

Speech: A speech on criminal justice reform by the Secretary of State for Justice

It's great to be here at the CSJ – an organisation at the forefront of social reform. Pleased that they are opening a new Criminal Justice Unit.

Today I would like to set out my views on sentencing and the prison population. There is already a lively debate on this subject and some of the key protagonists in this debate are in this room today from Lord Ramsbotham to Frances Crook; from Nick Hardwick to Michael Gove.

This issue boils down to four distinct areas:

- sentences are too long
- prisons are too overcrowded to work
- the wrong people are in prison
- management of the prison population at the moment, whether it is IPP or recall, isn't good enough

I will take these points in turn.

Firstly there has been quite a lot of talk recently about a political arms race, driving up sentences.

People are saying that additional legislation and guidelines have led to longer sentences being handed down by the courts.

It is argued that this has increased the prison population leading to where we are today.

We are accused of being an outlier in terms of the number of people we send to prison.

Well first of all I want to point out that for the last six years our prison population has been stable. The prison population has remained relatively stable since 2010 – at around 85,000 people.

It is true that the population rose for three successive decades before that – with a sharp increase of 20,000 places – or 31% – between 2000 and 2010.

But if you compare Britain with other major liberal democracies, we are fairly mid table when it comes to custodial sentences. England and Wales have 148 people per 100,000 in prison. Australia has 151, Germany 78, and France 95. The US has 698.

The second point I want to make is that it is not true that rates of imprisonment have gone up across the board. And it is also not true that we have seen sentence inflation across the board. There have been fewer shorter

sentences being handed out for offences like shoplifting and there are proportionally fewer people in prison for those type of offences. In 2015 our courts handed out 9,000 fewer short-term sentences than they did in 2010.

What we have seen is significant increases in sentences in particular areas.

In fact the biggest driver for prison growth in the last twenty years has been the exposure, pursuit and punishment of sexual offences and crimes of violence, and a toughening up of sentences for these crimes.

This is down to a wholly welcome improvement in attitude to victims of sex crimes across society. It has meant more victims are coming forward, they are being taken more seriously by the criminal justice system, and they are dealt with a greater understanding.

I think we all recall how rape victims were treated in the 1980s. They all too often experienced rough justice – where their lifestyles were as much on trial as the crime itself.

The number of rape cases reaching the courts increased by 50% between 1980 and 1987 but the number of convictions remained static. It was a time when a young woman could be jailed for refusing to give evidence in an assault case against her partner. And when a man convicted of raping a 17-year old girl could be given a £2,000 fine on the grounds that the victim was guilty of “contributory negligence”.

Right through the 1980s, domestic violence remained a crime that largely stayed behind closed doors and child sex abuse was rife but it rarely attracted a punishment that today we would consider suitable for such a heinous act.

Now the situation is changing.

Incredibly before 2005, rape of a child under 13 was not even a specific offence. In 2005 a man would be sentenced to an average of 4.8 years for raping a child under the age of 13. By 2015 the average sentence given out for this terrible crime had more than doubled. And the average sentence given out for all sexual offences has increased by 50% over the last decade.

But it is not only sex offences, although those are the sentences which have gone out the most. The courts are handing out longer sentences for offences of violence against the person and robbery, up by 10% and 23% respectively since 2005.

What we are seeing is more of these crimes being brought to justice and the result has been an increase in the number in prison for these serious offences.

Since 2000 there has been a 29% increase in those sentenced to custody for robbery and a 75% increase for violence against a person.

And there has been a 140% increase in the number of sexual offenders in prison.

This has led to a change in the make-up of our prison population – from two in five being prisoners convicted of violent, sexual or drug offences in 1995 to three in five now. There has been a huge difference in the people we send to prison.

Compared with 2010, there are now 3,000 more sex offenders in prison. Despite the fact that the overall prison population remains stable.

So what we are seeing is fewer people being sent to prison on those short sentences but more people in for some of those serious crimes.

This is being reflected in what we are seeing in our courts, with some courts spending half their time dealing with sexual offence cases.

This sea change is happening because our society is changing. We have gained some understanding of the seriousness of these crimes and more victims are having the confidence to come forward and put their case. And it is happening because we are catching and convicting more violent offenders and giving them longer sentences that better reflect the seriousness of their crimes.

This is the right thing for victims and the right thing for the British public.

We should be proud that we live in a society that no longer shames victims of rape; that is prepared to confront child sex abuse, and has brought domestic violence out in the open. But there is more we can do.

So I am going to take action to spare victims of sexual abuse the trauma of giving evidence in open court in criminal cases. In family courts I will end the appalling practice of domestic abuse victims being cross-examined by their attacker.

We are also looking at the operation of Section 41 in rape cases, where in exceptional cases at the moment the victim's past history can be asked about. I do not want this to be used as an excuse to shame victims of serious crimes.

We have come a long way as a society but we face new challenges like social media. We must not allow the clock be turned back in terms of attitudes to sexual crime. I will not let this happen under my watch.

I want now to address the second issue that people have raised and that is that our prisons are simply too full for meaningful reform to take place.

It is true that reoffending rates are too high and that our prisons are too violent. I acknowledge that. But the wrong way to address the problem would be to shorten sentences or to release offenders earlier.

That would be reckless and endanger the public.

And it would restrict the freedom of the independent judiciary to choose the most appropriate sentence for each offender.

The answer to overcrowding is not to cut prisoner numbers in half.

It is to make sure we have the right resources, the right workforce, the right buildings and the right regimes to reform offenders and turn their lives around.

That is exactly what I am doing.

The Prison and Courts Bill, due to be published this month, will for the first time enshrine in law that reforming offenders is a key purpose of prison and that the Secretary of State has a responsibility for delivering it. That has never been in our law before. At the moment, the duty of the Justice Secretary is to house offenders – I don't think that is good enough. We have to be about turning people's lives around.

This change will usher in major reforms. The way I see it the prison system now is a bit like education was before we had Ofsted, before we had league tables, before we knew what was going on in schools.

What I want to see in our prisons is the same type of scrutiny, the same type of openness, and the same focus on making things better and really reforming people while they are inside.

I want to transform our prisons from places of violence and despair to places of self-improvement and hope where all prisoners are given the chance to lead a better life. Because I believe that everybody is capable of reform.

Governors will have greater power to make the changes they need to drive reform. And prison officers will have more responsibility to challenge prisoners to change, to get them off drugs and into training and work, and to be there in times of crisis.

I want us to look at work from the outside in. We have some fantastic employers in this room who want to be part of this. I want to see us being those employers into prisons, for people to start apprenticeships while they are in prison, to get a job when they are on the outside, to get housing on the outside. That is the way we will reduce reoffending. That is the way that bring down our appalling reoffending rates.

At the moment half of all people in our prisons, when they leave, will reoffend within a year. That is not good enough. And as we see the number of first time offenders go down we want to see the number of people going through our system go down. If they go to prison I want them only in there once.

We also have to deal with the levels of violence and self-harm in our prisons. That is why as well as investing in reform and giving more powers to governors and creating a new frontline agency – Her Majesty's Prison and Probation Service – we are putting an extra £100m a year into the frontline and will take on 2,500 more frontline officers. This will enable us to have a caseload of one officer for every six offenders. That will be about keeping those people safe, challenging them to change their ways and also supporting them in their time through prison so that they can lead a successful life on

the outside. At the moment we don't have enough officers to do that and I fully acknowledge that is the case.

Today we have Natasha Porter in the audience who is leading a fantastic new graduate programme called Unlocked. It's about getting the best graduates into prisons to help us show that being a prison officer is a noble profession. It is an important profession and as vital to society as teaching, nursing and being a police officer.

And I am pleased to see it is getting a good response. We are at the start of the process recruiting officers. We are not there yet and it will take time but the fact that this scheme got 1,000 people interested within the first 24 hours shows it can be done and that together we can make it work.

So while Her Majesty's Prison and Probation Service focuses on reform, it will be the Secretary of State's duty to hold the Service to account for the progress offenders make on getting off drugs and getting the education and skills they need to get a job on the outside. I am also beefing up the powers of Her Majesty's Inspectorate of Prisons so that they have the teeth when a prison isn't working to intervene and make the Secretary of State act.

As I have said before, a prisoner's family is the most effective resettlement agency. Thanks to the evidence collected by Lord Farmer's Review, Governors will have access to comprehensive data to help them decide what works best to bolster positive family ties. I also want to congratulate the Centre for Social Justice for highlighting the importance of the role of fathers. I think we must always remember that as we look at the justice system because the involvement of fathers is vital.

It will take time to bed in but once we have our reforms in place we will be able to measure progress, learn from the best and, when necessary, intervene to turn around failing prisons.

This change will not happen in weeks or months, it will take time and determination to deliver but as a society we simply cannot afford to put this off any longer. All of the people in this room are vital to this change. I am grateful for your work.

Profound changes in our prison population make the need for reform even tougher and even more critical. We have a challenging time ahead, but an incredibly important time ahead too and I am proud to be leading the Ministry of Justice at this time.

I am equally determined to address the factors that fuel prolific offending for other crimes, like theft and shoplifting, that can all too often put offenders on the path to a prison sentence.

Reforming the criminal justice system does not begin and end with reforming the prison estate and our probation services, though that is the critical place to start.

We also need to intervene earlier by giving our courts the right tools for reform. There can never be an excuse for committing crime but too often

people end up in prison because our interventions to tackle problems like drug addiction or mental health issues don't work as well as they should.

The number of first time offenders in the system has fallen by 57 per cent since 2006, whereas our reoffending rates have stayed flat.

That means police, prison officers and probation staff see the same faces over and over again.

And it means communities end up being blighted by the same people. Any MP will tell you that one of the most frequent complaints in surgery is from law abiding residents who can't understand why such a small number of people can be allowed to wreak so much havoc in their neighbourhood.

So, just as we are giving prison and probation staff more power to reform offenders, our courts should also be able to play a frontline role in reforming criminals and getting them to quit crime for good.

Ministry of Justice research shows that community sentences are most effective when they tackle the problems that contribute to the offender's crime. Mental Health Treatment Requirements are some of our most effective measures that can really help get someone's life back on track.

But if I tell you in 2015 mental health treatment requirements accounted for fewer than 1% of all treatment commenced as part of a community sentence you will see where the problem lies.

We need a more systematic, nationally consistent approach that provides quicker and more certain access to mental health treatment for offenders who need it. That will stop them getting into a position which leads to a custodial sentence.

I am working closely with the Health Secretary who is extremely committed to this and NHS England to develop a new mental health protocol. This will ensure timely access to mental health services where the courts impose a mental health treatment requirement as part of a sentence.

I am also working with the Judiciary and the Health Secretary to make sure courts have better access to psychologists to diagnose and oversee treatment of offenders.

We have already got great work taking place in Newcastle where a dedicated mental health team produces reports for sentencers. This means that cases conclude more swiftly as fewer are adjourned because a costly expert report needs to be prepared and sentencers get better information.

And in Milton Keynes a bespoke service has dramatically increased the number of sentences involving mental health treatment. I want to see that approach adopted throughout the country.

We also need to do more to tackle the scourge of drink and drugs. 62% of prisoners who reported using drugs in the four weeks before custody reoffended in the year after release. But in 2015 drug treatment orders

accounted for only 5% of treatments attached to community sentences.

In its pioneering report, *Ambitious for Recovery*, the CSJ called for greater use of drug courts with rigid compliance. Evidence from Australia suggests those who adhere to their drug treatment order are 37 per cent less likely to offend.

Early intervention by our courts is vitally important in stopping women offenders from ending up in prison. We will be announcing our strategy for women later this year and have already announced a new director for women in custody and the community – Sonia Crozier. I believe it is the first time ever that the agency responsible for prisons and probation have a single person responsible for women across community and custody.

Family drugs and alcohol courts, like the one I visited in Maidstone, will play a vital role in this. I believe that judges are as important in reforming people as any prison or probation officer.

Working with local authorities, judges closely oversee compliance with treatment programmes. I've watched it in action – I know that it works. Over 26 weeks, those taking part have to comply with drug testing and therapy sessions to stay clean.

This sort of consistent supervision and support, overseen by one judge over a long time period, is helping women beat the addictions that can fuel crime, and making it more likely that they will be able to regain custody of their children.

Let me provide one example among many. One woman, I'll give her the name Jenny, has transformed from a drug dependent 25-year-old with a five-year-old daughter to a woman determined to do right by her child.

Without this intervention Jenny would have continued to steal to feed her habit. Jenny now has a chance at a better life. Her daughter does too.

There are people who would dismiss this as soft justice. I would call it decency and common sense because without this court ordered intervention, Jenny's path was almost certainly leading to prison.

How many more victims of crime would there be before that happened? How many more working people would have returned home to find their back window smashed and their treasured possessions gone?

And what about the children of offenders?

All the evidence shows that children whose parents end up in prison are much more likely to end up there too. Two thirds of boys separated from imprisoned parents go on to offend themselves.

Chances are that they would grow up to rob and steal to feed a habit. Generation upon generation of blighted lives and blighted communities.

Early intervention is not a 'nice to have' added extra to the justice system,

it is vital if we are ever to break the cycle of crime, punishment and more crime.

I want now to address the final point – that we need to be better at managing the prison population we have. We are making progress but there is more we can do.

Everyone, including David Blunkett who introduced them, regrets the effects of indeterminate sentences of imprisonment for public protection. It is to the credit of Ken Clarke that he abolished them.

We need to be realistic that these prisoners on these sentences have committed serious crimes and that some are dangerous people. But there are others that have long served their minimum term and are committed to proving that they are safe for release.

Of course, public protection must be the number one priority. But it seems unjust that someone sentenced in 2010 can remain in prison for years when – if sentenced today – they might have an automatic release date.

That's why it's important we tackle the backlog of these cases that are waiting for a Parole Board hearing. We are making progress. There are currently 3,683 of these prisoners in our jails. And last year we released a record 553.

But I know there is more to do. That is why I have set up a dedicated unit within the Ministry of Justice to ensure these cases are dealt with as efficiently as possible, while ensuring that people are only released when it is safe to do so.

I also want to ensure the system of recall works better, and that we remain focused on making sure that more foreign criminals are sent home every year.

In 2016 a record 5,810 foreign offenders were sent back to their countries and I want to build on that. We all agree it is desirable to have a lower prison population but it has to be for the right reasons.

Public protection is paramount which means managing the prison population in a safe and sustainable way.

I want to see the prison population go down because Her Majesty's Prison and Probation Service has got better at reforming offenders. I want to see it go down because we have got better at intervening earlier. I want to see it go down because we have got better at managing the population inside our jails.

Reductions by cap or quota, or by sweeping sentencing cuts are not a magic bullet, they are a dangerous attempt at a quick fix.

We need to do the hard work of improving community sentences, dealing with problems like drink and drugs and making our prisons work better.

This will not be fixed in weeks or months – but if we are resolute – we will see our society become safer and our prison population will reduce.