

Liberal Democrats Policy Consultation

Crime and Criminal Justice

Consultation Paper 117



Spring Conference 2014

Background

This consultation paper is presented as the first stage in the development of new Party policy in relation to policies on Crime and Criminal Justice. It does not represent agreed Party policy. It is designed to stimulate debate and discussion within the Party and outside; based on the response generated and on the deliberations of the working group a full policy paper will be drawn up and presented to Conference for debate.

The paper has been drawn up by a working group appointed by the Federal Policy Committee and co-chaired by Geoffrey Payne and Duwayne Brooks. Members of the group are prepared to speak on the paper to outside bodies and to discussion meetings organised within the Party.

Comments on the paper, and requests for speakers, should be addressed to: Rosalind Huish, Crime and Criminal Justice Working Group, Policy Unit, Liberal Democrats, 8 - 10 Great George Street, London, SW1P 3AE.

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Comments should reach us as soon as possible, and no later than Friday, 4 April 2014

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1. Introduction

1.1 The Preamble to the Party Constitution states that the Liberal Democrats exist to build and safeguard a fair, free and open society in which we seek to balance the fundamental values of liberty, equality and community and in which no-one shall be enslaved by poverty, ignorance or conformity. The prevention, detection and prosecution of crime and the sentencing and rehabilitation of offenders is one of the fundamental roles of the government and the independent judiciary.

1.2 This Policy Working Group will set out plans specifically designed to prevent crime, reduce the incidences and impact of criminals' actions and to provide and safeguard a fair and efficient criminal justice system within the framework of the section of the Preamble to our Constitution set out above.

1.3 The Group's final plans will look to build on the impressive record Liberal Democrats already have in Government, which has seen crime fall across the country. We have taken and will take evidence from a wide range of groups with specific expertise in this field. We now seek the views of the Party to help shape our final plans.

1.4 This Consultation Paper is organised around the main headings of our remit, which was set by the Federal Policy Committee.

2. Protecting Individuals and Property from Crime

2.1 The first step in protecting people from crime is to prevent crimes happening at all. To do that, there must be a proper understanding of the prevalence of crime, its location and causes. One suggestion as to how that might be done is to measure crime by reference to the harm that it causes. Such a system would allow resources to be focussed on areas where crime causes the most harm.

2.2 The creation of the National Crime Agency is a significant development in attempts to tackle serious and organised crime including border policing, economic crime, and national cybercrime.

2.3 Crime can also be prevented through effective early intervention and by empowering individuals and communities to focus on what works in their own local communities.

2.4 Recent years have also seen developments in technology and environmental design that can deter crime. Such innovations should be considered as part of attempts to prevent crime.

2.5 There is still much work to be done in tackling offending against women and those with protected characteristics under the Equality Act 2010 (such as race, sex, sexual orientation, age, and disability) on the basis of those characteristics (hate crimes). The *Equalities* consultation paper (2014) also addresses these issues.

Questions

Measuring and Recording Crime

1. *Are there drawbacks in the way in which crime is presently measured and recorded?*
2. *Would it be better to build into the crime figures an assessment of the harm that it causes?*
3. *How can the fear of crime be addressed?*

Early Community Intervention to Prevent Crime

4. *What are the most prevalent causes of crime and what intervention works most effectively to mitigate these?*
5. *What role can alternative provision schools and/or work in mainstream schools play in diverting young people from crime?*
6. *How can the community prevent crime by working in partnership with a range of agencies?*
7. *What could the government do to better support initiatives with proven success in reducing first-time youth offending?*
8. *What more can we do to safeguard individuals with protected characteristics under the Equality Act 2010 from crimes related to those characteristics?*
9. *How can education be better directed towards preventing domestic violence, and offending against those with protected characteristics on account of those characteristics? Are there other steps that could be taken?*

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10. *Are there steps that manufacturers could take to 'design out' offending in relation to their products? Is there any evidence of successes in 'designing out' crime, for example in services or infrastructure?*
11. *Are there any other steps that government could take to address domestic violence and violence against women?*

3. Developing Policing in Which Communities and Individuals Can Have Faith

3.1 Policing takes place by consent and therefore it is important that all sections of the community can have confidence in the police. There is a concern that recent controversies, such as 'Plebgate', issues over the Hillsborough investigation and the ongoing debate over 'Stop and Search' have adversely affected that confidence. 'Stop and Search' issues are also addressed in the *Equalities* consultation paper (2014).

3.2 The correct use of resources by the police can play a major part in reducing crime. 'Predictive policing' uses data to focus policing in particular areas most likely to be affected by crime at a certain point in time. Although off-the-shelf technology such as PredPol is used in the USA, such technology has had limited trials in the U.K.

3.3 Liberal Democrats are also committed to ensuring the police and the communities that they serve are able to work together to improve safety, tackle local issues, and reduce the fear of crime.

3.4 The following section of the paper sets out questions on policing.

Police Powers

12. *What place does 'Stop and Search' or 'Stop and Account' have in modern policing?*

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13. *Which areas do you feel a future Liberal Democrat government should focus on to make policing more effective?*
14. *Liberal Democrat policy is to give the IPCC stronger powers to enable it to require officers to answer questions in interview and to bring private contractors under its purview. What other steps could the IPCC play in holding the police to account?*

Police Organisation

15. *What changes can be made to police organisation make policing more cost effective?*
16. *Do we need the present number of police forces? If so, are there ways in which forces could better co-operate? Are there ways in which assets could be shared?*
17. *In order to generate savings, would replacing back-office roles currently performed by police officers with police staff, be preferable to outsourcing them completely?*
18. *What evidence is there as to the success of 'central place' service provision, where a variety of public services are provided from community hubs?*

More Effective Policing

19. *Do you think that there is a place for 'Predictive policing' in the United Kingdom? Are there potential drawbacks to such technology?*
20. *Should all officers (or all firearms officers) be required to wear body-worn video cameras at all times, with specified occasions*

when they can be turned off? Do the benefits from having continuous records of police activities outweigh the disadvantages of monitoring?

Empowering Local Communities to Oversee the Police

21. *Has the system of Police and Crime Commissioners improved police accountability? If not, is there an alternative system that would, or are there changes that could be made to the current one?*
22. *How could Neighbourhood Policing be strengthened?*
23. *Could accountability be introduced at a neighbourhood level?*
24. *Are there innovative ways in which the police can be even closer to the communities that they serve?*

International Co-operation in Policing

25. *In what ways should we co-operate further with the rest of the EU and/or the wider international community in order to better prevent crime and/or bring offenders to justice?*

4. Support for Individuals and Communities that Find Themselves Victims of Crime and Anti-social Behaviour

4.1 Liberal Democrats have always prioritised support for victims of crime. Whilst the criminal justice system has to be geared towards the conviction and sentencing of the guilty and the acquittal of the not guilty, it is imperative that victims of crime are supported throughout that process and are not made to feel left out of it. The new version of the Victims Code contains a number of measures including the right to prepare a Victim Impact Statement which can be read out in court, subject to the agreement of the judge, and the right to be informed of the availability of restorative justice.

Questions

26. *Does the Victims Code provide sufficient support and entitlements to victims of crime? What would improve victims' satisfaction with sentencing?*
27. *Should access to restorative justice be universally available for victims of crime?*
28. *How can provision for victims and witnesses with mental health problems, speech and language difficulties or learning difficulties be improved?*

29. *How can we improve the treatment of children and young people who are victims or witnesses in the criminal justice process?*
30. *How can we support victims of sex offences? Is there adequate provision of Rape Crisis Centres across the United Kingdom?*
31. *How can support be improved for targets of violence against women and particular minority groups?*
32. *How could the EU framework for protecting the rights of victims of crime across the EU be further improved?*

5. The Criminal Law

5.1 It is through the criminal law that society democratically sets out what it considers to be unacceptable behaviour. Liberal Democrats believe that there is a clear need for the state to intervene, through the criminal law, to prevent people causing harm to others.

5.2 As society changes new types of offending develop. One area of particular concern is cybercrime - a diverse range of criminal activities which includes attacks on computer systems, identity theft and the distribution of illegal images or materials. The criminal law must be able to deal with these new developments.

5.3 Previous policy motions have committed the Liberal Democrats to explore the greater use of express statutory public interest defences to avoid – for example – a chilling effect on potentially legitimate and valuable investigative journalism. Although the Leveson Inquiry Report did not propose such an extension, the recent controversy over the revelation by the media of surveillance undertaken by the National Security Agency, once again raises the issue of whether there should be explicit protection in the criminal law on the basis of the public interest.

5.4 There is also debate over whether particular criminal offences are required any longer and/or whether particular areas dealt with by the criminal law might better be dealt with by other agencies or public services.

Questions

Defending Against the Growth in Cybercrime

33. *What would an effective national strategy to combat cybercrime look like? Is the current approach to investigating and prosecuting cases involving cybercrime effective?*
34. *What steps could be taken to 'design out' cybercrime, such as better security by default?*
35. *Should there be a greater role for financial institutions to support the prosecution of fraud and cybercrime?*

Public Interest Defences

36. *Should the law be changed to allow for an express public interest defence to be available for those – such as investigative journalists – who break the law to expose wrong-doing, and if so what offences should be covered and what should be the nature of such a defence?*

Criminal Offences

37. *Are there any criminal offences that are no longer relevant and/or needed? Are there criminal offences presently in force that deal with behaviour that might be better dealt with in other ways or by other public services?*
38. *Liberal Democrat policy is to establish an independent panel to consider whether the Misuse of Drugs Act 1971 is fit for purpose. That panel would also look at international examples, such as the Portuguese model whereby drug users are not prosecuted but*

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are referred instead to panels that devise appropriate education, health and/or social interventions. Is that still the correct policy? Is the Misuse of Drugs Act 1971 fit for purpose? If not, what reforms are required?

39. *Does the criminal justice system provide an adequate response to issues of alcohol misuse? Should other public services, such as the Health Service deal primarily with these issues? Is there anything further that could be done?*
40. *Does the criminal justice system deal adequately with defendants with mental health problems, disabilities speech and language difficulties or learning difficulties? If not, what reforms are required?*

6. A Criminal Justice System that Offers Fair Access to Justice, and is Driven to Innovate and Improve

6.1 The Criminal Justice System is an important front-line public service. It continues to suffer from serious inefficiencies although it is seeking to address those through, for example, digital working.

6.2 The Legal Aid system has traditionally provided those accused of criminal offences with advice and representation but it has gone through a series of cuts with more to follow. At the same time, there is a move to allow police to prosecute low-level cases in the lower courts.

6.3 It is a matter of concern that over 25% of the UK prison population is formed of individuals from black and ethnic minority (BAME) backgrounds; people from those communities are also more likely to be sentenced to immediate custody for indictable offences than those from a white British background.

6.4 There are also particular challenges associated with women offenders. The Coalition Government's recent response the Justice Select Committee set out plans to develop a custodial estate that better facilitates closeness to home, improved resettlement opportunities and the maintenance of family links.

6.5 The following questions are focussed on ways in which an efficient system can be created and the quality of representation not diminished.

Questions

The Prosecution

41. *Are there reforms that could be made to the Crown Prosecution Service to make it more efficient?*
42. *Should the police play a role in prosecuting offences in the lower courts?*

The Court Service

43. *How can the Criminal Justice system be made more efficient through, for example, further digital working?*
44. *Is there a scope to conduct more hearings on the telephone or through video conferencing?*
45. *Have the contracts for the transportation of prisoners to court and the provision of interpreters at court been a success? If not, what lessons can be learned for the future?*
46. *How could reforms to criminal law and the criminal justice system strengthen civil liberties?*
47. *Is the current youth justice system effective? What could be done to improve it?*
48. *What measures should be introduced within the EU to guarantee basic defence rights and the right to a fair trial across Europe?*

Criminal Legal Aid

49. *How can the quality of Legal Aid representation be placed on a secure footing for the future?*
50. *Is there scope to take cases out of the scope of Legal Aid and have them funded instead through by other means (for example, Company Directors insurance to fund the cost of fraud cases)*
51. *Are there other ways in which further money could be injected into the Legal Aid system from sources other than the taxpayer?*

Women and Minority Groups

52. *Why are minority groups over-represented in the criminal justice system?*
53. *What evidence is there of programmes that have succeeded in reducing the over-representation of minority groups in prison? How can Liberal Democrats continue to fight the inequality and prejudice that often causes this?*
54. *What can be done to build on the Coalition's programme for reviewing the women's secure estate and what wider changes can we make to improve outcomes for women in the criminal justice system?*

7. Sentencing and Rehabilitation

7.1 A major way to prevent crime is to stop re-offending. Liberal Democrats have always placed effective rehabilitation at the heart of sentencing as it is the best means of ensuring that another generation of victims of crime is not created.

7.2 The prison population has risen steadily for decades and it now stands at over 80,000. This is not only a concern due to the cost to the state, but because prison is an ineffective form of rehabilitation. Around half those released from prison reoffend within a year according to the Ministry of Justice. This presents a major challenge for policy on sentencing and rehabilitation.

7.3 Young people in custody are a particular challenge. Many re-offend; 73% of them within a year. Under the Coalition Government the Youth Justice Board has seen some success in reducing the number of young offenders in custody.

Questions

Sentences that Strike a Balance Between Punishment, Restitution, Public Safety, and Rehabilitation

55. *How could public understanding of and engagement in, sentencing be improved?*
56. *Is sentencing for different types of offence consistent? Should sentencing be based on a framework that places sentences relative to those for other crimes?*
57. *Should sentencers receive regular reports on those that they have sentenced? Is there any downside to that policy?*

58. *Do the role and the powers of the Sentencing Council need to be broadened?*

Focusing the Criminal Justice System as a Whole on Reducing Reoffending and Rehabilitation

59. *How could a holistic approach to rehabilitation, which encompasses employability skills, housing, health issues, community and family links best be delivered?*
60. *Which Community Sentences are most effective in reducing reoffending?*
61. *Is there sufficient flexibility in the operation of Community Sentences or is there scope to give those administering the sentences more discretion in the requirements imposed?*
62. *Are the changes that are currently being made to the Probation Service under 'Transforming Rehabilitation' positive ones? Is there anything further that can be done to improve the Probation Service?*
63. *What changes should be made to the running of prisons to further promote education, training and rehabilitation?*
64. *Are there changes that could be made to custodial sentences that might allow offenders to retain employment, access to their families and other things that are proven to aid rehabilitation? Can we learn anything about what works from abroad?*
65. *Are other sentences, such as fines and discharges being used appropriately?*

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66. *Is the prison population too high?*
67. *What more can be done to improve education and employment opportunities for young people in the criminal justice system?*
68. *How can we build on the successes of the Youth Justice Board in reducing the number of young people in custody?*

This Consultation Paper is designed to stimulate debate about Crime and Criminal Justice and suggestions for distinctly Liberal Democrat policy in this area. The Working Group has identified key questions it would like to discuss but we also welcome thoughts and suggestions on any other important issues not covered in this paper.