

THE ROLE OF THE MAGISTRATE'S COURT

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Part 1

Thank you very much, alright. Well good morning, everybody. In spite of what John has just said, I'm not going to spend a lot of time talking to you about the family work. That is a specialist area of the Magistrate's Court. As John says it deals with non-criminal matters involving the State and children. So for example in the case of family break-up it would involve making parental contact orders where the parents can't agree on how much contact time each parent should have with the child after divorce for example. It also deals with parental responsibility. That means fathers who are refusing to pay for the maintenance of their children. Then finally it deals with any kind of case involving the State and the child. Notably when the State wishes to take the child from the care of the parents and put it in the care of somebody else or in the care of the local authority, the government, and also when the child is to be adopted by another family. But that is another specialist area. What we are mainly concerned with today is the Criminal Court and that is what I am going to spend most of my time talking about this morning.

So this is a court - the Magistrates Court deal only with offences, criminal offences. So we're not dealing for example with disputes between neighbours. For example if you have an argument with your neighbour about the noise that is being made, or about the height of his hedge which is preventing the light from getting into your garden - all these kinds of things are dealt with in the Civil Court, but here we are dealing with the Criminal Court so it's crimes against the State as defined by the legal code. So I just wanted to make that clear from the beginning.

So within that criminal justice system, first of all we are dealing with England and Wales here. There is a slightly different system that operates in Scotland - so we're talking about England and Wales only. Within that justice system there are two main courts. One is the Crown Court which deals with very serious offences. So those would be the ones that probably you've probably all seen on television where there's a judge and a jury of 12 people. Those are only for serious offences. We are dealing with the lesser offences and those are dealt with in the courts that I'm going to talk to you about today, and that is the Magistrate's Court.

Right, so I've put this slide up because the emphasis here is on the local community. So it's local justice for local people by local people. What that means is that in each of the areas, and England and Wales divided into various areas. In each area there will be a local court, and if you commit a crime within that area you will be tried in that court, and the people who sit on that court and try you will be also people from the local area. So in Reading that means people who live and work in and around Reading and the surrounding district O.K.

So I just want to begin by telling you a little bit about the past, and how this system developed because it is quite a unique and unusual system that we have in this country. So as you can see it's something that goes way back into history. The date, the first date that we are going to give you is 1195. Now at that time there was a king on the throne, Richard 1 and he spent a lot of time out of the country, he was actually fighting the Crusades, and he only spent six months of his reign in England. So for a lot of the time he was out of the country, he obviously needed people to administer Justice in his absence. He appointed these people called 'Keepers of the King's Peace. In those days they were knights, prominent members of the nobility, and he left the administration of justice in their hands while he was away.

So we move quickly forward. 1361 is important because here we have for the first time the term 'Justice of the Peace', and that is a term which is still used today to refer to a magistrate. So often it's abbreviated to the initials J.P. You may see this after somebody's name what that means is that they are a Justice of the Peace, in other words, it's another term for a magistrate. Moving very swiftly forward because I don't want to spend too much time on English history here. In 1906, the appointment system was challenged. What this means is the way that magistrates were appointed and the kind of people who were appointed was changed. So, up until that time, magistrates were simply appointed by usually the Lord Lieutenant of the county, the King's representative. And there was a qualification which said that in order to be a magistrate, you had to own a certain amount of property. So, what this meant in effect was that all magistrates were drawn from a particular section of society, in other words, the landowning, wealthier section of society.

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In 1906, there was a liberal government which was in power. And that system was challenged and the way that magistrates were appointed was changed. So that you no longer needed to own property to be a magistrate. The emphasis was much more on drawing from all the various classes and professions and interests in society. And there were committees set up, which would oversee how magistrates were appointed. So, at the moment, what you do is you apply. There is a committee that oversees your application. There is a series of interviews as they would be for any other job. So, it's a much more transparent and equitable system than operated in the past.

1920 is important because the first woman was appointed then. So as you can see, we survived for nine hundreds years or so eight hundreds years without any women. Now there are roughly equal numbers of men and women who sit as magistrates so that's a big change. 1979 there was a Justice of the Peace Act which is simply an Act of Parliament which codified the various areas - the sessional areas, the administrative areas in which justice was administered. It also set out the duties of the magistrate - how the magistrate should be appointed and so on and so forth. 2000 is a recent date and an important one in English Law because on that date the European Convention on Human Rights was incorporated into English Law in the form of the Human Rights Act. That is a convention that was drawn up really in the wake of the second World War to try to combat the human rights abuses that went on, particularly during the Second World War and

up till that time, up to 2000, that Act was applicable in Europe but in order, if you had any challenge to the Human Rights Act, you felt that your human rights were being violated in any way you had to go to the European Court in Strasbourg to have your case heard. That is no longer the case, it is now incorporated into English Law, and all English courts have to be aware of that, and have to make judgements in the light of that Act. I'm sure that if you read your newspapers you will see that constantly now there are challenges to the English legal system, in the light of the Human Rights Act and the courts then have to determine whether the Law should be changed in order to conform with this convention.

Right, so that's a very quick view of the past. I want to move now to the present, and what the situation is today. Right, so first of all the number of magistrates is very large, 30,000 in England and Wales. In Reading there are about 125 of us who sit in the Reading Courts. 46 % are women, as I say that's a change that came about fairly recently and that's something that compares quite startlingly with other aspects, other areas of the criminal justice system. For example the High Court judges and the Law Lords. There are very, very few women represented whereas in the Magistrates Court we have a very healthy representation.

Right, the next point is something that often surprises people who are familiar with other justice systems. We are all unpaid, so this is a voluntary job, and people do it because they are interested in the community, because they wish to take part in the community and to offer their services to the community. So I'll speak a little bit about that in a moment. So there are no formal entry requirements. To be a magistrate you do not need to have a legal degree, legal training, you don't need to have a degree of any kind. You don't have to have 'A' levels or GCSE's, you need no formal entry requirements whatsoever. What you do need is the respect of your peers. So usually, as I say, you will go before an Advisory Committee and they will assess whether they think you are suitable or not and you need a clear judgement and the ability not to be prejudiced. So when we are appointed magistrates we take an oath which says that we will not, that we will act without fear of favour. So that means we will not be afraid of doing something because we think that people might object, or there might be unpleasant consequences, nor do we favour people because we think that they are respectable people and unlikely to have done this crime or whatever. We try as far as possible, as far as is humanly possible to act without prejudice. Of course, we all, everybody has prejudices, we are all aware of that, but we do our level best to set aside any prejudices and to act without fear and favour.

Right, so if we have no legal training how then do we operate this system? Well first of all, very important the next case, the next point there, we have a legal advisor in Court who is a trained lawyer and he, or she will give us any advice that we need if we are not sure about the Law.

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Then the next point - we have regular training before we, when we are appointed, before we start to sit in Court we have a lot of training. Days, weekends away and even after we're sitting, we have ongoing training throughout our career as a magistrate because the Law is constantly changing. The government is constantly bringing in new legislation, we need to be

upgraded and kept abreast of what is going on and we also have constant appraisals. So we have people sitting at the back, surveying our performance and telling us if they think we are doing a, a bad job then we need to be retrained – so that is an on-going process.

We sit in 3's, there are 3 of us. If you come into Court you will see 3 magistrates sitting and the reason for that well, is probably perfectly obvious – does anybody want to hazard a guess as to why 3 as opposed to 2 or 4 for example. Any brilliant ideas on that, it's fairly simple really. We often have to decide a verdict and if we have 4 people for example we might have 2 in favour of 'guilty', 2 in favour of 'not guilty' we would be there all day. With 3 we are always assured of reaching a verdict, a majority verdict.

A minimum of 26 sittings a year, an average of 40 in effect we sit once a week. I sit usually every Monday. Apart from the family cases which are on a different day. And then magistrates deal with 97% of all criminal cases. Now this is I think, a very encouraging statistic because as I said to you before only the very serious crimes go to the Crown Court where they are heard by a judge and jury. So what that means is that 97% of the crime that is committed in this country, is not of the very serious kind. So that's heartening really.

So what kind of things do we deal with? I'll explain those in a moment. We have a slide that takes you through that. But basically what will go up to the Crown Court will be, for example, offences of murder, of rape, of arson, of armed robbery, cases involving drug dealing, that kind of thing. So all the other minor things will go to the Magistrates Court. There is a band in the middle, of crimes that are called 'either way offences' or those offences, in those cases, the defendant has the choice of whether the case will be heard in the Magistrates Court or the Crown Court. In the majority of cases they would choose the Magistrates Court because it's a lot faster. The Crown Court involves picking 12 people to sit on the jury. It involves a long wait and a lot of people would rather just have the case dealt with as quickly as possible.

Right, so if you were to come to the Magistrates Court and you are, the court is open and you are welcome to attend if you would like to. Does anyone know where the court is in Reading? No, do you know where the Hexagon is and the, what's it called now, what used to be called the Butts Centre, the Broad Street Mall. Near the police Station. The police station is a red brick building next to the Hexagon and next to that there is another red brick building, equally ugly, which is the Magistrates Court. As I say, anybody is welcome to attend that court and see what goes on, apart from the Youth Court and the Family Court which are closed courts and I'll speak about that in one moment. So if you come into the Court what will you see?

This is the door here where you come in and right at the top then you will see the magistrates sitting on, at a long table which is called the Bench, it's slightly raised. In front we have the legal adviser, who is as I say the person who gives us any kind of legal advice, and who runs the Court. Then on either side we have the Dock, which is where the defendant stands or sits, and on the other side the witness box, and then there is another long table at which the lawyers sit. On the one side the lawyers for the prosecution and on the other the lawyers for the defence. Then we have an area where the probation officers sit – I'll speak about

that again in a little while – the Press, because as I say these are open courts, any member of the public can go in and any journalist can go and report the proceedings except in cases that involve children. Then there is the usher who simply comes and calls the witnesses on, administers the oath, takes the defendants to the Dock and so on and at the back there, there is the public seating for members of the public.

So that's the set-up and this is an impression of what it looks like. So here we have, in fact the Dock is on the other side here where the defendant is, and the witness is here. The probation service is here, here is the usher, and here are the lawyers. One of them is on his speech, making a speech and the other is consulting his papers, and magistrates are sitting at the top, and here is the legal advisor. So, as I say if you would like to go and see what goes on you are very welcome to do so. You can have a word with me at the end if you like.

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Right, so what kind of things do we actually deal with in the court? Right, so the adult court is the main court of the day, and that deals with all offenders over the age of 18. And this is the day to day bread and butter business of the court. Theft, criminal damage burglary, traffic, lots and lots of traffic. I sometimes wonder you know, what magistrates used to do in the days before the motor car was invented because they seem to be a lot of offences. Minor offences dealing with the motor car, for example speeding offences that are beyond the remit of simply an ordinary ticket. If you're travelling just a few miles an hour over the legal limit then probably you will simply receive a ticket in the post, you pay your fine, and that's the end of it. But if you're travelling at say, 65 miles an hour when the legal limit is 30 then probably you will not be issued with a ticket you'll be told to come to Court. There are various possibilities then, you may have your license taken away. If your driving is really unacceptable then you could even be imprisoned. But that would have to come to the Court.

So those are the kinds of things that we are dealing with. The Youth Court deals with exactly the same range of offences but as the name implies, that is specifically for offenders who are below the age of 18. The set-up there is very slightly different, in that the whole atmosphere is less formal than in the adult court. I should say that in the adult court we do not wear the wig and the gowns and so on. In fact we wear exactly what I am wearing today. So it's formal dress but none of the various special uniforms that people wear in the Crown Court or perhaps in other parts of the world.

The Family Court I have touched on very briefly is as I say, that is not a criminal court, we're not dealing with criminal offences. Fine enforcement – there is a special court that deals with people who have not paid their fines. One of the penalties that we use very often. One of the sentences that we issue is to ask people, to order people to pay a fine and, astonishingly, there are some people who do not pay that fine when they have been told to, and if they don't then eventually they are brought back to a Fines Court which will find out why they haven't paid, and do something about it. Ultimately if they still refuse to pay, there is the power to send those people to prison. But I have to say that that is not

used often. Sometimes we use the option of what is called a 'suspended prison sentence'. So we say either you pay or you will go to prison and that has quite a salutary effect. Very often people will suddenly, miraculously find that they can pay after all, to avoid going to prison.

Licensing, this is about to change. Any premises that serve alcohol or that deals with gambling of any kind have to have a license in this country. Until very recently, until last month in fact, that was dealt with by the magistrates. But that has now been removed from the magistrates and placed in the hands of the local authority. So we are no longer dealing with that.

Right, so one more, one further thing I should say actually, which is not mentioned on that is we also deal with questions of bail. So anybody who is arrested has the right, before their case is heard to be released and to live their normal life until their case comes to Court. However in certain cases there is a concern about allowing them to do that. So for example in the case of somebody who has committed a murder, it is unlikely that the police will be happy for them to go back to their own home and carry on with their own job while they are waiting for the case to come to trial. So that case will come to the Magistrates Court and we must make the decision. Do we allow that person bail, in other words to be free, until the case comes to trial or do we remand them in custody. Put them in prison until the case comes to trial. That is a decision that we must make based on the risk that we think is involved. It is by no means always the case that we require somebody to stay in custody if the crime is severe enough. We must have a particular reason for remanding them in custody because there is a right to be free unless you think there will be a danger either to the community or the danger that the person might run away and not come back again. That is a decision that is also made by the Magistrates. Right, I'm going to deal first of all then with what happens if you plead guilty.

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So if you commit an offence the police will charge, will arrest you and take you to the police station and the police, together with the Crown Prosecution Service, who are the lawyers who act for the government, will decide whether to charge you with the offence. If they charge you with the offence then you will be brought to the Magistrate's Court. Now in the case where the defendant pleads guilty what this means, in effect, is that the defendant is holding up his hand and saying 'Yes, I did this and I do not challenge anything that the Prosecution is saying. So in those circumstances the prosecution lawyer will present the facts of the case. They will tell us what happened, when it happened, the circumstances under which it happened, the effects of the offence, and all those are matters that we listen to and that we take into consideration.

We then hear of any previous convictions, so is this the first time that the defendant has committed an offence, or is it the latest in a long string of offences, some of which may be very recent. Obviously those two situations, the difference between them is very crucial and makes an impact on what our sentence eventually will be. The defendant then asks for mitigation, that's either the defendant or the lawyer acting for the defendant. So mitigation means that they accept that they did commit the offence, but they would like to court to consider

various other factors. So it can be related to the offence itself. For example they may say – at the time I was very upset, I'd had a row with my girlfriend, then I stormed out, I was in a terrible temper and I kicked the shop window without thinking because I lost my temper. But I didn't mean to do it and I'm very sorry and I'm willing to pay compensation to the shop owner.

For example, we might also hear about the defendant and his particular background. So we might hear, for example, that this is somebody who has an intractable drug habit, he's been in and out of rehabilitation trying to kick the habit for a long time. The habit was caused by a, an abusive childhood, very poor educational record. All these things do not detract from the guilt of the defendant, but they are things which we listen to and we give weight to, according to our judgement. So that's what we mean by mitigation.

Then here, on this side, we have the Pre- Sentence Report. If we are going to, if we are considering sending the defendant to prison, or if we are considering placing him under the supervision of the Probation Service, and I'll speak about that in a moment, then we may require a pre-sentence report. That is a report that a probation officer will do for us by interviewing the defendant. So he will interview the defendant, find out more about the background of this person. The possible impact that custody or prison might have on that person and then the report will be brought back to the Bench usually in 3 weeks time. We read the report and then we decide on our sentence. And then finally either after the pre-sentence report or without the Pre-Sentence Report, depending on the seriousness of the offence we decide on the sentence. So in that capacity we are acting as the judge in a Crown Court. We are deciding what penalty the defendant should have to suffer for the offence.

Right, now if the defendant pleads 'not guilty' there's a slightly different function. So here we are – obviously if the defendant pleads 'not guilty' they are disputing the facts as presented by the prosecution or the police. They are saying 'no, that is not correct I did not do this'. So in those circumstances we need to have a trial to decide which side is right is the defendant guilty or not guilty. So in that case we have the Prosecution who present their case. So they will tell us the facts as they see it, and they will also present any witnesses that bear out their version of the facts. They could be police officers, they could be bystanders, they could be people who are affected by the offence, but they will all be prosecution witnesses. So, they will come into court, the Prosecution will question them, and after each questioning by the Prosecution the Defence will get up. The Defence lawyer will stand, and he then has the opportunity to question the defence – the prosecution witnesses on behalf of the Defence. So he will be trying to discredit the witnesses and trying to introduce doubt and to question them very assiduously and fiercely to find out whether their version is correct or not.

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After that case, the prosecution case is concluded, the situation is reversed and the defence then has their opportunity to present the facts as they see them, and also to present any witnesses that they might wish to bring.

Then the magistrates, having heard all that, we do not take part in any of the questioning we simply listen. We can ask questions to clarify if we're not very sure what's been said. But we are not allowed to introduce any questions that the lawyers have not introduced already. We simply then retire, we go into a room at the back of the court, away from the courtroom, and we discuss. What are we doing to do - is the defendant guilty or not guilty. So in that capacity we are acting as the jury in a Crown Court, because it's our decision which will determine the guilt or innocence of the defendant.

The defendant waits, and we then have the next stage which is that we make our decision. And one impact of the European Convention on Human Rights is that now, when we make our decision, we must give our reasons for finding the defendant guilty or not guilty. In the past we simply said 'Guilty' or 'Not Guilty'. Now we must say why we find the defendant guilty or not guilty and that makes the whole process much more transparent. The defendant is able to see what factors we considered, what factors we found believable, what factors we didn't find believable and so on. That is the difference from the Crown Court. At the moment in the Crown Court, although this is at the moment under discussion, the jury simply returns a verdict and they do not have to say how they reached that verdict. In the Magistrate's Court we are obliged to give our reasons.

Then really the process mirrors what we have just had before. If the defendant is not guilty obviously he's free to go, that's the end of the matter, there is no mention on his criminal record whatsoever of this trial. If he is guilty then we go through the same process that we had earlier. We hear of the previous convictions, we hear the mitigation, we may require a Pre-Sentence Report and finally we come up with our sentence.

Right - how then do we actually decide on the guilt of a defendant, the guilt or innocence of a defendant. This is an important point because in England and Wales, in the whole of the U.K. all defendants are presumed innocent until proved guilty. So that's a very important point. What this means then, is that the onus is on the prosecution to prove the case. It is not for the defendant to prove his innocence - alright? That's a very important point. When making our decision we must consider only the facts and evidence presented in the trial. So we must not, for example, go on anything that we know already about the defendant. If it happens, as it sometimes does, that the defendant is somebody who is known to one of the magistrates on the Bench, immediately that magistrate will retire from the case and be replaced by somebody who does not know the defendant because we must simply judge the evidence that is before us. This can sometimes be frustrating if you feel that, if you have a strong feeling that the defendant is actually guilty, but the evidence is not there we must however give that the benefit of the doubt to the defendant. So the next point there - the guilt must be considered to be beyond all reasonable doubt. This does not mean all doubt. Obviously in most offences there will be some element of doubt, because it's very rare that somebody was actually there taking notes at the time, or videoing it for you and saying 'look here, this is what happened'. There will be some doubt but the doubt must be reasonable so any very, very unlikely scenario would not figure in our deliberations. So if there is any doubt, or lack of proof then the defendant must be given the benefit of the doubt and found not guilty. So if the Prosecution does not come up with sufficient evidence, then we must find the defendant not guilty and that's an important safeguard.

The Criminal Justice Bill that has just been brought into Parliament is actually changing that very slightly, in that it is now open to the Prosecution to apply for previous convictions to be heard in a trial before the verdict. And these are cases where they feel that the behaviour is part of a pattern of behaviour and therefore should be heard by the magistrates. It's, for example it might be in cases of sexual offences where the defendant has already been convicted of a whole string of sexual offences and the Prosecution may come to the Magistrates and say 'We feel that in this particular case it is important that there should be previous convictions heard about. But that is a very new thing, it's very controversial and we're only just beginning to operate that system and we have to see where that leads.

Part 7

Right, we're now going to move on to sentence. How do we, if we decide the defendant is guilty, how do we decide what sentence? Well, first of all we have something called an *entry point*. That means we have a book that lists all the offences and we have the sentence that is prescribed, by parliament, for a case of average seriousness. So that is where we begin our deliberations on the level of average seriousness.

We then look at the various circumstances of this particular offence, so we look at the seriousness of this particular offence. Is it more serious than average, or is it less serious than average? So for example, if we're dealing with let's say a very common offence, shoplifting, somebody who steals from a shop. Is this more serious in that, for example the defendant was part of a gang who have been operating in the area. It's an organised offence, these people are going through the town centre operating together, stealing large quantities, sometimes they've even come especially from abroad or maybe from another part of Britain to do this, to an area where they won't be known. That would make it more serious, obviously.

Is this an offence which has been committed using children? Sometimes shoplifters like to take along a child because that deflects peoples' attention. People think, oh it's unlikely; a woman with a child is unlikely to shoplift so people might bring a child along deliberately, and involving a child makes it more serious. Is this an offence which has been committed by the employee of the shop? So it's someone who has been entrusted with the handling of money in the shop, but has breached that trust by taking money from the till or by giving money refunds, illegal refunds to their friends and so on, that would make it more serious.

On the other hand is this something where there's, it's an impulse. Somebody who in a moment, who is emotionally disturbed in some way, has simply taken something and immediately realises they are wrong and offers to pay compensation. Is it somebody who is stealing because they are short of money, who needs it for food perhaps? Is it somebody who, whose in an intractable drug habit and therefore needs treatment. There is obviously no point in sentencing someone severely for theft if they have a drugs habit and they are simply unable

to pay that money, and the problem of their drugs habit would remain un-addressed and continuing.

So, we consider the seriousness of the offence and then we consider the seriousness of the offender and I have spoken a bit about that already. So, then we decide the sentence and these various options I am now going to take you through. What are our options in sentencing? Well the first, we're beginning with the least serious at the beginning an absolute discharge. This is where the defendant is guilty, we agree that he is guilty, he agrees that he is guilty but the Court imposes no penalty. That's rare but it does happen. For example we once dealt with an elderly lady whose car was parked on the road without a tax disc and without insurance. Now that is an offence and she pleaded guilty to it. But the circumstances were that her husband had recently died. He had been the person who always dealt with the matters of tax and insurance. She didn't drive, she had no knowledge of that, so she didn't realise that she was committing an offence. She had committed the offence, so there was no question of saying that she was not guilty but we decided that in those circumstances we were not going to impose any penalty. So we gave her an absolute discharge.

The next, then, is the conditional discharge. In these circumstances we do not apply any penalty at that moment but we put the defendant on a warning. We say if you do not commit any offences, for example for another 12 months or 18 months, then there will be no penalty. But if you commit any other offences during those 12 months or 18 months, or whatever, then you will be punished for this offence and also for any new offence that you have committed and that can often be a very powerful weapon. We use it very often in cases where there are, perhaps, disputes between neighbours for example where one has verbally abused the other, or there has been criminal damage of somebody else's property. We can say for the moment we are not going to do anything but you must behave yourself and if you don't, then there will be consequences. In those circumstances that can be a very powerful incentive for people to stop their offending behaviour.

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The next is a fine and we very often impose that for all the range of offences really and together with that we can impose compensation. So if somebody for example has kicked down your door or smashed your window the Court may order that person to pay for replacement of the door and window. We are allowed to impose up to £5,000 in fines that I think is going to go up to £10,000.

Then finally we have this whole area of probation. Probation officers are social workers who deal with offenders, with criminal offenders. The first option, probation order, is really aimed at rehabilitating people. So for example a lot of our offenders do have problems with drugs, with education, with homelessness, with family problems, and all those things are things that the probation officer will try to address. So we place them under supervision. They must go and see the Probation Officer maybe once a week at the beginning, tailing off to once a month towards the end. We can determine how long, it may be a year, 18 months, two years and the idea is to try to bring about some kind of rehabilitation so this person's offending behaviour will be stopped. As I say

there's no point in imposing a punishment if that person is in the grip of severe problems, which will only make him liable to commit the offence again. So the idea is to try and break the cycle to solve the problems and to do something about it. Obviously sometimes it's successful, sometimes it's not. But it's always worth a try.

Community Service Order is also something the probation officers would supervise and that's simply a punishment which is carried out in the community. We order the offender to carry out unpaid work in the community to compensate the community for his offence. So it could be painting an old person's home, it could be weeding the garden of a nursing home. If any of you have been to Dinton Pastures, the park near Reading, a lot of the paths there were laid by offenders working for the Community Service under a Community Service Order.

Combination Order, this again has changed in that now instead of these two separate orders Probation Order and Community Service, we have an order which combines the whole range of sentencing. So we could ask people to be supervised, and to do some community work, and to attend drugs awareness workshop. Also to attend an alcohol awareness workshop for example if somebody has been convicted of drinking, and driving at the same time, then there are various programmes that are available to try to explain to them the dangers of that and to get them to be aware of how much they may or may not drink before they get into a car, so all those things.

And the last one a curfew order, is to order the person to stay at home for certain hours and they are tagged with an electronic device which is usually worn around the ankle. It looks like a very large wrist-watch, and that is fixed onto the ankle and in the offenders house there is then a machine which will sound an alarm if the offender goes out of the house, out of a certain radius, within the hours that the Court has specified. When that alarm goes off it sounds in a control centre and an officer will come round immediately to arrest the person or to find out what's going on. So that's a Curfew Order and the Court determines when that Curfew Order will be in operation. Will it be at night, will it be at the weekends? If it's somebody who is in the habit of going out on a Saturday night and creating mayhem, in the city centre, we may say 'you must be indoors every Saturday night between the hours of 9 in the evening or 7 in the evening and 7 in the morning, or whatever.

Finally the ultimate sanction is of course custody that means prison. So as you see we go through a lot of stages before we come to the point of prison. We do unfortunately have to send people to prison at some stage and the magistrates are constantly being criticised for sending people to prison too readily. All I can say is that within my experience we very rarely send people to prison, and when we do so, we only do it because there is no other alternative. We have tried all these other alternatives and they've all failed, the person is carrying on committing the offence and for the sake of the community we have to do something about it and at that point we send them to custody. How long for? - at the moment six months is our maximum sentence except if there are two offences, in which case we are allowed to send them for 12 months for those offences.

Part 9

Right, I've taken you nearly up to the time so I think that's really the basics of the system. Does anybody have any questions or any observations, any thing you would like to know about? Any observations, any thing you would like to know about? Yes, at the back *Inaudible question*. Yes there is an automatic right of appeal if the defendant. Did everybody hear that? If the offender is not satisfied that the sentence is correct, do they have the right of appeal? They do have the right of appeal and that is heard at the Crown Court and it's heard before a judge sitting with two magistrates. So the whole case will be reviewed then, and the judge will, with the two magistrates decide is the sentence correct or not. I'm happy to say that in the vast majority of cases the sentence is upheld. Sometimes, of course, the judge may say 'No it's not serious enough and slap on a few more, a couple of thousand pounds or a few more weeks in prison or whatever. But there is that right of appeal, yes.

Inaudible question. Yes, we are given expenses so, for example, you are allowed to apply for the expenses that you would incur in your normal employment and also for travel costs. But we don't make any money out of it, it's simply to compensate us for what we would lose. A lot of companies now do like to have an employee serving as a magistrate. First of all it fits in very well with the government's emphasis on voluntary work. This is, I think, the national year of the volunteer or something like that anyway. That's been on the lips of the government very much, the involvement in community work. Also it does create, it sharpens skills to do with judgement and so on, and creates useful links in the community. So a lot of employers are happy to release the magistrates for one day a week and it doesn't have to be one day a week, you can say 'well on such and such a day I can't sit, so its negotiable. O.K.

Yes? *Inaudible question*. No, the Crown Court is dealt with purely by legally trained people. The judge will be a legally trained person. The jury, of course, will not be legally trained. They will be simply 12 members of the public that are chosen at random. But the idea behind having this non-legally trained magistracy, is that you get people from all walks of life. So for example, on a Monday we have a dentist, we have a fireman, we have somebody who owns a jewellery shop, we have an air hostess, we have a trade union official, we have someone who works for the council. We have teachers and so on. So the whole idea is that you should get, not somebody who is drawn from one particular section of society, but a whole range and that's why they welcome applications from all different kinds of people. All different backgrounds, races, educational qualifications in order to make it truly local justice. O.K.

Yes. Mitigation is simply trying to present factors that would explain and bring down the severity of the offence. So for example as I say in the case of the shoplifter, mitigation might be that this was somebody who needed money for drugs, or needed money to feed their children, who was in a desperate financial situation, and that would make the offence - while they would still be guilty of the offence, but we might take a different view of an offender whose circumstances were like that from an offender who, for example, was, as I say, part of a gang moving through the town stealing purely for profit. So that's what's meant by mitigation.

Ok. *Unintelligible question.* Three people sit on every occasion. I'm just saying that those, the people that I told you about, the fireman and the dentist and so on, they're all part, they are members of the Magistrates Bench in Reading and 3 of us sit on every occasion.