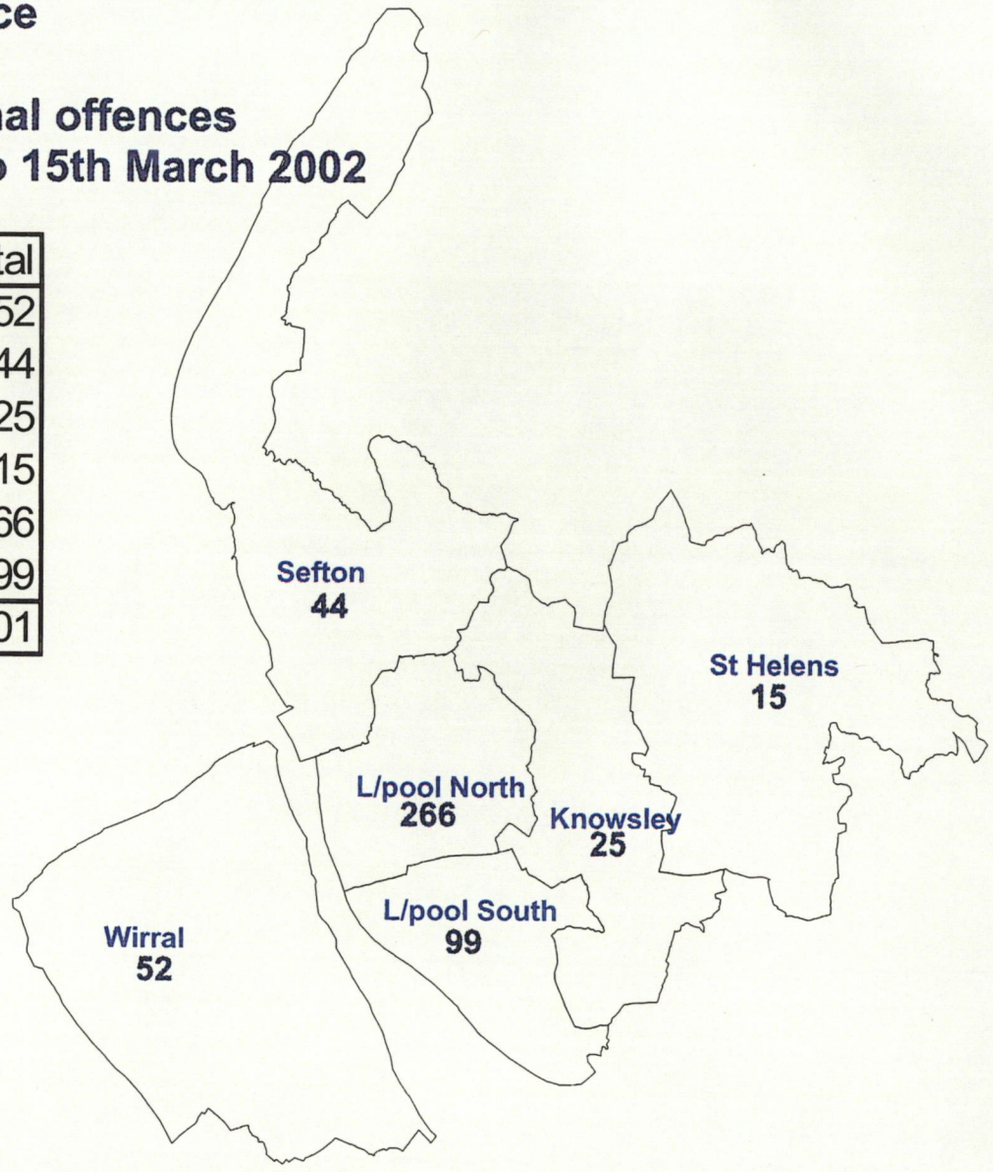
Street Crime Hotspots 15th Jan - 15th Mar 2002



Merseyside Force

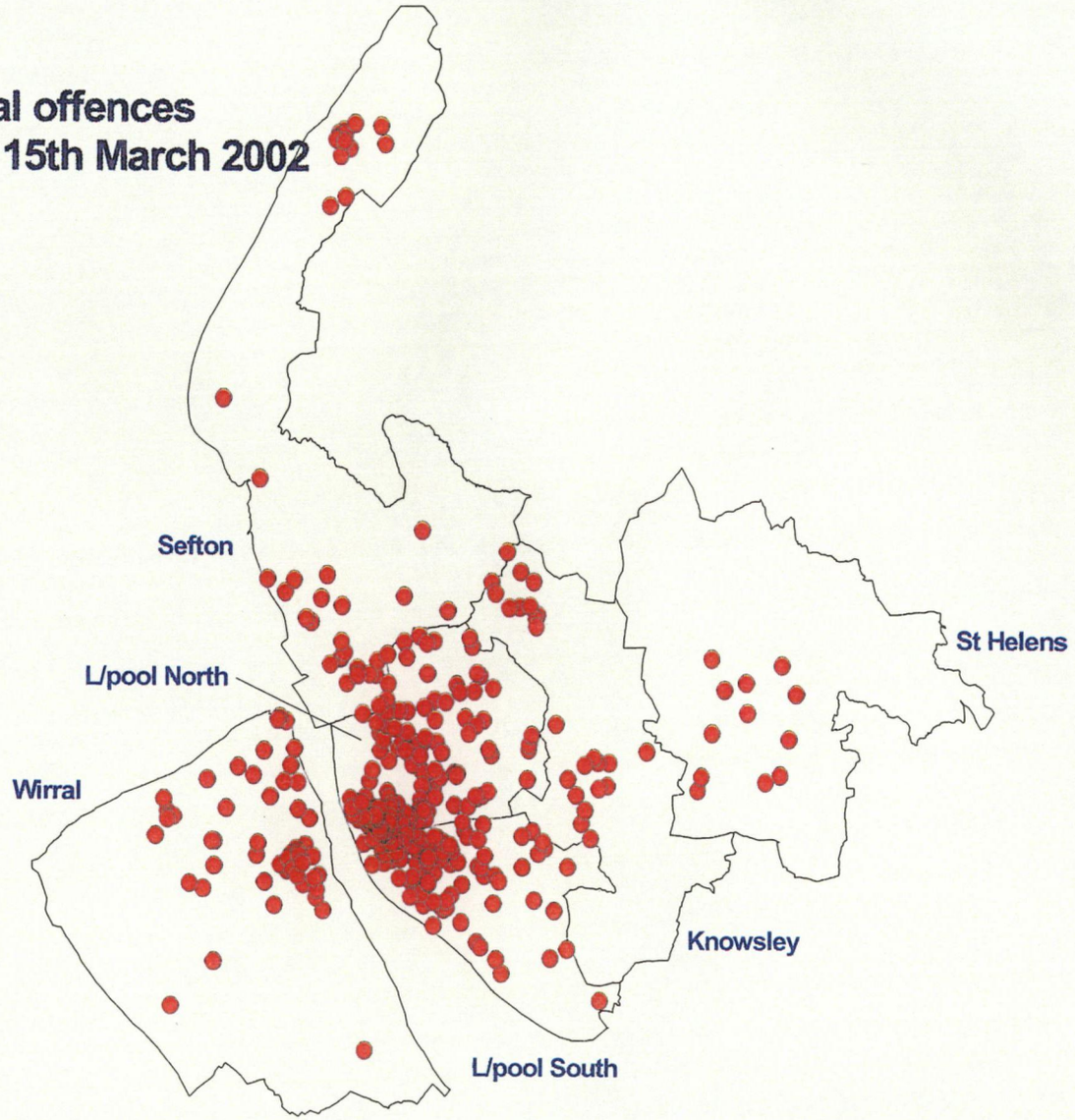
Robbery-personal offences
15th Jan 2002 to 15th March 2002

bcu	Total
Wirral	52
Sefton	44
Knowsley	25
St Helens	15
Liverpool Nrt	266
Liverpool Sth	99
Grand Total	501

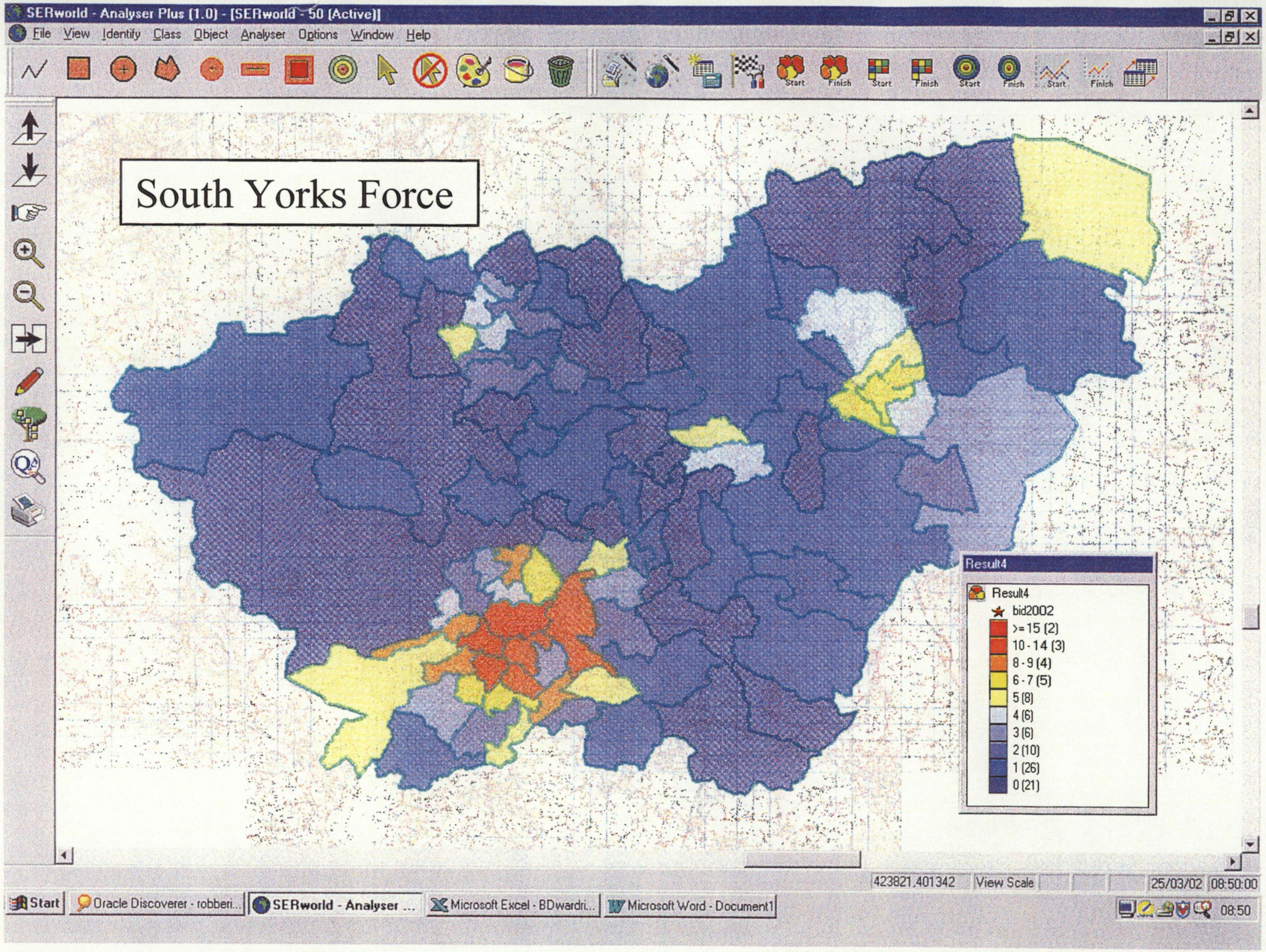


Merseyside

Robbery-personal offences
15th Jan 2002 to 15th March 2002



Merseyside Robbery Personal 'hotspot' Liverpool North - City Centre Locations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South Yorks Force
Result4
Result4
bid2002
>= 15 (2)
10 - 14 (3)
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6 - 7 (5)
5 (8)
4 (6)
3 (6)
2 (10)
1 (26)
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Microsoft Excel - BDwardri...
Microsoft Word - Document1
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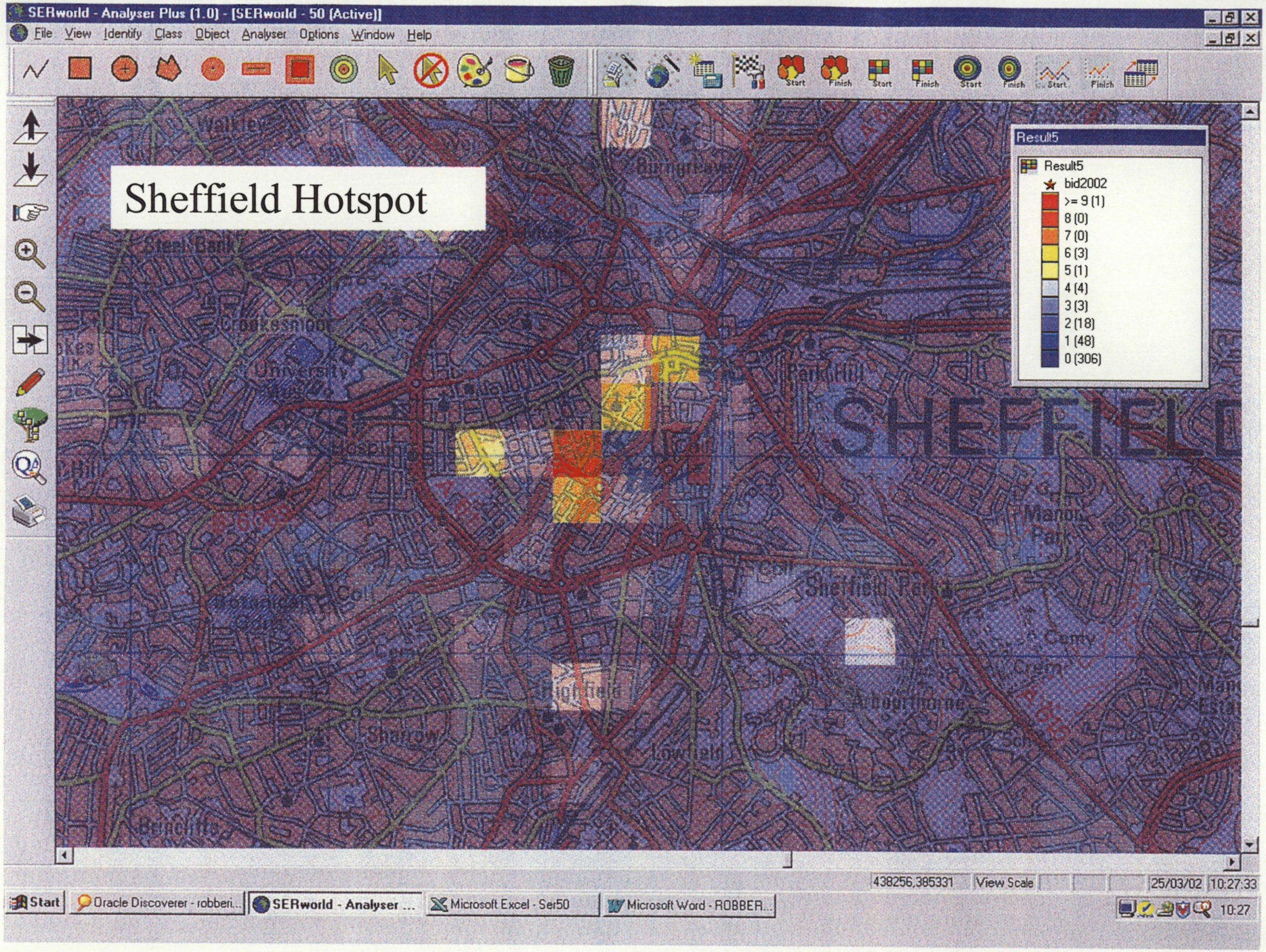

SERworld - Analyser Plus (1.0) - [SERworld - 50 (Active)]
File View Identify Class Object Analyser Options Window Help
Sheffield Hotspot
Result5
Result5
bid2002
>= 9 (1)
8 (0)
7 (0)
6 (3)
5 (1)
4 (4)
3 (3)
2 (18)
1 (48)
0 (306)
SHEFFIELD
438256,385331
View Scale
25/03/02 10:27:33
Start
Oracle Discoverer - robberi...
SERworld - Analyser ...
Microsoft Excel - Ser50
Microsoft Word - ROBBER...
10:27

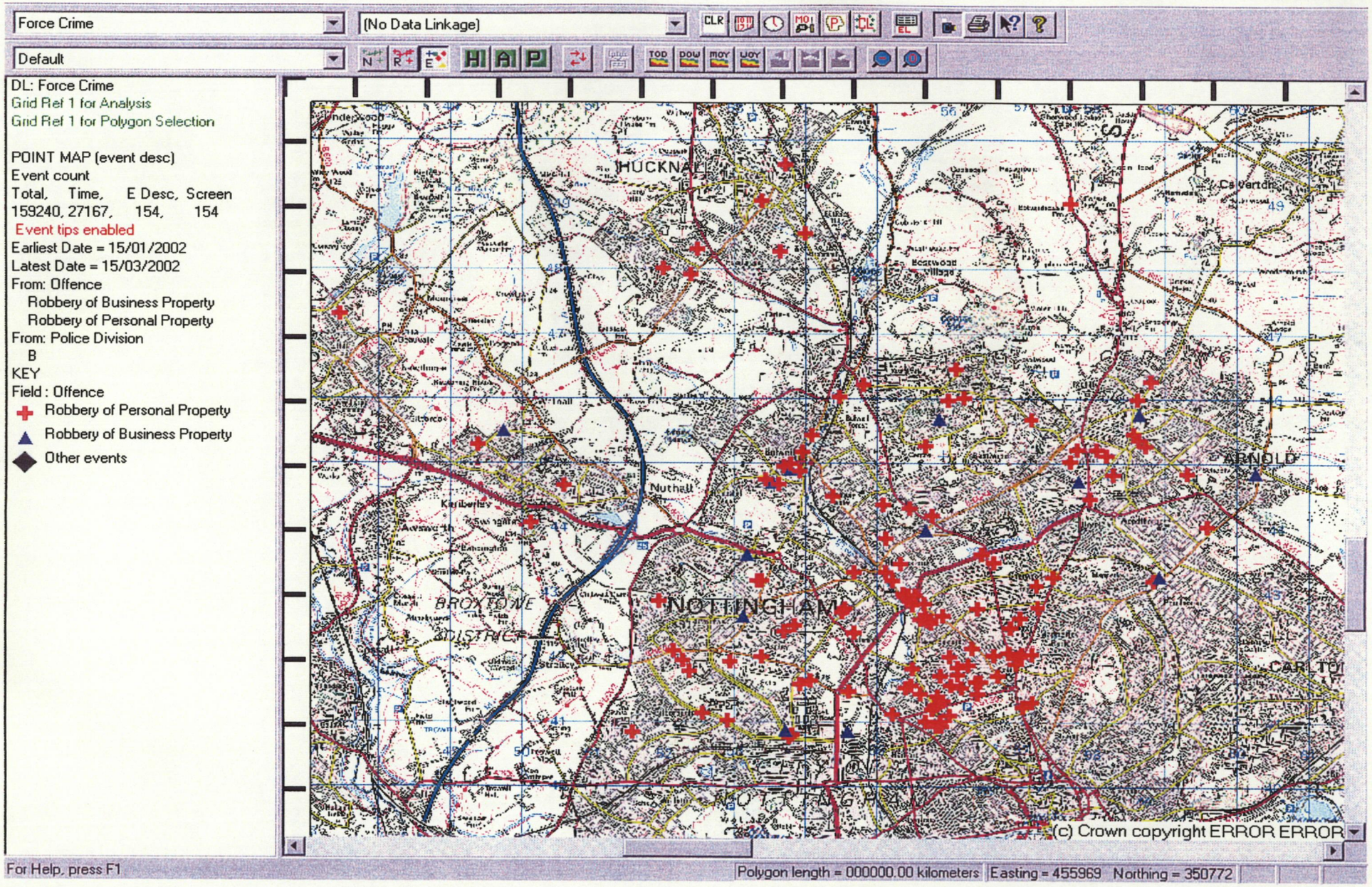
Table 1- Offences of Robbery By Electoral Ward Between 15th January 2002

Sheffield Wards	No. of Offences of Robbery	Donaster Wards	No. of Offences of Robbery	Barnsley Wards	No. of Offences of Robbery
Beauchief	2	Adwick	1	Ardsley	1
Birley	2	Armthorpe	1	Athersley	3
Brightside	7	Askern		Brierley	
Broomhill	9	Balby	1	Central	2
Burngreave	21	Bentley Central	1	Cudworth	1
Castle	12	Bentley North Road	4	Darfield	
Chapel Green	1	Bessacarr	4	Darton	1
Darnall	13	Central	7	Dearne South	1
Dore	1	Conisbrough	4	Dearne Thurnscoe	
Ecclesall	3	Edlington and Warmsworth		Dodworth	
Firth Park	4	Hatfield	1	Hoyland East	1
Hallam	5	Intake		Hoyland West	
Handsworth	5	Mexborough	3	Monk Bretton	2
Heeley	6	Richmond	1	North West	4
Hillsborough	4	Rossington	2	Park	
Intake	8	South East	3	Penistone East	
Manor	3	Southern Parks	1	Penistone West	1
Mosborough	1	Stainforth		Royston	
Nether Edge	1	Thorne	5	South West	5
Nether Shire	7	Town Field	6	Wombwell North	2
Netherthorpe	45	Wheatley	5	Wombwell South	1
Norton	5			Worsbrough	2
Owlerton	2				
Park	12				
Sharrow	45				
South Wortley					
Southey Green	3				
Stocksbridge	1				
Walkley	8				
TOTAL	236		50		27

MAP 2. B [redacted]

154 OFFENCES

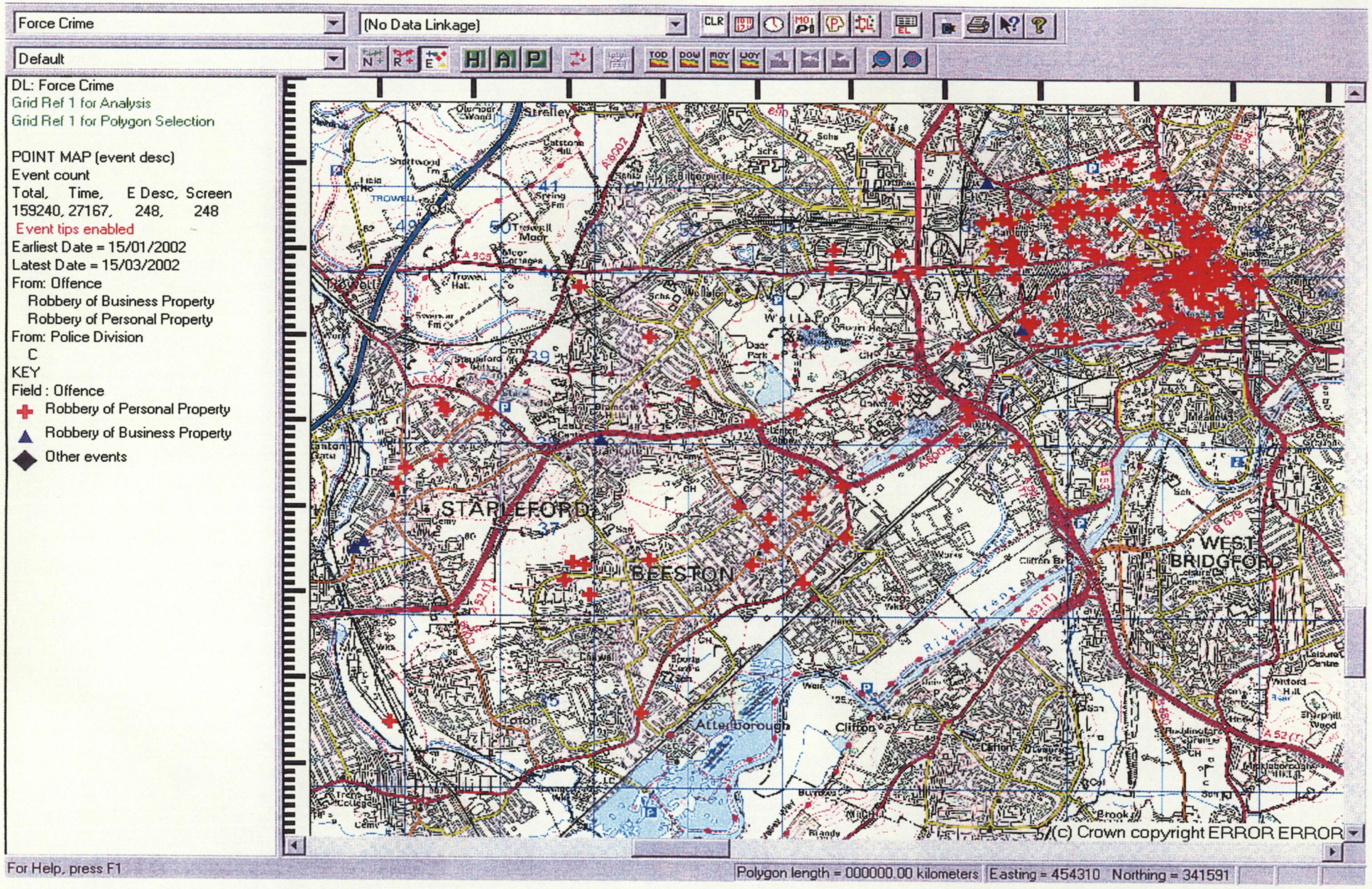
NOTTINGHAMSHIRE POLICE FORCE



MAP 3. C [redacted]STON

248 OFFENCES

NOTTINGHAMSHIRE POLICE FORCE



Nottinghamshire Police Force

Robbery Offences Committed between 15 January – 15 Mar 2002 where reorded on the Crime Recording System

Table detailing Robbery offences for period 15 Jan – 15 Mar 2002

Sum of count		state		
div	offence	Detected	Undetected	Grand Total
A	Robbery of Business Property	1	8	9
	Robbery of Personal Property	3	25	28
A Total		**4**	**33**	**37**
B	Robbery of Business Property	1	12	13
	Robbery of Personal Property	8	134	142
B Total		**9**	**146**	**155**
C	Robbery of Business Property		7	7
	Robbery of Personal Property	16	223	239
C Total		**16**	**230**	**246**
D	Robbery of Business Property	1	6	7
	Robbery of Personal Property	8	79	87
D Total		**9**	**85**	**94**
E	Robbery of Business Property	2	1	3
	Robbery of Personal Property	2	20	22
E Total		**4**	**21**	**25**
Grand Total		**42**	**515**	**557**

Attached Maps:

1: A Division offences
2: B Division offences
3: C Division offences
4: D Division offences
5: E Division offences
6: New proposed divisional boundaries as at 01 Apr 2002
7: Force boundary

From: Ken Sutton
Director
Street Crime Action Team
Room 478, QAG

Tel: 020 7273 2951

cc John Gieve
Michael Barber
John Lyon
Jim Daniell
Jonathan Duke-Evans

25 March 2002

Prime Minister
Home Secretary

TACKLING STREET CRIME – BRIEF FOR MEETING AT 8.00 AM, COBR, TUESDAY, 26 MARCH

This is to provide a handling brief, to accompany the papers (the draft Action Plan) and the agenda for this meeting.

2. We are identifying existing sources of funding wherever possible, necessary to deliver agreed parts of the plan. But parts of the plan re quire additional funding. You (Prime Minister) may wish to acknowledge this – but it is not proposed that there should be detailed discussion of the resources in this meeting.

Agenda Item No 1 – Sitrep on progress

3. The Home Secretary should be asked to report, drawing on the following. Since last Wednesday's Summit we have:

- developed for agreement an **Action Plan** for tackling those involved in street robbery and associated street crime. The Action Plan now covers the 7 key stages – each stage in the criminal justice system, but also prevention and the resettlement of offenders back into areas of high street crime.
- Brought forward key specific measures to ensure that, from the moment street robbers are arrested, there are fast track schemes facilitating the ability to charge, with intensive supervision being developed as an effective alternative to custody.
- For example, new **video ID parades** will now be rolled out, starting in April.
- The Attorney's new **Premium Service** will be in place to speed the prosecution of street robbers in the 10 force areas, as the police operations get into gear, from next week.

4. The Home Secretary may also wish to say that the Action Plan is the first product from the new cross-Departmental machinery. To lead this, a new Street Crime Action

Team has been established. Through this, crucially, we are on track to get full data flows so that we can follow what is happening to street crime within the targeted areas in the 10 forces – at the time – on the basis of new weekly reports. This will mean that we will be able to measure the impact much more closely and target further action where bottle-necks appear.

5. You (Home Secretary) have also met Community Leaders and you may wish to refer to that. And to the meeting which Stephen Byers is chairing with local authority leaders and Chief Executives on Tuesday afternoon.

Agenda Item No 2 – The Action Plan

6. You (Prime Minister) may wish to home in on the critical parts of the plan by asking the lead Minister/officials to report on the strands of it, using the one page flow diagram provided, as the relevant paper. The fuller version of the plan has also been circulated to help us map and pursue the whole agenda.

Key Stage 1 - Prevention

7. The big issues here concern action at schools and with youth. You may wish to ask Estelle Morris to confirm the action she can lead. Specifics include:

- new national protocol on data sharing and police access to schools. This will be finalised in the next few days. Can it then be put into practice, effectively, through April, to chime with the police operations?
- Putting a police officer in selected secondary schools.
- Can the plan for full time education for those excluded be brought forward from September to this next school term?
- Similarly, could the truancy sweeps for the 10 areas be got up and running quickly for next term?

8. You will want to ask for views (Alistair Darling) on the proposal that child benefit be withdrawn from parents of truants. This would require an amendment to the Tax Credit Bill now in the House of Lords if it were to be in force from September.

9. Separate to schools, there are a range of proposals for boosting preventative work in relation to youth crime, with a focus on the Childrens Fund, but also YJB, Connexions and DCMS initiatives. A list of possible schemes has been drawn up. Further work is being done to see how far these can be accommodated within existing funds, through switching from other programmes, to see how such schemes can be co-ordinated effectively at local level and to see how far they can be targeted on the young people actually involved in crime (who are less likely to be reached).

Key Stage 2 – Arrest and Detection

10. The planned police operations are going ahead. In tandem, the video ID schemes are being rolled out in the 10 forces. I can also confirm that so, too, now, is the

Tracker system which will allow us to track individual robbers through the system and identify any bottle-necks.

Key Stage 3 – Bail

11. A critical area. Short term and longer term measures are in the plan. Proposals are being worked up in the plan including:

- implementing Section 130 of the Criminal Justice and Police Act 2001, thereby removing some of the obstacles in Section 23 of the 1969 Act to remanding 12 to 16 year olds to secure accommodation.
- Issuing guidance to the judiciary on toughening sanctions for bail breaches
- Guidance to Youth Offending Teams – by 22 April – to ensure that they do not unduly oppose remanding young street offenders in custody.
- Tagging on bail. Will be implemented for 12 to 16 year olds from 22 April. Options to extend to 17 year olds or to adults now being considered.

12 Existing intensive supervision and surveillance schemes are being broadened to include street robberies on 12 April, but the schemes could be extended to cover all parts of the 10 key areas (or nationally).

Key Stage 4 – Case preparation

13. The Attorney General has brought forward a new premium service for robbery cases in the 10 areas. He can also report on the speedy recruitment of prosecutors, measures to deal with witness intimidation and steps to avoid potential problems from disclosure difficulties.

Key Stage 5 – Court processes

14. The Lord Chancellor can report on measures to increase court capacity, to improve the speed and throughput of cases and the provision of separate facilities of witnesses in court.

Key Stage 6 – Carrying out sentences

15. This is a crunch point. The street crime action will lead to a further increase in the prison population which builds up quickly. The effect has already begun – with the Met scheme now 7 weeks old. The effect on the prison population builds quickly through April to October. Combined with other existing pressures, the requirement for places will exceed usable capacity within three months. As a result, additional measures are now being pursued to acquire extra accommodation from within the Government's estate – on top of the emergency programme already with the Treasury for agreement.

Key Stage 7 - Resettlement

16. A proposal has been prepared which would provide resettlement services – particularly related to jobs and housing – targeted on prisoners returning to the priority areas in the 10 police force areas

Agenda Item No 3 – Media communications strategy

17. Julia Simpson (Home Office) will speak to this item. She will seek agreement to two propositions. Firstly, that all announcements across Government which relate to crime should be entered into a **"grid"** which is now being prepared. And, secondly, that the inter-Departmental Group of press officers which is being called together around the street crime initiative should consider a programme of announcements from the plan. No announcement should be made other than by reference to the inter-Departmental machinery being established for this purpose.

Agenda Item 4 – Local management and monitoring arrangements

18. Joining up local action as well as national action is vital. The Home Office can outline the local management arrangements proposed.

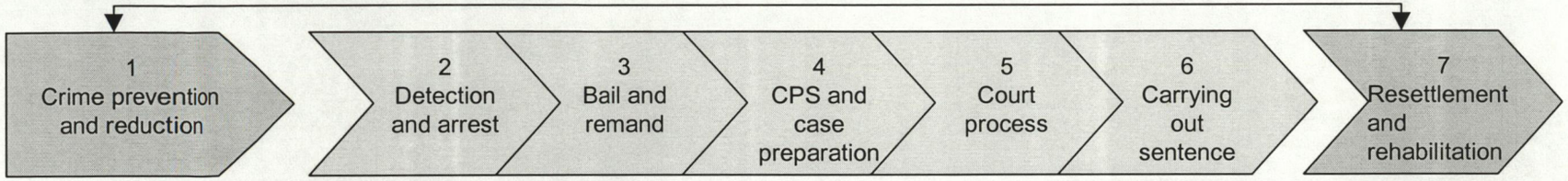
Agenda Item 5 – Next steps

19. The Home Secretary will wish to propose the next steps nationally – to include a further meeting with you (Prime Minister) in the chair in the week of 8 April.

KEN SUTTON

Ref:Mar.Brief

Key stages of Street Crime Action Plan



	1 Crime prevention and reduction	2 Detection and arrest	3 Bail and remand	4 CPS and case preparation	5 Court process	6 Carrying out sentence	7 Resettlement and rehabilitation
Objective	*Divert proportion of at risk population from offending*	*Improve arrest rate of serious and repeat offenders*	*Streamline process and reduce offences committed on bail*	*Remove blockages and improve quality of prosecution case*	*Streamline process and improve witness protection*	*Ensure availability of accommodation and proper rehabilitation*	*Divert offenders from re-offending*
Priority Activities	• Action on – disruptive pupils – truants – excluded children – children not on school rolls • Information exchange protocols and police access to schools • Targeted diversionary schemes for children at risk and families • Extending New Deal to 16-18s • Increase drug testing and treatment capacity • Child benefit for truants • Extend electronic registration • Pilot close-to-learning schemes • Target mental health services • Mobile phone legislation • Community liaison	• Targeted police operations • Use video ID parades • Targeted use of forensic evidence (DNA) • Develop strategies for gun crime • Increase use of automatic facial recognition • Fixed penalties for disorderly behaviour	• Minimise use of police bail • Increase power to remand juveniles • Guidance on remand to magistrates & YOTs • Increase use of tagging • Tougher curfew enforcement • Extend use of ISSPs and increase supervision of 18+ • Improve information on PNC • Proposed legislation – conditions to police bail – reverse bail presumption for those offending on bail	• Use CPS "premium service" • Speed recruitment of prosecutors • Measures to deal with witness intimidation and reluctance • Prioritise PSRs and bail/remand risk assessment services to courts and services to victims • Take steps to avoid potential problems from disclosure difficulties	• Increase court capacity to deal with cases flowing from initiative • Improve speed and throughput of cases (e.g., priority listings and grouping of trials) • Provide separate facilities for witnesses in court • Extra staff to input sentencing information on PNC	• Increase use of HDC • Increase number of prison places – use of RTU/MTU – other agency places • Increase number of LA secure juvenile places • Speed up planning process for new accommodation • Use of Detention and Training orders	• Maximise joint prison/probation planning planning for release • Ensure release to specific address • Improve supervision post-release • Strengthen sanctions for re-offending • Increase completions of offender behaviour courses • Assist job searches

STREET CRIME ACTION PLAN

STRANDS	ACTIVITY	TIMING	LEAD MINISTER & OFFICIAL	RESOURCES	
				Additional Costs	Source
1. Crime Reduction and prevention					
	Develop strategy for dealing with disruptive pupils within schools a) re-launch anti -bullying pack b) safer routes c) electronic registers	a) underway	Estelle Morris Tom Jeffrey	?	?some from existing resource
	Develop strategy on truants a) truancy sweeps b) withdrawal of Child Benefit (legislation needed)	a) April?	Estelle Morris Tom Jeffrey	£1.3m	?connexions
*	Develop strategy for excluded children involving schools and care authorities a) bring forward timetables for excluded pupils? b) extend learning support units	a) ?May	Estelle Morris Tom Jeffrey	£7.5m	
	Develop strategy for children not on school rolls		Estelle Morris Tom Jeffrey		
	Dealing with underachievement at school		Estelle Morris Tom Jeffrey		

	Increase out of school activities a) 4-12s On Track schemes inc family therapy b) 9-13s extend children's fund across 19 London boroughs c) increase targeted use of YIP (100 schemes) d) 100 "splash" schemes e) Connexions work on truancy etc. f) Community cohesion activities		f) Mike Boyle	£10m for London ?£10m other	Children's fund
	Consider extending "New Deal " a) to 16-18 year olds in the 10 areas b) incorporating a residential option (possible pilot)		Alistair Darling		
	Increase organised out of hours activities in schools		Estelle Morris Tom Jeffrey		
	Focus on transition from primary to secondary school		Estelle Morris tom Jeffrey		
	Improve information exchange on children at risk between schools and police	Early April?	Estelle Morris Tom Jeffrey		
	Improve police access to schools 100 officers in selected schools		YJB	£7m	Unfunded
	Exploit full potential of Neighbourhood Renewal Funding				
	Child and Adolescent Mental Health Services				
	Increase drug testing capacity in target areas (potentially 470,000 people?)		Vic Hogg	£151m	unfunded

	Full funding of arrest referral and DTTOs in 10 areas	3 areas from April	Vic Hogg	£18m	unfunded
*	30% increase in drug treatment provision in 10 areas		DH Don Nutbeam?		Funded through NTA
	Legislate in relation to mobile phones (under discussion)				
	Engagement with local communities especially ethnic minority communities	Longer term			

STRANDS	ACTIVITY	TIMING	LEAD MINISTER & OFFICIAL	RESOURCES	
				Additional Costs	Source
2. Detection and Arrest					
	MPS Safer Streets initiative underway and continuing Remaining 9 forces to implement plans	Since 4 February From 1 April	John Denham Kevin Bond (HO)	£40m (incl. Met) - tbc	
*	Provide video identification equipment to 10 forces (70 locations)	By 19 April	John Denham Kevin Bond (HO)	£7.6m	CJS reserve?
	Increase targeted use of forensic evidence - Fast track DNA and fingerprint examination - Provide support to maximise forensic opportunities and chances of success	In 6-8 weeks	John Denham Trevor Howitt (FSS) Kevin Bond (HO)	£650,000 p.a. (tbc)	
	Develop strategies for tackling gun crime - building on Operation Trident - NCS and NCIS work - Organised crime dimension (gun smuggling)	Longer term	John Denham Kevin Bond (HO)		
	Increase use of automatic facial recognition	Longer term	John Denham Kevin Bond (HO)		
	Implement fixed penalties for disorderly behaviour		Keith Bradley Debby Grice		

STRANDS	ACTIVITY	TIMING	LEAD MINISTER & OFFICIAL	RESOURCES	
				Additional Costs	Source
3. Bail					
	Minimise use of police bail - speed up ID parades by use of video - fast-track FSS service	1 April From May	John Denham Kevin Bond (HO)	Resources covered in previous section	
*	Juvenile remands - Implement section 130 of CJ and Police Act 2001 – increasing power to remand juveniles (under 16s) to custody	As soon as enough secure accommodation available	Keith Bradley David Cooke (HO)	None, though will impact on secure accommodation places	
*	Toughen sanctions for bail breaches Enlist LCJ's support in issuing guidance to magistrates/judiciary		Lord Chancellor Peter Handcock	None, though will impact on custodial places	
	Guidance to Youth Offending Teams to ensure they do not unduly oppose remanding young street offenders in custody	22 April	Beverley Hughes Mark Perfect	None, though may impact on custodial places	
	Tagging on bail: - Implementation of tagging of 12-16s on bail - Option to increase use of tagging a) to 17s (could be piloted in 10 areas but would require legislation to regularise legal basis b) to all adult offenders on bail	From 22 April	Keith Bradley David Cooke	£0.2m already covered under wider juvenile remand package	

	Tighten bail curfews: - Clarify legal position on "doorstep" curfew checks – LCD to invite LCJ to intervene and reverse JCS guidance and send out guidance to magistrates, with legislation as fallback - New police power of entry to enforce curfew (requires legislation)	April ? 	Lord Chancellor Peter Handcock Keith Bradley David Cooke	None.	
	Extend use of Intensive Supervision and Surveillance Programmes and broaden criteria to include all young robbers	12 April – extend criteria 3-6 months to fill gaps	Beverley Hughes Mark Perfect (YJB)	- £2m to extend to cover 400 more bailed ISSP offenders - £4.5 to extend ISSP to fill gaps in the 10 areas	
*	Increase probation service provision for intensive supervision and monitoring of street robbers aged 18+	2-4 months	Beverley Hughes Eithne Wallis	£100,000 per scheme for 20 schemes	
	Improve bail information on Police National Computer, and allow access to courts	June 2002	John Denham		
	Review ability to impose conditions on police bail (may require legislation)		Attorney General Peter Lewis (CPS)	None	
	Reverse presumption in favour of bail for defendants charged with imprisonable offence while on bail for another offences (requires legislation)		Keith Bradley David Cooke	None, though will impact on custodial places	

STRANDS	ACTIVITY	TIMING	LEAD MINISTER & OFFICIAL	RESOURCES	
				Additional Costs	Source
4. Case preparation					
*	Use of "premium service" for robbery cases in 10 areas - Case prioritisation, - Dedicated lawyer specialists - Early advice from CPS - Close liaison with police teams to ensure consistency and robust prosecution culture	From April	Attorney General Peter Lewis	£6.05m	CJS strategic reserve
*	Speed recruitment of prosecutors (especially in London)		Attorney General Peter Lewis		
*	Measures to deal with witness intimidation and reluctance National Probation Service to prioritise services to victims of street criminals		Attorney General Peter Lewis Beverley Hughes Eithne Wallis	Approx £1m p.a. (tbc)	
	National Probation Service to prioritise PSRs and bail/remand risk assessment services to courts		Beverley Hughes Eithne Wallis	£27k per court (x 25)	
	Steps to avoid potential problems from disclosure difficulties		Attorney General Peter Lewis		

STRANDS	ACTIVITY	TIMING	LEAD MINISTER & OFFICIAL	RESOURCES	
				Additional Costs	Source
5. Court processes					
	Increase court capacity to deal with cases flowing from initiative Use of evening/weekend courts		Lord Chancellor Peter Handcock		
	Improve speed and throughput of cases - Use listings and grouping of trials to manage burden better (consulting LCJ re Practice Direction)	April	Lord Chancellor Peter Handcock	None	
	Provide separate facilities for witnesses in court - identify which courts in 10 areas have appropriate facilities - nominate court with MCC area to handle cases from courts which lack facilities	Within 2 weeks	Lord Chancellor Peter Handcock		
	Extra police station staff to input sentencing information on Police National Computer				

STRANDS	ACTIVITY	TIMING	LEAD MINISTER & OFFICIAL	RESOURCES	
				Additional Costs	Source
6. Carrying out sentences					
	Maximise current use of Prison estate - increase use of HDC Maximise potential of Detention and Training Orders		Beverley Hughes Janet King		
	Increase number of new prison places with immediate effect - use of RTU etc. - instigate emergency accommodation bid - other agency accommodation		Beverley Hughes Janet King	Capital £40m Current £20m	?CMF
	Increase number of secure accommodation places in the 10 areas - explore use of other accommodation - divert offenders		Beverley Hughes Mark Perfect	Capital £30m Current £30m	?CMF
	Speed up planning process				

STRANDS	ACTIVITY	TIMING	LEAD MINISTER & OFFICIAL	RESOURCES	
				Additional Costs	Source
7 Rehabilitation and resettlement					
	Maximise use of drug testing drug free regimes within prisons	Ongoing	Prison Service		
	Review capacity of drugs hostels in 10 areas				
	Improve co-ordination between prison and probation drug rehabilitation activity		Prison s and Probation		
	Continue to increase numbers completing offending behaviour courses etc.		Ken Sutton		
	Maximise planning for release - community mentors.		Prison Service	£1m	
	Ensure prisoners are released to a specific address help with accommodation		Ken Sutton	£1.6m	
	Better assistance to find employment a) jobsearch b) New Deal gateway		Ken Sutton	£13.5m	
	Improved supervision post release		Ken Sutton	£700,000	
	Strengthen sanctions for re-offending				

From: Michael Barber

c.c. Jonathan Powell
Jeremy Heywood
Alastair Campbell
Sally Morgan
Andrew Adonis
Justin Russell
Olivia McLeod
Peter Hyman

PRIME MINISTER **Date: 25 March 2002**

STREET CRIME

Bill Bratton's book, "Turnaround", on crime reduction in New York has some clear, simple lessons for our initiative here. Of course not everything transfers directly, but much of what Bratton describes coincides with good management practice and will transfer.

1. He identifies four keys to controlling crime:

   - accurate timely intelligence;
   - rapid deployment;
   - effective tactics;
   - relentless follow-up and assessment.

2. Data needs to be gathered in real time, updated regularly and analysed. It also needs to be entered daily onto maps so that the pattern of crime in an

area becomes clear. He says that for a precinct (about half a London borough – 100,000 people) this takes eighteen minutes a day to do. Deployment decisions can then be based on accurate intelligence.

3. Connections between crimes need to be ruthlessly followed: for example large numbers of fare dodgers (1 in 7 to be precise) had warrants out for their arrest; credit card frauds are often involved in drugs; drug users are linked to gun crime; prisoners released on parole are likely to reoffend and so need a visit etc.

4. Precinct commanders (BCUs in our case) need to be held to account monthly in front of their peers: they need to explain the data in their area and justify the actions they are taking. Bratton held weekly meetings, using Compstat, with a different group of commanders in the spotlight each week but all of them present. The questioning was very tough: the result was a focus on crime and the rapid dissemination of best practice and/or innovative thinking.

5. Through these meetings innovation and imaginative problem solving were rewarded: making excuses was challenged.

6. Barriers need to be broken down between, for example, plain clothes and uniform; drug squads and others; police and civilians. Small teams need to be deployed depending on the issue. Individuals on the beat, but uninformed by data, are wasted. The precinct commanders need the

flexibility to deploy their personnel as they see fit. This is the crucial other side of the coin of being held to account for the data.

7. Policemen and women join the force with the intention of reducing crime, disorder and fear but rapidly come to believe that their bosses really want is to complete the bureaucratic procedures accurately and keep out of trouble: those in command need to shift the culture so that it is aligned with the original aspirations that brought people into the force and therefore fighting crime is top of the agenda.

8. Ambition needs to be injected through clear bold targets. Bratton promised a 40 per cent reduction in three years – at a time when most people believed the police made no difference to crime and it had been rising remorselessly. The target was achieved.

It was clear from the discussions last week and this, that not all police forces here approach this degree of thoroughness and even the best have some way to go. New York City's success may in part be due to numbers but it is much more to do with relentless implementation of evidence-based policing.

MICHAEL BARBER

Secretary of the Cabinet and Head of the Home Civil Service

JR 4:00

PRIME MINISTER

cc Jonathan Powell
Jeremy Heywood
Paul Britton
Lindsay Bell

STREET CRIME: TAKING FORWARD LONGER TERM ISSUES

At your Street Crime Action Group meeting on Wednesday you asked for advice on how to take forward the following longer-term issues:

i. crime and disorder partnerships and their role in a strategy on street crime;

ii. the role of schools and the care authorities in dealing with excluded children; children at risk of exclusion; children who are missing from the system;

iii. the use of technology in identifying and convicted street criminals;

iv. drugs and street crime; in particular, whether changes will be necessary to make sure that the drugs treatment system will be able cope with anticipated demand; and

v. drug gangs, how to deal with them, and how to prevent gang culture becoming embedded among urban youth

2. The Home Office and others are working on each of these, but you will need a mechanism for ensuring momentum is maintained. This could be done through a Cabinet Committee with the DPM as chair, or through the nomination of lead Ministers to work with others on each topic and report back direct to you, as was done during the foot and mouth crisis. I would recommend the nomination of lead Ministers as the better approach as it will ensure each work stream gets maximum attention and it will spread the Ministerial workload across Departments.

3. My recommendations for lead Ministers are:

John Denham for crime and disorder partnerships and drug gangs (i. and v.);

Stephen Timms for excluded children (ii.);

Douglas Alexander for use of technology in identifying street criminals (iii.); and

Hazel Blears for drugs treatment (iv.).

It would need to be emphasised that they would be expected to work closely with Ministerial colleagues and officials in other Departments and to report regularly to you on progress.

4. Are you content, please?

RW.

RICHARD WILSON

25 March 2002

The Rt Hon the Lord Goldsmith QC

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O Mc
cc: OR.
ON1

The Rt Hon David Blunkett MP
Secretary of State for Home Affairs
Home Office
50 Queen Anne's Gate
London, SW1H 9AT

25th March 2002

Dear David

STREET CRIME

I am writing to let you know where matters stand as far as the CPS is concerned.

It is important that a good infrastructure is established so that there can be a strong strategic steer from the centre, while leaving prosecutors sufficient flexibility to manage the operation according to local circumstances. To this end, a lead prosecutor has been nominated in each of the ten Areas who will report to the two CPS senior representatives on the Group chaired by John Grieve. David Calvert-Smith has set aside some dedicated resource in CPS Headquarters to act as a focal point to support the work. This dedicated resource will have a direct line of communication to David Calvert-Smith and myself for the duration of the initiative.

I have asked the ten CPS Areas as a matter of urgency to establish clear lines of contact with their respective police forces, to confirm with the police when and where the Street Crime initiative will take effect, and to undertake to provide the Police with a Premium Prosecution service for these cases. It is important that the CPS lawyers and support staff involved are experienced. The gaps that they will leave will need to be back-filled. This could present a challenge, at least in the short term, and arrangements are being considered locally as to how that will be achieved.

My initial estimate of the resources required to support this was that £4million would be needed. It is important to get this right though, and I asked for the figures to be looked at again in the light of the discussions that are now taking place with the police and the developing understanding of the nature of the task. As a result it is necessary to revise the figure

upwards to £6.05 million. But experience has shown that early investment of resources directed at the right pressure points can make a significant difference.

I will not pretend that delivering the type of service that you or I desire will be easy. But David Calvert-Smith and I are determined to make this work.

I would like to propose some joint work in related areas.

First, I think that we should investigate if there is more that can be done to improve our service to victims and witnesses. Improving court facilities is one aspect of this, but we could also make a great difference by developing a victim and witness care package which is designed to ensure that victims and witnesses are supported and encouraged throughout the process. The CPS has already outlined to your officials some early thoughts which should complement work being done in the Home Office.

Related to this a robust case management approach will reduce delay. One of the lessons learned from the PYO pledge was that identifying named contacts in the Youth Court and Crown Court with responsibility for managing these cases was a key factor in managing that initiative. The support of the resident judge was also extremely helpful. We should ask officials to work up these ideas.

We also need to do more to ensure that sentencers are provided with better local information so they are in a position to pass sentences that reflect the impact of crime in their area. The Court of Appeal recently endorsed the strong stance taken by His Honour Judge Humphries at Manchester Crown Court who when passing sentences on those convicted of robbery takes into consideration the large number of robberies in Manchester. We need to find a way of bringing this local information to the attention of local sentencers. My suggestion is that we use the local Area Criminal Justice Strategy Committees as a forum to provide regular updates on the number of street robberies.

The police and the CPS are rightly enthusiastic about the amendments to PACE that will enable the video identification of suspects. I am, however, concerned that unless the courts are prepared for this development there may be some judicial reluctance to afford the new procedures the same degree of credibility that attaches to more tried and trusted methods. I suggest that the JSB should be asked to issue some urgent guidance about the new procedures and perhaps consider whether specimen directions would be helpful.

ATTORNEY GENERAL

Next, I believe that more can also be done to improve the handling of disclosure issues, to reduce delay and improve the quality of prosecutions. I have asked the CPS to undertake urgent work to fit such an approach to cases brought under this initiative.

I am copying this letter to the Prime Minister, Derry Irvine, and Andrew Smith.

Yours ever

Lord