



Baroness Deech
House of Lords
London SW1A 0PW

15 June 2010

Dear Baroness Deech,

CHILDREN: CRIMINAL RESPONSIBILITY

I wanted to write to you following your question on Thursday, 10 June about the age of criminal responsibility. You made some recommendations for reform that I agreed to take back to the Ministry of Justice to consider [*Hansard reference June 10 Age of Criminal Responsibility Column 739- 741*].

You felt it inappropriate to see 10-year olds in court and to see very small children being examined as witnesses in the Crown Court, giving reference to the recent case involving an 8 year old girl witness, being subject to cross questioning in adult courts. You also asked for the age of criminal responsibility to be raised to 14, for custodial sentences not to be used for young people and for young people to be prevented from entering the criminal system in the first place.

I thought it would be helpful to clarify the next steps in regard to what the Government is now considering.

First of all I would like to address the recent Old Bailey case involving two young defendants and the 8 year old witness. The trial judge will, once sentencing has taken place next month, send his views about the procedure to the Lord Chief Justice, who will consider his remarks and, in accordance with normal practices, decide whether to bring the issue to the attention of Ministers. The trial judge feels that everything should be done to improve procedures where possible by looking at any lessons learnt.

I also wanted to take the opportunity to clarify some information about children being cross-examined in an open court. Child witnesses usually give their evidence with the assistance of special measures, although this is a matter for the court to determine. The legislation presumes that a child's evidence in chief will be given by way of a video recorded statement which is played to the jury as their main evidence and that the child is cross-examined from outside the courtroom using a live link. The aim is to assist the child to give their best evidence by minimising the number of times they are questioned. In addition witnesses are able to give evidence with the assistance of intermediary or other communication aids as well as clearing the public gallery in sex offence cases and those involving intimidation.

Turning to your points on the numbers of young people in custody, recent figures on youth justice show a fall in numbers of young people entering the justice system, falling rates and frequency of reoffending and falling numbers of young people in custody. Nevertheless the system is still dealing with approximately 150,000 young offenders a year and young people are responsible for around 22% of all offences.

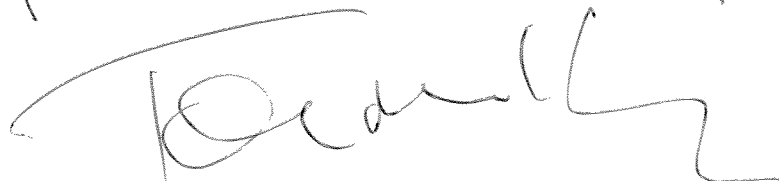
In respect of your recommendation that custodial sentences should not be used for young people, I would like to assure you that custody is rare for very young offenders aged 10 and 11 years old. Children can only receive a custodial sentence for the most serious offences, with the majority of 10 and 11 year olds receiving out of court disposals. In addition custody for 12-14 year olds is restricted with the main custodial sentence – the Detention and Training Order (served half in custody, half in the community with a maximum length of 2 years) – only available where the court considers the young person to also be persistent.

You will be pleased to know that the numbers of young people in custody are falling. At the end of January 2010, there were 2096 under 18s in custody, compared with 2726 at the end of January 2009.

Further to this, figures published on Wednesday of last week by the Department of Education show a 20.7% fall in the number of young first time offenders (those receiving a reprimand, final warning or conviction in England): 31,848 for April to September 2009, a decrease from 40,163 young people between April to September 2008. These figures come on top of previous statistics, showing that since April 2007 the number of first-time entrants has fallen sharply – a decrease of 38.4%.

However, we believe improvements can be, and should be made. We are keen to see that the youth justice system can respond flexibly, appropriately and effectively and be better at achieving its principal aim of preventing offending. This is a task that the Ministry of Justice is to undertake as part of an over-arching look at sentencing reform. I am well aware of the great reservoir of wisdom and experience available to me in the Lords on these matters. I intend to make full use of it. I found the debate extremely useful and I hope that we can return to the issue from time to time as a check on progress being made.

I have copied this letter to all those who spoke, as well as placing a copy in the library of both Houses.

Yours Sincerely

TOM MCNALLY