



LORD CHIEF JUSTICE  
OF ENGLAND AND WALES

**Lord Chief Justice, Lord Phillips of Worth Matravers**

**Youth Justice Speech**

**Royal Society of Edinburgh's 'Alternatives to Prison' conference,  
Edinburgh**

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I have been Chief Justice for just over a year. Before that, for 8 years, I had had no contact with the criminal justice system. I was Master of the Rolls for 5 years, and spent 3 years chairing an enquiry into BSE. Since becoming Chief Justice, catching up on developments in the field of criminal law has been a steep learning curve. Over the past two days it has been apparent that most of you have a much greater experience of the criminal justice system than I have. But before turning to my topic of youth justice, I would like to make some general observations to put my comments in context.

Our criminal justice system is and always has been primarily about punishment. Punishment is about inflicting unpleasant sanctions on those who have offended. The basic thinking about punishment is that individuals have freedom of choice: those who commit crimes exercise their freedom of choice in a manner that is wicked and deserve to be made to suffer for it. And, so the thinking goes, punishment has the added benefit that the fear of it will deter others from committing crimes and deter those who have suffered punishment from re-offending.

The most serious punishment that we inflict today is imprisonment. It is true that this is a relatively recent form of punishment. Up to the end of the 18<sup>th</sup> century, you imprisoned people until you could try and punish them. And what were the punishments? Capital punishment. The death penalty-for almost every offence. That certainly prevented re-offending. The death penalty would be commuted if you had benefit of the clergy. What to? Flogging with a cat o' nine tails. For lesser offences, the stocks or the ducking stool. The death penalty was replaced by transportation. Not just removing criminals from society: when they got to America or Australia they were in effect slaves. They were subjected to arduous unpaid work.

Now, some here plainly do not believe in the theory of punishment. Many here do not believe that punishment acts as a deterrent. But the general public does believe in punishment. And so long as this is the case we have to have a criminal justice system which inflicts punishment. If we did not, victims and relatives of victims would take the law into their own hands. The result would be mayhem. And if the criminal justice system is to work, there must be public confidence that the punishment administered is adequate and appropriate. This means that those who

do not believe in punishment, and those who do not believe that prison is the most satisfactory form of punishment, have limited room for manoeuvre. And those who have emphasised the importance of persuading the public, and politicians who are keen to respond to wishes of the public, of the benefits of alternatives to prison, have been right to do so.

As Chief Justice it is my job to administer the criminal law. And in doing so I have to have regard to the need to keep public confidence in the criminal justice system. But, as is well-known, I am a firm believer in alternatives to custody in appropriate cases. And I have been strongly in sympathy with most of what I have heard at this conference.

Now, if alternatives to custody are attractive in the case of adults-if attacking the causes of crime is important in the case of adults, how much more so is this true in the case of young persons?

I have, at various times of my life in the law, taken particular interest in the young. When I started at the Bar I used to go in the evening to work in a youth club in Battersea of which another young man who was starting at the Bar was the Youth Club leader. He was called Anthony Steen and is now MP for Totnes and has been a member of Parliament since 1974, taking a particular interest in youth affairs. Battersea was then a tough and run down area of London and I learned for the first time just how important and influential the work of volunteers could be in helping young people to keep out of trouble. I have in mind not my own very modest contribution, but that of Anthony Steen and, in particular, the devotion of a local resident called Captain Sherwood, retired from the army and a very conservative figure but who did an immense amount for the Club and made his flat available as our operational headquarters for meetings after the Club had closed.

I am ashamed to say that I gave up working at the Club when I became busy at the Bar, and then I got married to a widow who had two small children, to which we added two more of our own, and so over the next twenty years I was, of course particularly involved in bringing up this small group of people.

I had the good fortune to go to a particularly enlightened Public School, Bryanston in Dorset, and that's the origin of my love for that County. In 1981 I was made a Governor and for the last 25 years I have been Chairman of the Governors. That school, like other Public Schools, is a privileged environment. At Bryanston, and we are no longer unusual in this, we do not attempt to put a particular stamp on children, but to help them to develop their own individuality. There is a Greek Theatre, built by the pupils, which has over the lintel of its doorway a stoic maxim 'gnothi seauton' or 'know yourself'. When pupils leave the school they know themselves and respect themselves and, by and large, care about others.

These are qualities that are manifestly absent from most people who end up in custody. As has been made quite clear at this conference, the prison population is largely made up of people who have lost their way. Some have serious personality defects to the extent that the popular press does not hesitate to describe them as monsters. Almost all of them have a history of youth offending. There is a wealth of research which identifies a series of risk factors which show up time and time again in the backgrounds of those who go on to become well-acquainted with our criminal justice system, and very often with our prisons. Factors typically present are: being male; coming from a deprived and/or disrupted family in which one or more members are already themselves engaged in offending behaviour; poor parenting, abusive parenting or indeed no parenting at all; hyperactivity; a low

attention span; truancy; exclusion from school; and mixing with offending peers. Once one is aware of this background, it becomes easier to understand why it is that barely a third of young offenders have basic literacy and numeracy skills and 63% are unemployed at the time of their arrest.

In most cases the problems that lead to youth offending start very early in life. Government is aware of this, and since the publication in 1996 of the Audit Commission's hugely influential report, "*Misspent Youth*", greater resources have been concentrated on trying to deal with the problem early. Programmes such as Surestart have focused on family health care, parenting support, early education, and childcare. The programmes are founded on official recognition that the longer that goes by in an individual case where a child is not receiving a proper upbringing, the more difficult it is to set that child back on the right path. Early intervention providing this kind of support is of course crucial, but not, I would argue, sufficient in addressing the root causes of offending behaviour.

Since I have become Chief Justice I have learned of the amazing number of different initiatives that exist in the United Kingdom that, in one way or another, are seeking to do the same thing. That thing is to help young people to develop self-respect. To learn, often for the first time, that there are people who think that they are worth something, to learn the satisfaction of achievement, so that they come to value themselves. What I want to do in this talk is first to consider the extent of the problem of youth offending and then to refer to some of these initiatives, almost all of which depend heavily on volunteers. They provide what, in a recent article, Libby Purves described as a '*gleam of light in the ill-tempered gloom*'.

And gloomy is the picture often portrayed. Shrill voices of the media lead us to believe that the behaviour of today's young people is worse than any that has gone before. Headlines, reporting a recent study by the Institute for Public Policy Research, called the "ASBO generation" of British teenagers the worst-behaved in Europe. There is a real danger that such labelling will engender corresponding behaviour.

The demonisation of this "ASBO generation" continues a rich tradition of pessimism about the state of the nation's youth. Geoffrey Pearson urges a historical perspective in our thinking about youth crime. He argues, I quote, "*what is wrong with government and media responses to youth crime and anti-social behaviour is its emphasis on the unprecedented nature of the problem, while losing its grip on the actual social and historical background*". We are, he says, suffering from "*profound historical amnesia*".

Submitting evidence to the Howard Association on the subject of juvenile offenders in 1898, Mr Heathcote, a Stipendiary Magistrate, bemoaned that, "*the child of today is coarser, more vulgar, less refined than his parents were*". That same year the word "hooligan" made its way into our language, and then, as now, one knew a hooligan by his dress. The uniform dress code then was peaked caps, neck scarves, bell-bottom "narrow-go-wide" trousers cut tight at the knee, heavy leather belts with designs worked in metal studs, and a hair style which was cropped close to the scalp with a "donkey fringe" hanging over the forehead—a dress code to strike fear into the heart of every upstanding citizen.

The fact that alarm at the state of the nation's youth is no new phenomenon should not, however, be cause for complacency. The years 1992-1997 saw a 40% rise in juvenile detention. Although that population has since remained relatively stable, we, and I am talking about England and Wales, still consistently incarcerate about

3000 who are under 18 every year. Last year, 210,000 children went through the criminal justice system, up from 185,000 in the mid-1990s. Although there is evidence that the overall incidents of youth crime have not in fact increased over this period, there are worrying trends in relation to the use of weapons by young offenders, just as is the case in adult crime.

Further, and bearing in mind the risk factors I outlined earlier, the following figures which appear in a Turning Point report in 2003 do not bode well for the future:

- Nearly 4 million children are living in homes below the poverty threshold;
- Children in poor households are 3 times more likely to have mental ill health;
- Nearly 1.2 million people -1 in 10- of all under 18s have mental health problems serious enough to require professional help;
- 2 million children in the UK are affected by their parents' alcohol problems;
- Up to 300,000 children in England and Wales have one or both parents' with serious drug problems;
- There are nearly 60,000 children in local authority care.

The report by the Institute for Public Policy Research summed up the position in this way:

*“Commentators fear that British youth is on the verge of mental breakdown, at risk from anti-social behaviour, self-harm, drug and alcohol abuse. These concerns are, to an extent, borne out.”*

The report also highlighted more subtle problems facing many young people. It found that young people in Britain are very often left to their own devices. “Hanging out with mates” is what teenagers do in the UK. The report found that, in contrast to their European counterparts, by spending much more time with peers than with adults, our teenagers miss out on the development of “soft skills”, which are at least as important as traditional academic qualifications. Young men particularly struggle to cope in a world in which high levels of socialisation are expected, further diminishing their employment prospects and increasing the likelihood of disassociation.

It is hardly surprising that many young people lack self-respect and self-esteem, if, for whatever reason, neither family nor school has equipped them with the resources necessary to make the transition to adulthood.

It is here that the initiatives that I am now going to mention can make a difference. We have already heard about some: Airborne; Kids' Company. I am going to mention some others. I apologise if some are already familiar to you.

As the Surestart programme recognises, early intervention can never be too early. In the voluntary sector, Chance UK provides individual mentoring to primary school children in North and East London who have already been identified as being at risk of anti-social or criminal behaviour in the future. 78% of the children referred to Chance UK come from single parent families, 58% receive free school meals, 32% have already faced exclusion from school, and of those families prepared to disclose the information, nearly 20% of the children have a family member with addiction problems. The actual figure is likely to be far higher. The

great majority of these children are below the age of criminal capacity, but the warning signs are clearly visible. The aim of the programme is for volunteer mentors to work in weekly individual sessions with their child for a year. The presence of the mentor introduces the child to an adult role model who is likely to provide him with a perspective on life to which he would not ordinarily be exposed. The objectives of the programme are to channel the children's disruptive energy into projects which encourage a sense of achievement and to foster a sense of self-worth. At the end of the year, the children attend a graduation ceremony in which they receive certificates outlining the goals they have achieved. For many of them, this will be the first time they have received any recognition of any kind of the fact that they are worth something. Exit questionnaires and interviews with parents, mentors, teachers and the children at the end of the Chance UK programme revealed progress in four key areas. First, in behaviour, 89% showed improved behaviour and 45% were no longer classified as having a behavioural difficulty. Second, there was a marked improvement in the child's relationships, both with peers and with parents. Third, all concerned believed that the children had increased confidence at the end of the year. Finally, the mentoring programme had a positive knock-on effect on academic achievement. Chance UK has now been operating for over a decade, and research is being conducted into how those who have been through the programme have fared in later life. I expect the results to be significant. The Audit Commission estimated in 2004 that if effective early intervention had been provided for just one in ten young offenders in custody, annual savings in excess of £100 million could have been made.

The principle of early prevention also underpins the Youth Inclusion Programmes. These deliver targeted intervention in relation to the "top 50" 13-16 year olds in some of the most deprived areas in the country. The "top 50" are those, identified by reference to the risk factors, who are most at risk of offending, young people who you can almost guarantee are going to get into trouble, and the interventions are aimed at avoiding this by addressing the particular risk factors that have been identified. Interventions take a number of forms, ranging from mentoring and health and drugs education, to programmes related to the arts, culture and the media. 30% of all interventions in the first two years of the programme involved participation in sport, because it is recognised that "*group activities are often the best means of initially engaging the most disaffected young people with a voluntary programme.*" The importance of sport is a recurrent theme.

The results over the first three years of the programmes were impressive, Of those of the "top 50" who were actively engaged with a programme, a 65% reduction in arrest rates was achieved. Of those who had already offended before joining a programme, 73% were arrested on fewer occasions. Most encouragingly, of those who were at risk but had not previously offended, 74% did not go on to offend following engagement. Exclusions from school appeared to have been significantly reduced.

Between 2002 and 2004, an assessment was made of an additional element of 12 of the schemes-the Community Merit Award Programme. The CMA programme caused a furore in the press when it was first introduced. There was criticism of the fact that incentives, in the form of mobile top-up cards and record tokens, were to be given to the young people who took part. In fact, the objective of the programme was to engage young people in activities that improved the local neighbourhood, for the benefit of the local community; thereby improving the self-respect and sense of community responsibility among participants; and reducing nuisance and criminal damage in their local area. A range of practical projects was undertaken, including community landscaping, maintenance of play and sports areas,

decoration of community property and graffiti removal. A list well-known to those of us familiar to unpaid work.

The results were striking. Most of the projects succeeded in engaging more than 18 of the "top 50". The following passage appeared in the independent evaluation of the CMA scheme:

*"Almost without exception, young people have been able to describe, in a positive way, how they feel they are now regarded in the areas where they live-and also that they have an enhanced view of themselves. CMA activities appear to be particularly effective in increasing the self-confidence of the teenagers involved...A sense of having accomplished something worthwhile is even more pronounced among those participants who have gained other qualifications in the course of their CMA activities".*

Further, of those who admitted to having been in trouble with the police prior to participation, and they were the majority, 65% said that they were no longer getting into trouble, while 21% said that they were doing so less often. Only 10% said that the CMA scheme had had no effect on their offending behaviour.

Finally, in relation to the controversial reward element of the scheme it is worth noting the following remarks of one project manager:

*"Although the intention of community merit is to reward young people for their involvement, participants have often had to be reminded of this and in reality very little reward has been claimed, other than the satisfaction of a job well done."*

The Positive Futures scheme, managed by Crime Concern, is a national programme which uses sport as a catalyst to help participants take steps toward education and employment opportunities. The projects, of which there are over 100 in some of the poorest parts of the UK, involve offering activities such as football, canoeing, climbing and abseiling, and are being extended to include the creative arts and drama. According to MORI, between 2002 and 2005, 110,000 young people had taken part in Positive Futures activities. A survey of project partners found that 90% believed that Positive Futures had led to improved availability of sports facilities, 76% that anti-social behaviour had fallen and 68% that local crime had fallen as a result of the programmes in the area.

Let me give two illustrations of the Positive Futures programmes. First, the Barking and Dagenham Positive Futures programme began in the summer of 2000. It is led by the Leyton Orient Community Sports Programme. At the first session just 12 teenagers turned up, taking part in informal coaching and 5-a-side football matches. But the perseverance of the programme manager was such that soon 80 to 90 teenagers were regular attenders. A team calling themselves the Gascoigne Estate Crew played their first 11-a-side game against Barking and Dagenham police station. The police won 2-1. The programme manager stated that the match was: *"a really good eye opener. It broke down a lot of barriers. Our kids saw them out of uniform and a little more human. And it showed the police that the kids can be disciplined, and have got a bit more to them."*

The police estimate that crime on the estate has fallen some 70% since the project started.

In Salford, there is on one of the most run-down estates a sign which reads, "*Sod the dog, beware of the kids*". On this estate, the Positive Futures programme works intensively with about 30 young people at a time.

The programme has access to a vast array of sports-from rugby league with the Salford Reds to cycling at the Manchester velodrome. Sport is used as a means of engaging with and gaining the trust of the young people, and educational work or sessions about drugs and alcohol often take place at the beginning or end of the sports session.

The programme manager sets out his philosophy as to the value of sport in its own right. He says:

*"Sport is a very good metaphor. It's the whole of life writ small, if you like, and helps develop those personal and social skills they need elsewhere. What we're doing through sport is getting the young person to set their own goals, have a go and achieve something. Then they can start to apply that process to other areas of life. It allows them to see progress, to know that they're not always going to fail. Sport adds benefits to their lives. It's a bonus if they also end up joining a sports club for pleasure."*

This emphasis on the value of sport in developing social skills brings me on to a charity with which I am involved, Endeavour Training. The charity's philosophy is that personal and social skills can be developed through challenging outdoor activities, such as climbing, abseiling, canoeing and orienteering. The programmes have a retention rate of between 75 and 100%. Those participating in these activities have the opportunity to gain what is often their first qualification, in the form of Youth Achievement Awards. Finally, through a Volunteer Development Project, they are encouraged to take part in other community projects as volunteers. Endeavour runs these programmes in Yorkshire, Derbyshire, Humberside and the Midlands. It was one of the first charities to appreciate the possibilities of turning round disadvantaged young people by involving them in outdoor activities, and it has just celebrated its 50<sup>th</sup> birthday.

I turn to "Leaps & Bounds", which was a 20 month project devised by the charity *Youth at Risk* that combined personal development and life skills coaching with a demanding, but initially surprising, ballet regime. This astonishing project involved young people in and around Birmingham, and culminated in a performance of Sir Kenneth Macmillan's *Romeo and Juliet* at the Birmingham Hippodrome in September of this year, in which all the small roles and one or two of the major roles were played by these children. The process was televised from beginning to end by Channel 4, under the name "Ballet Hoo!" The inspiration of Youth at Risk is Neil Wragg, who is attending this conference.

So what are the benefits of projects such as these? I believe they are four-fold. First, they successfully engage young people in a way that more traditional education and training projects do not. The secret of initiatives such as Ballet Hoo! is their ability to draw young people in, to motivate them and generate a level of commitment which they would not have dreamt they could achieve. Many of the projects do incorporate an educational element or goal of obtaining a qualification, but this is of secondary importance.

Second, these programmes focus not so much on the obvious indicators of social disadvantage, the lack of qualifications and so on, but rather on the key underlying barriers facing these young people. Programmes such as Endeavour saw the value of what are now termed "soft skills" decades before the IPPR report identified that

our teenagers will fall behind if they lack non-cognitive skills. Traditionally there has been a tendency to overlook these skills in favour of concentrating investment on schemes which claim to deliver “employability”. But such a strategy overlooks first, the level of disassociation with which I have already dealt, and second, the chaos that is the hallmark of the lives of many of the most disadvantaged young people in our society. In the context of such chaos, I believe that one cannot hope to achieve “employability” without first addressing the lack of what in some respects are not “soft” skills at all. They are often the most difficult to develop, but once attained, will be the core from which the rest will follow. They are, in essence, the ability to form and maintain relationships, to develop respect for others, and above all, for oneself.

The third benefit is that these programmes serve to educate the public as to what can be achieved by the kinds of young people who are so often demonised in the media, and about whom we often know so little. The football match against police officers, young people working in the community, the opera and theatre productions-all help to counter that demonisation and to challenge stereotypes. Not only do the young people feel more positively regarded; it may be the first time that they are in fact positively regarded by the wider society.

Finally, there is an economic case to be made for these programmes. Between 2002 and 2004, the Birmingham Safer Neighbourhoods Programme, established to enhance community engagement and the quality of life in some of the City’s most deprived wards, achieved estimated savings of £6.4 million against an investment of £600,000. This was as a result of falls in youth crime of 29% and overall crime of 14%. A Home Office Early Intervention Programmes Assessment in 2004 estimated the benefit of diverting a potential offender before he commits an offence as approximately £160,000 over the first five years. The same assessment estimated that another 200 Youth Inclusion Projects would result in a net benefit to the Treasury of £41.4 million.

I want to draw my remarks to a close by making a few observations about the future. These projects do not of course, offer a complete solution. The problems faced by these young people are too complex for that to be the case. But my hope is that the value of well-run initiatives aimed at personal development, be they partnerships between government and the volunteers, or wholly voluntary, may be fully realised. For this to happen, I believe three factors are crucial.

The first is, of course, funding. Most organisations have to direct an immense amount of effort to fund-raising. In October I took part in a 50 mile canoe race in raising money for Endeavour. But most also rely on public funding-and there are many competing for a slice of the same cake. I believe we’ve got to persuade the government to increase the size of the cake. And the only way of doing that is to demonstrate that there is a business case for each scheme. The Treasury, as you’ve heard, is deeply concerned by the huge demands of building and running prisons. Diverting one young person from prison saves £40,000 or more a year. Unfortunately so many of the schemes bring their results in the long-term. Quick fixes are a rarity. But politicians look for results overnight. It is vital that we devote some of our precious resources to the research necessary to show that what we are doing works. Camila told me that she is being assisted by the LSE and a leading firm of accountants to do this in respect of Kids’ Company.

The second factor is linked to the first and relates to the complexity of the jigsaw puzzle made up of all those who are trying to help young people. The Youth Justice Board does its best to set and monitor a national framework, but I believe there is



still further work to be done in national and local co-ordination to see that there are not gaps in the provision of services for young people and to avoid overlap between providers.

Finally, I return to the importance of publicity. It is vital that success stories are championed and these programmes that we have all been talking about receive their due credit. This is where those of you attending this conference come in. The message is a positive one-what we are doing works. No one here needs to be persuaded of that. But we have got to spread the gospel.