Reforms to criminal justice systems

The Government published the Auld report on the 8th October 2001. This was a huge report, which basically reviewed the criminal courts system. Sir Robin Auld (a senior Appeal court judge) conducted this review. The review was acknowledged by the government as being a vital contributor towards establishing modern, efficient criminal courts (e.g. fewer delays in them etc.).

Auld's key recommendations include:

- Unified criminal courts, replacing the Crown and Magistrates courts, and consisting of 3 divisions. The Crown Division (which is effectively the Crown Court as we know it) would exercise jurisdiction over all indictable-only matters and the more serious either-way offences. The District Division, presided over by a District Judge or Recorder and at least 2 magistrates, would exercise jurisdiction over a mid-range of either-way matters of sufficient seriousness to merit up to 2 years custody. The Magistrates Division, constituted by a District Judge or Magistrate, which is more or less the Magistrates Courts as we know them, would deal with all summary matters as presently defined and less serious either-way cases. Controversially, the courts in the Magistrates Division would allocate all either-way cases according to the seriousness of the alleged offence and the circumstances of the defendant. In any dispute as to venue, a District Judge would determine the matter after hearing representations from the prosecution and the defendant. The defendant would have no right to elect to be tried in any Division;

- Changes in procedure for trial, including a change in roles of the police and the prosecuting authorities, so mainly the Crown Prosecution Service, not the police, would decide whether and what to charge, and should have more responsibility for discharging the prosecution's duties of disclosure;

- Serious young defendant cases should be heard by a Youth court, not a crown court, with a judge and the minimum of two experienced Youth Panel magistrates;

- Serious fraud tried by a judge sitting alone or with lay members drawn from a panel, instead of a jury;

- Changes to procedures at trials. Jurors receive an agreed written summary of the case and a list of the issues which need to be decided at the start of a trial;

- Changing the technical rules of evidence (so magistrates and juries can decide how relevant and important the evidence is);

- Encouraging greater public responsibility for jury service, making it harder to be excused;

- Streamlining appeals system, improving Court of Appeal procedures, so it can manage its caseload more efficiently;

- exceptions to the double jeopardy rule and the other extensions to the prosecutor's rights of appeal;

- The creation of a full legislative code for criminal justice, covering offences, procedure, evidence, and sentencing so that the law is clear and accessible;

- A move to central joint direction, and local joint management, of the Criminal Justice Departments and agencies, supported by an integrated information technology system.

To insure an effective proposed reform, the government asked people to comment on this report. By doing this, the government could found out peoples views on the report and could move on from this. The government also looked through the Halliday report, which focused strongly on making punishment work and generally looking at the sentencing framework for England and Wales. Following the comments received from the public was the publication on the White Paper.

This White paper puts forward the government's idea as to what needs to be done in order to improve the criminal justice system. Below are the main points of the white paper:

This basically outlines how the system is going to tighten up, so the guilty will always be taken care of. It introduces police reforms such giving the police new powers to impose conditions on bail before charge and extend the prosecution's right to appeal bail decisions and insures that certain aspects will also tighten up (e.g. police and courts working together more closely to ensure defendents turn up to court).

The purpose of this White Paper is to send the clearest possible signal to those committing offences that the criminal justice system is united in ensuring their detection, conviction and punishment.

They will do this by: detecting more crime, getting all defendants to court quickly, prevent affending on bail, to convict more of the guilty, improve trial and keep the dangerous in custody.

To detect more crime they decided to increase police numbers, police spending, encourage specialist skills, do more 'front line' work and get better technology for detection.

To get more **defendants to court more quickly** they will allow Crown Prosecution Service to take more responsibility for determining charges so that the right cases go to court on the right charges, invest £600 million to manage cases, give sentence indication (idea- early guilty pleas) and give magistrates greater sentencing powers.

To prevent offending on bail they will take into account previous convictions, area where defendant lives and seriousness of offence before granting bail (especially with no conditions on it).

To convict more of the guilty they will improve disclosure, allow trial by judge alone (especially where jury can feel intimidated), extend the availability of preparatory hearings to ensure that serious cases like, drug trafficking, can be properly prepared.

At the trial they will inform the court of a defendant's previous convictions (where appropriate), remove the double jeopardy rule for serious cases if compelling new evidence comes to light and increase population eligible for jury service.

Where a defendant is convicted they will ensure that **dangerous offenders can be kept in custody** for as long as they present a risk to the public (instead of conditional bail like that of the teen involved in the London car jacking case), ensure more intensive community sentences rehabilitate the offender and protect the public, introduce custody minus and plus (community supervision with automatic return of condition breakers and short sentence prisoners are supported after release respectively) and introduce intermittent custody (weekend or night custody for low risk offenders).

So basically this reform looks to "rebalance the criminal justice system in favour of the victim and the community so as to reduce crime and bring more offenders to justice. Our programme of reform is guided by a single clear priority" and to recap they hope to do this by:

- Reducing offending whilst on bail;
- Building strong cases to put before the court;
- New procedures which get the case to trial quickly, with reduced chances of the accused 'playing the system' and escaping justice if guilty;
- Simplifying and modernising our approach to evidence;
- And effective sentencing and punishment that works (Halliday's idea).

There has been much debate over reforms in specific areas such as racism, police corruption and corroboration for confessions. I will now look at these more closely.

Racism

Following the case of Stephen Lawence (a black teenager stabbed by racist youths- who weren't brought to justice), a judicial inquiry (headed by Sir William Macpherson- former high court judge) was set up by the government in 1997. It's report was published Feb. 1999. It discovered the metropolitan police suf fered from institutional racism (a failure for an organisation to provide a professional service to people because of their colour etc. This was reflected in the presumption (by the first senior officer) that it was because of a fight, the thoughtless approach of some officers to the parents of Stephen, the side-lining of Stephen's friend, the refusal of accepting it was a murder case by some officers and also the offensive language used by police officers during the inquiry. Racism training seemed to be non-existent.

The failure of this case was down to three things: professional incompetence; institutional racialism and bad leadership by senior officers.

As a result the report recommended twenty things for reform, one of the major ones being that police and other services should be brought fully within the Race

Relations Act 1976 (not in the course of their optional duties though - e.g. no legal remedy for a black person who believes they've been stopped because of their colour).

It was also suggested that police and the CPS should include in case files any evidence of racial motivations.

The governments action plan, issued in March 1999, established a steering group to oversee the program of reform (to be chaired by the home secretary). There are to be performance indicators of race equality, reviews by police forces of the racism awareness training every three years, stop and search powers research, recruitment of ethnic minority police officers, the racial discrimination legislation extended into all services and will also make chief police officers liable for racial discrimination by their officers.

Police corruption

This basically looks at the idea of criminals being able to somehow (usually through money) corrupt a police officer. Sir Paul Condon has made anti-corruption a touchstone of his term as commissioner of the metropolitan police. He estimated that there was up to 250 corrupt officers in his force. Special squads need to be set up, like New Scotland Yard, who concentrate on corrupt police officers, so police officers too can be convicted of corruption-related offences or suspended for alleged corruption or similar matters.

A corroboration rule?

This is the idea that confession should be backed up with other evidence, as there can be false confessions. McConville said only 8% of persecutions would be affected by automatic acquittals (only in smaller cases) and it would be a small price to pay to avoid further miscarriages of justice.

If we look back at the case of Michael Stone in 1998, we can see that confession evidence does not necessarily do justice.