

CJI Stakeholder Conference, 18 January 2006

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1. Thanks to the Minister for his support, and thanks to you all for coming.
2. This speech has three main purposes:
 - a. it enables me to report on the past year, and draw out a few lessons and observations from our inspection work;
 - b. it is the occasion for me to consult you about CJI's plans for the coming year and the following two years, which we shall be doing in more detail in this afternoon's session; and finally
 - c. I shall say a few words to introduce the theme of 'the role of the voluntary and community sector in the criminal justice system', to which we shall be devoting the second half of this morning.

The past year

3. This has been the first full year of operation of CJI. In the past year, as I said in the article on the front page of the Spec, we have been patiently 'building the wall' with solid, workmanlike reports on a wide range of topics. Look at the reports we have published. They have all, I think we could say, been well received. If I could pick out one for special mention, I was particularly pleased about the report on the Office of the Police Ombudsman. I believe that – together with the Northern Ireland Affairs Committee's Report - it may have helped to reduce some of the controversy surrounding that Office and to get it accepted as a normal part of the criminal justice system. But all the reports have been useful. Almost all of them have included agreed Action Plans, and I am confident that they will not just be reports that lie on the shelf but will actually lead to improvements in the various services.

4. Thanks, as ever, to the other Inspectorates who have worked with us on these inspections, especially HMI Prisons, on whom we have called three times in the past year, and HMI Constabulary. HMIs of Court Administration, Probation and the Crown Prosecution Service also gave us valuable help with various inspections – particularly the review of Avoidable Delay. It is proposed that with effect from April 2007 the criminal justice inspectorates in England and Wales will be unified as a single Inspectorate of Justice and Community Safety, but I see no reason to suppose that that need change our very productive relationships with them. Other changes that may have implications for our partner Inspectorates are the setting up of the National Policing Improvement Agency and the proposed reduction in the number of police forces in England and Wales. All these developments could impact upon CJI indirectly, and we shall need to keep a close eye on them.

Development of CJI

5. CJI has developed significantly as an organisation in the past year. In June Paul Mageean joined us as the fifth and final member of the Inspector team. The first priority always has to be the survival of the organisation – it is a precondition for everything else – so we devoted a major part of the Inspectorate’s awayday in September to thinking about the possible risks to the organisation and how we could manage them. CJI now has a strong team, but it has had one significant weakness since the loss of Marie Smyth last April. Marie was the first person I recruited, and she was an enormous help to me when I was making initial contacts and creating the identity of CJI. CJI’s loss has been the University of Wales’s gain. We are currently recruiting a new Communications Officer to fill at least part of the gap Marie left. CJI is not looking for a very high public profile, but it needs to be able to get its messages out effectively – clearly, accurately and to the right people, and it needs a facility for listening to views from the community through an outreach programme.

6. Even allowing for the fact that we have not had a communications officer for a while, I am slightly surprised that the media have not cottoned on that CJI is a good source of stories. This is something we could perhaps discuss this afternoon: what do you think would be the right public profile for CJI? In the meantime I take comfort from three things:

- a. no-one has said we are lazy;
- b. no one has said we are extravagant; and
- c. no-one has even suggested that CJI has any political bias.

And long may that be so.

Lessons learnt

7. What are the lessons from the first year? For the team of new Inspectors it has been a year of rapid learning about the criminal justice system in Northern Ireland. We have been learning in all our inspections, learning wherever we go, but particularly through wide-ranging studies like the thematic reviews of ‘Victims and Witnesses’, ‘Targets and Performance Management’ and ‘Avoidable Delay’, which have taken us in to all the principal agencies in a fairly comprehensive way. We have been learning about the challenges facing the organisations, their strengths and weaknesses, but above all about the people who work in the organisations at all levels: what do they think about their job, and what makes them tick? We are beginning to get a feel for the changing character of the different organisations and a sense of their potential, which is in every case tremendous. The PSNI, for example, still faces huge challenges, but can anyone doubt that it is a radically different organisation now from five years ago? The Public Prosecution Service is having virtually to re-invent itself, and to do so while under continuing intense pressure. I take my hat off to those concerned.

8. CJI is constantly developing its approach to inspection, too. The methodology promulgated in the *Handbook for Inspectors* is holding up pretty well, but we need constantly to reflect on it and adapt it to the needs of the agencies. I have been struck by the way some of the agencies – especially the PSNI and the Prisons – are struggling

with huge numbers of recommendations from a variety of sources. Inspectorates and supervisory bodies need to co-ordinate their efforts better, but we can do more than that. We need to think, when we make recommendations, how they will fit in to existing improvement plans and how in practice the agency will be able to incorporate them into its planning cycle.

Responding to criticisms

9. CJI is open to feedback and criticisms from the agencies inspected. Feedback on the inspections themselves has been very positive, and any criticism has been helpful and good-natured. There is some polite dissent, however. Some of our clients do not like the informal and (as they would say) anecdotal style of our reports. They go further and question whether our approach is properly scientific. Our use of focus groups has come in for particular criticism. Senior colleagues do not doubt that we record the views expressed in such groups accurately, but doubt whether they are representative or reliable. And they have a point, of course. The fact that a junior member of staff says something does not necessarily mean that it is true.

10. Nevertheless I would be reluctant to change CJI's approach. The vision for the Inspectorate was that it should be a means of opening up the CJS and making it more accountable, and the style that seems to me suited to that is the style of good, responsible, investigative journalism, not a bureaucratic or legal style. It is often worth exposing views even if they are not terribly well founded, just to show people who have given their time in interviews that they have been listened to. And, after all, what counts as evidence? Not all evidence has to be given equal weight in arriving at overall conclusions, but it may still have some validity. I do not rule out using anecdotal evidence, but CJI will only use an anecdote or a direct quotation where it encapsulates a body of testimony from a range of witnesses. It is a matter of judgement for the Inspectorate how it uses such evidence responsibly.

11. Does an Inspectorate have to prove its conclusions beyond reasonable doubt? I question whether that burden of proof is appropriate, when what we are engaged in is not an indictment of the agency but a shared enterprise of improvement. An inspection is not an inquest. It is a dialogue and a co-operative exercise. Having said that, it is not meant to be cosy, and there should always be some tension in the process. Those of you who have experience of other inspectorates will recognise that the deal you get from CJI is about as fair and sympathetic as it comes. You could do much worse!

12. If inspection is going to be a partnership, CJI needs responsiveness from the agencies in return. I well understand that commenting on a draft report or preparing an Action Plan in response to it may not always be the top priority for the busy officials at the top of the criminal justice agencies. But CJI needs to have reasonable expectations as a basis on which to plan. It is not easy to make sure that an inspection programme proceeds on time. There are all sorts of things that can blow it off course. I would appeal to Heads of Agencies to do their best to respond to reports in a reasonable timescale. This year we were hit by long delays on three of our reports, which meant that the finalisation of the reports slipped into a period when Inspectors were already

heavily committed on other inspections. There are lessons for us too about how we plan our work and build in contingencies.

Observations on the agencies

13. I have already spoken about the challenges faced by the agencies. But how are they actually performing, on the basis of our first year's observations? I thought it might liven up this occasion if I were to introduce some annual awards for the 'best run agency of the year' – the CJI Oscars, if you like. Then I thought better of it, because it would completely take over the Stakeholder Conference, would generate untold envy and ill-will, and worst of all would lead to unendurable, embarrassing acceptance speeches.

Constraints on improvement

14. When you are looking at the performance of the agencies in Northern Ireland, two constraints particularly strike you: the blight cast by political uncertainty and the prevalence of rigidities in staff management. To improve performance you have to be able to hold managers to account, and before you can do that, you have got to give them a framework or an environment to manage in. Managers will seize any excuse they can to explain away poor performance. You have to strip away the 'alibis' by maximising clarity and certainty.

15. Political uncertainty is going to be with us for a little longer, by the look of it, and there is not much we mere officials can do about that. The best that agencies can do is to make their plans on explicit working assumptions, and then be prepared to adjust those plans – again, clearly and explicitly – as the assumptions change. There is enormous uncertainty facing all parts of the public sector at present as we move into the implementation of the Review of Public Administration. It is particularly important at this time that the public should be re-assured that, whatever is going on at the political and structural level, the public services themselves are continuing to focus on programmes of continuous improvement, which will be of value in whatever structure we end up with. I see it as a task for inspectorates like CJI to provide some of that re-assurance.

16. The other problem the agencies face is chronic management rigidities. There is a 'custom and practice' stranglehold on employment practices, which goes far beyond the strict requirements of equal opportunities and employment law. There is a quickness of recourse to grievance procedures in Northern Ireland, of which management stands in dread. It does not have to be like that. It ought to be possible to meet the requirements of the law with a lot less agonising, and get on with the task of managing. This surely is a subject for a high-level review at some stage, though probably not a topic for CJI, because it goes much wider than the criminal justice system.

17. The other side of the 'grievance culture', however, is the behaviour that gives rise to grievances. We must not close our eyes to that. There is work to be done in many organisations to bring the style of management up to modern standards and expectations.

Current work: Targets and Avoidable Delay

18. As you will see from page 3 of the Spec, there is a fair amount of work in progress, in addition to the reports we have already published. The thematic on 'Target setting and Performance Management' may not sound like the most attention-grabbing report, but it will provide a very interesting perspective on the way the agencies manage their business at the highest level. Even more important will be the major report on 'Avoidable Delay', which James Corrigan is now finalising. I cannot anticipate the findings, but I can assure you that it will be the most thorough examination to date of this crucial aspect of the poor performance of the criminal justice system in Northern Ireland.

19. There are a number of factors which contribute to the low level of public confidence in the criminal justice system, and delay is certainly one of them. The high-profile crimes of violence, which generate massive media coverage, have a disproportionate influence on public opinion, but also very important for confidence are the volume crimes which people all too often fail to report, unless they need to for insurance purposes. CJI picked up in the Scientific Support inspection that there is a case for shifting the balance a little towards making a greater effort to improve clearance rates for volume crime, and it is a theme to which we shall want to return in future inspection work.

20. A feature of the 'Delay' thematic has been the co-operation CJI has received from the judiciary – co-operation which has been, in my experience, without precedent in an inspectorate review of this kind. The boundary line between the judiciary and the executive needs to be safeguarded with the utmost care, so that there can be no suspicion that the judges are in any sense part of the government machine. But an independent judiciary can nevertheless make a most valuable contribution to the analysis of issues in the criminal justice system. My experience in another jurisdiction was that judges would tend to stand back from the administrative process, and would often not be very interested in it. A real strength in Northern Ireland is the positive attitude being shown by the judiciary, with an active interest in the management of the business of justice and a willingness to engage. I find that very encouraging.

Looking to the future

21. I am not planning to go through the proposed programme for next year and the following years in detail, item by item. There will be a separate session on the work programme this afternoon, which Brendan will lead. But there are a few particular observations which I wanted to make about it.

22. Firstly, the plan for 2006-07 is not complete, because it omits a couple of substantial pieces of work in relation to the PSNI. We have not pencilled those in yet, because we have a meeting pending with the Chairman of the Policing Board later this month to discuss the programme. Since the Policing Board is the body with statutory responsibility for holding the PSNI to account it is clearly essential that it should buy in

to CJI's relevant inspection plans. The Policing Board is going to be an increasingly important stakeholder in CJI. But there is an additional reason for this special consultation. The PSNI is unique in the number of organisations by which it is inspected, audited, supervised and overseen, and the Policing Board has rightly taken a lead in trying to ensure that these activities are coherent and that the total burden of inspection is manageable. CJI welcomes that initiative and will be glad to play its part by co-operating with any of the other inspecting or supervising organisations to that end.

23. Secondly, you will note that CJI will begin its inspection of the new Public Prosecution Service with some work on disclosure followed by an across-the-board baseline inspection in the latter part of next year (2006-07). That will be a major exercise, in which CJI will be assisted by HM Crown Prosecution Service Inspectorate.

24. Thirdly, let me draw attention to the proposed thematic on hate crime. The composition of the population of Northern Ireland is changing rapidly, and there has been an exponential growth in crime motivated by race or sexual orientation. It is easy for policy makers to lag behind the reality that is being experienced first by the communities themselves and by the front-line services that serve them. It is crucially important that all the agencies should be pro-active and anticipate the problems, not wait for them to become critical.

25. Lastly, it seems likely, subject to agreement of the guidelines which the Minister has published for consultation, that CJI will begin inspection of the Community Based Restorative Justice schemes in the course of the year. Since this is a controversial area, and questions have been raised about whether it is appropriate for CJI to take on this role, I want to make CJI's position absolutely clear.

26. The Criminal Justice Review of 2000 concluded that community based restorative justice schemes could have a useful part to play in dealing with low-level crime, provided they met the strict criteria specified by the Review. The criteria were that community based restorative justice schemes should:

- a. Receive referrals from a statutory criminal justice agency, rather than from within the community;
- b. Be accredited by, and subject to standards laid down by, the Government in respect of how they deal with criminal activity;
- c. Be subject to regular inspection by the independent Criminal Justice Inspectorate;
- d. Have no role in determining the guilt or innocence of alleged offenders.

CJI has therefore always known that it might be called upon to perform the role of providing independent inspection of the schemes, and it is prepared for it.

27. CJI will be talking with the schemes and with the police and other statutory agencies during the consultation period to make detailed plans for what will be involved if Ministers decide to proceed. Following the consultation period CJI will be ready to

publish its proposed inspection framework, drawing on its standard inspection approach and applying it to the guidelines when they are eventually finalised.

28. CJI would be taking on this task in the belief that the schemes have the potential to succeed in meeting the criteria; and CJI would, as it always does, inspect in a supportive manner. But if any scheme fails to meet the criteria Inspectors will not hesitate to say so. CJI will report publicly the results of its inspections.

29. It has been suggested that because some schemes are, it is alleged, questionable in the way they operate at present, CJI should not put its reputation at risk by being associated with them in any way. But it is for the Minister, not for CJI, to decide whether or not, and if so on what terms, the schemes are to be supported. It is CJI's duty to assist the Minister by providing an inspection service if he requests us to do so. CJI is a statutory organisation. We are independent as regards the way in which we conduct inspections and the terms in which we report, but not necessarily in terms of our agenda. The Secretary of State can give us tasks to do. I do not believe that, if CJI sticks to its principles and reports faithfully, without fear or favour, its reputation will be in any way compromised by responding to a legitimate request from Ministers.

30. In any case, the reputation of CJI is not the main issue here. The main issue is that this initiative, if a way forward can be found, presents a challenge and an opportunity to the communities concerned. If people want their community-based organisations to be entrusted with a role in the criminal justice system they will need to accept that the rules of the game are going to have to change. Giving responsibility to community-based organisations is not compatible with a continuation of paramilitary patterns of behaviour. Violence and threats of violence are not acceptable as ways of the communities regulating themselves. Restorative justice schemes will have to be prepared to report and deal with offences through appropriate relationships with the statutory agencies, including the police. If we are going to involve the communities in the administration of justice and community safety all concerned will need to show that they are ready to observe modern, democratic standards of legality and human rights. That is the real prize both for the criminal justice system and for the communities it serves.

31. Turning to the longer term, you will see that CJI has some ambitious ideas for the future work programme. We are doing lots: I do not hear any critic suggesting that CJI is being lazy and should be doing more. There is no danger of CJI running out of topics to inspect in the near future. Some inspections, such as those of places of custody, will always need to be repeated at regular intervals. In the longer term, however, I am conscious that the criminal justice system in Northern Ireland is a small field of work and that there could be a danger that Inspectors might find themselves coming back to the same subjects – and the same hard-pressed officials - at uncomfortably frequent intervals. It only needs a small amount of leaven to make the loaf rise. So I want to keep CJI small and unquestionably good value for money. I do not want to grow the Inspectorate if I can help it. If we are asked to do additional tasks (such as inspecting the CBRJ schemes) we shall try to tackle them by drawing on our pool of able part-time helpers and by postponing less urgent work, rather than by expanding the core team.

At the same time I want to think more widely about other areas into which CJI might usefully move in the longer term.

32. 2005 has been a good year for Northern Ireland. The 1-0 result against England cast any other developments into the shade, and I have a sense that the general tone of political debate is mellowing a bit all the time, even though there is no agreement yet about resumed devolution. CJI is essentially designed to work with a devolved Assembly, and Inspectors very much look forward to that happening. But the fact that the Assembly has been suspended has not, of course, stopped Assembly Members taking a keen interest in the work of CJI, and I am pleased that CJI has built up contacts with a number of them in all the main parties.

The voluntary and community sector

33. Some of the most interesting developments in the criminal justice system in Northern Ireland are happening in the voluntary and community sector, which is why we are making that the special focus of this year's conference. The Charities Bill, which is currently before Parliament, is designed to signal a new importance for the voluntary and community sector. We have two admirable speakers to lead in to this session, and I do not want to pre-empt them. We set out some of the questions that arise about the role of the voluntary and community sector and the relationship between it and its sponsors in government in the invitation to the conference, and they are reproduced on page 2 of the Spec. Let me just briefly start the ball rolling.

34. In CJI's inspections to date we have come across tremendously important work being done by the voluntary and community sector. I think of NIACRO's excellent work with visitors to Magilligan prison, of the work of Victim Support Northern Ireland, which figured so largely in the Victims and Witnesses thematic, and of many other organisations, such as the children's charities, which have featured in other reports. Now, I am all for involving voluntary and community organisations in the criminal justice system. They bring, in different mixtures, expertise and dedication on the one hand and grass-roots involvement on the other. Government contracts out lots of vital public services nowadays, and there is no reason why voluntary and community organisations should not be eligible as contractors in the criminal justice system.

35. But is contracting with a local charity just the same as contracting with Group 4 or Maybin? And is the structure of charities ideally suited to managing these contractual relationships? What are the issues and problems that arise as a result, and what are the lessons about how to make the relationships work as productively as they can? CJI decided that this was an important enough subject to justify a thematic review, and it is that review, which will be led by Tom McGonigle, that we are launching today.

36. We have two excellent speakers to lead off the discussion of this subject: first, Conal Devitt, who as Head of the Community Safety Unit, has a wide responsibility for engaging with the voluntary and community sector, and secondly, after coffee, Olwen Lyner, the highly experienced Chief Executive of NIACRO.