



Independent inspection of  
probation and youth offending work

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## **Evidence from HM Inspectorate of Probation to Justice Select Committee**

**April 2008**

### **Theme of Inquiry: 'Justice Reinvestment'**

1. This Evidence comprises a single paper focusing on two principal issues. Supplementary Evidence for reference could be added later if needed.
2. We expect that the Select Committee will have already received numerous representations offering advice on its theme of Justice Reinvestment. No doubt there will be a long list of ideas proposed, which is perhaps inevitable because of the very wide-ranging nature of the subject matter. HMI Probation focuses instead on just two issues, but in doing so we would like to make two preliminary points:
  - We are selecting the two issues for consideration in order to provide focus, but this is not to deny the potential relevance of other advice or contributions coming from elsewhere. (The two issues are in principle applicable both to the adult offending and to the youth offending populations.)
  - We aim to provide a non-ideological approach to our Evidence, discussing the two issues in the form of *difficult purchasing decisions that have to be made on behalf of the taxpaying public* – our aim is not to 'lobby' but to *inform* that decision making.
3. General introduction: Because the theme of the Committee's Inquiry is about whether any of the public money currently being spent on locking people up could be spent more productively elsewhere in the system, we describe our two selected purchasing decisions as one *Savings* issue and one *Reinvestment* issue.

### **Savings Issue: length of time spent in custody – does this protect the Public?**

4. The 'bar' on a bar chart that represents the increase in the prison population over the last 5-15 years can itself be divided into a number of different 'slices' representing the different factors that have led to that overall increase in prison numbers. Although some of the slices are thicker than others, the overall result arises from the cumulative effect of all the different slices added together. In principle it is necessary to consider (and if appropriate tackle) each and every one of those slices, but we will be focusing on just the single biggest and most difficult slice, the increased average length of time spent in custody by sentenced offenders.
5. (We acknowledge that savings made from the custodial side of the equation are not usually *immediately* available for reinvestment, because the costs of the prisons infrastructure would continue even if prisons were no longer full to capacity. But we also note that in this instance any savings made by *ceasing to use police cells* would

release expenditure that in principle would be available immediately for reinvestment, since this is a current 'direct variable' cost in the Ministry of Justice budget.)

6. Broadly, there are two strands to this *Savings* issue:
  - For the minority of prisoners who are thought to be of High *Risk of Harm to others* there is now much more use of the new indeterminate sentences (IPP – Imprisonment for Public Protection). Furthermore, prisoners already serving Life sentences now average much longer in custody than they did 15 years ago. The release of any one of these individuals from their indeterminate sentence is in itself a highly sensitive public protection decision.
  - In addition, with the bulk of mainstream prisoners who are serving fixed-length sentences, the debate conducted in the media is increasingly about whether or not early release before the fixed date “puts the public at risk.”
7. Although there are some key differences between these two strands, the differences are of degree, while the core issues remain broadly the same. In essence, and focusing for the purpose of this Evidence on the incapacitation role of custody, the purchasing decision is about how much the taxpaying public wishes to spend in terms of financial and human cost on incapacitating people from offending by locking them up, especially given that what people might do in the future by no means always equates to what they have done in the past.
8. It would of course be quite wrong to deny that prison does have this incapacitation effect – and this does provide an immediate, albeit short-term, benefit for the general public. Equally, as we have repeatedly said on the record, when managing offenders at liberty in the community ‘risk’ cannot be eliminated. A number of people who have offended before will offend again when they are no longer locked up, and the existence of that basic risk must first be faced square-on.
9. Having acknowledged that, however, the next question is to assess the quantity of benefit gained, and at what cost. But measurement is always difficult. The proportion of Serious Further Offences (SFOs) committed by ‘current’ offenders is tiny in percentage terms, though of course each and every one of these crimes is a dreadful personal tragedy in each individual case. With exact numbers, the problem is, as ever, deciding precisely what you count and how you count them.
10. Nevertheless, two years ago we were citing that, of the 100 of the most serious SFOs of the previous year, just about 20 of them had been committed by the 15,000 offenders assessed as being of High *Risk of Harm to others*. We said that society could theoretically lock up these 15,000 offenders forever, and thereby possibly prevent these 20 dreadful crimes per year – but the other 80 murders and rapes would still be committed by the other 180,000 or so other ‘current’ offenders. Two years later we could now focus instead on all SFOs (not just the most serious), but the underlying pattern is broadly comparable: about 1 in 75 of the ‘higher risk’ group are charged with an SFO, nearly three times the rate of all the other offenders, of whom about 1 in 200 are charged with an SFO.
11. The problem is that, as with car insurance, one can make quite scientific predictions about *groups* of people with similar characteristics, but except at the very extreme ends one cannot make reliable predictions about *individuals*. Even with the *High Risk of Harm group* the absolute proportion is very low – hence the issue is that to achieve the preventive purpose of prison by incapacitation a very large number of people have to be locked up in order to prevent a very small number of very serious offences.

12. If the issue is widened to general offending (all offences, not just SFOs), the numbers are very different, but the purchasing options remain broadly similar. Reoffending is historically a very stubborn phenomenon, with reconviction within two years by adults remaining obstinately in the 55+% for many years until recently. As it happens, a small improvement in the last five years in the 'Actual' reconviction rate over the 'Predicted' rate is a significant change from the historical pattern, but this is not to deny that the general rate of reoffending remains very high, as it is in most Western democracies.
13. Much has been made in some quarters of the further offences reported as being committed by prisoners released from their fixed-length sentences up to 18 days early since July 2007 – a small percentage, although that is little consolation to any of the victims of those offences. But given that these prisoners were going to be released anyway it is very unlikely that their rate of reoffending would be anything significantly different if they were released either (say) 36 days later or 36 days earlier.
14. The point in common in the two strands of this *Savings* issue is that currently the prison system is achieving a small preventive effect, yes, but at very high financial and human cost to the country. The 'rate of return' on 'investing in incapacitation' is arguably a very poor one – although that is ultimately a value judgement for the taxpayer to make. Hypothetically, if every current sentenced prisoner served five weeks more than currently planned there would be a tiny increase in the amount of crime prevented, and if every current sentenced prisoner served five weeks less than currently planned there would be a tiny decrease. But in the latter instance there would be a major financial saving, some of it available almost immediately, that could be available for Justice Reinvestment.

**Reinvestment issue: Effective management of offenders serving Community and/or Custodial Sentences**

15. In the world of Criminal Justice, it is always very tempting to extrapolate that because a particular sentence, or measure, or project, or other initiative 'worked' with a particular individual or group, therefore "this is the solution for everybody who offends". Yet every sentenced offender, like every other human being, is an individual, and their case is an individual case – there is no one panacea.
16. Instead, once the Court sentence has been passed, the person in charge of that case has to assess the need to 'punish, help, change or control' that individual according to the need of the case, which includes the needs of society as well as the needs of the individual person.
17. Although it has become very fashionable in some circles to be derogatory about the National Offender Management Service (NOMS) as an organisation - now an Agency - practically no-one within the system disagrees with the idea that every individual sentenced offender should be managed through their sentence *as an individual*, and that it is a good idea to have someone in charge of each case to make that happen. Currently, with adult offenders, that person is usually called an "offender manager", and that person is usually a Probation Officer, and there are very good reasons why that should be so. (Our inspections show that they do this well much of the time, although we continue to press for continuous improvement.)
18. There is an analogy that can be made with Healthcare, although we would stress that there are some very important differences that mean that the analogy with health should not be taken too far. In Health there needs to be both a good range of

appropriate treatments and also a good GP service – similarly, to be effective with sentenced offenders (adults and young offenders), we need both a wide range of *relevant interventions* and also an adequate provision of *offender managing*.

19. Our point is that the Offender Manager has the role of being the offender's 'General Practitioner', who has the ongoing responsibility for assessment/diagnosis, for planning, and for providing or arranging the provision of interventions/treatment that will lead to improvement. The difficult *reinvestment decision* is about how much to spend on *interventions* and how much to spend on *offender managing*.

20. Effective *offender managing* is not on its own sufficient, but it is necessary – without it the CJS will not be able to do the right thing with the right individual in the right way at the right time. Our point here is not to urge the Government to throw money at the Probation Service or Youth Justice, but this is our opportunity to repeat the general points we have already made on the record (in July 2007) about the 'Long Squeeze' on the capacity of the Probation Service to deliver what is being required of it:

"It is true that Probation budgets have increased markedly well above inflation compared with ten years ago. But is clear to us that when the costs of new work, new requirements and new infrastructure have been taken into account, resources have in practice still not kept pace with the increasing demands."

HMI Probation Annual Report 2006/2007

21. Our point here is that the widening gap has been met over successive years by annual efficiency savings. The cumulative effect of these efficiency savings, running now for over 10 years, is such that it would now be counter-productive to expect more in the future. Instead there will need to be harder decisions about what Probation should be expected to achieve with its allocated resource.

22. These choices have already started, for example with the decisions not to implement the provision for so-called 'Custody-Plus', that is to say adult prisoners serving short sentences having statutory supervision after release, and the halting last autumn of the development of NOMIS (the electronic case management system) which was becoming unfeasibly expensive. But it must also be noted here that the lack of a properly-working electronic case management system is a major obstacle to managing sentenced offenders through their sentences effectively.

23. The Select Committee will receive bids for many exciting and imaginative provisions, projects and initiatives, many of which we might well in principle support. But if the capacity of the 'NOMS or Youth Justice equivalent of the GP service' is too squeezed we won't achieve the effective individualised service that almost everyone agrees is needed to be effective with sentenced offenders. Any Justice Reinvestment must include investing not only in improving *interventions* but also in improving the *overall managing* of sentenced adult and young offenders.

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