

## **Justice Select Committee 12 December 2007**

### **Extracts of evidence given by Chief Inspector of Probation**

#### **On how to reduce reoffending:**

It is very easy to say, but fiendishly difficult to do, but to reduce reoffending you have got to do the right thing with the right people at the right time in the right way. It is about *differentiated practice*, and that is very much about what offender management is about - and prisons are part of that system. ...

... The pattern has developed over the last 20 or so years that, in terms of the whole spectrum of seriousness of offending, that prison has expanded down the scale, and community sentences have expanded even more down the scale - and it is the other sentences that have shrunk. It really does not help to come at reducing reoffending by looking for one-size-fits-all panaceas; it has to be individualised.

#### **On the capacity of the Probation service:**

... I have been 'on the record' on the question of the Probation system, in the Foreword of our last Annual Report, making the point that the capacity has been gradually squeezed over a period of ten years. And it is the whole question of efficiency savings - which are entirely legitimate one year at a time, but over a period of time they add up to a considerable amount. Government is correct that the resourcing for Probation has increased by a considerable amount in the course of the last ten years, but what they [Probation] are required to do has increased by considerably more than that.

#### **On the Corston report (re women offenders):**

... I would just want to stick to the principle about what should be done with individual offenders, and the Corston Report is right about providing an individualised service for individuals - and it captures a range of individual issues that women in particular are likely to face including their vulnerability. But having said that, that is the same principle that should apply with this particular group of offenders ...

#### **Probation resourcing – has it been simply spent on ‘more management’?**

Like everything else in the criminal justice system, everything is always terribly complicated and there is never a simple answer. So let's try to get the big picture. As I have said already, I think resources have gone up; demands have gone up by more. How much of that additional amount is down to additional management - as alleged by [some] people? - Yes, some of it – there is now an enormous 'national headquarters' compared with the past – with a lot of it involved in Probation policy, and the equivalent of that ten years ago was absolutely minute.

However, that is just a small part of the issue. A lot of it is specialist interventions which simply did not exist before; some of it is particular services that Probation officers are required to do that they did not have before. So it is always complicated. It is a factor, but it is a bit of a stereotype to say that it is the whole factor.

#### **On what is being expected of Probation – are they on the defensive?**

As for the question of what probation officers are now required to do and are they defensive and on the back foot (and, of course, some people say: "Yes, well, look, if you publish reports like this then, of course, people will be on the defensive"), we are

very clear about what is expected of Probation staff and their partner staff in the Police, the Prisons, etc, when managing offenders, and it is *to take all reasonable action*. When we review a case and we say: “Yes, under the circumstances, they did everything that was reasonable”, that is okay because you absolutely cannot eliminate risk in the community. This is the issue that is bedevilling all of the discussions about criminal justice. When we say that something is more effective than something else, you have to understand, it is by a few percentage points. Now, that is a big gain, a few percentage points, in numbers, but that also means there are lots of individual disappointments as well. Some of them are awful disappointments, and people get upset about them. So, yes, probation officers are being held accountable now in a way that they were not before, but what we are not doing is asking them to achieve the impossible ...

... Remember, I am the independent Inspector; I am not managing the Service. Therefore, the advantage of an independent inspectorate is to be able to say with fair comment (it is not one of ‘our people’ we are ‘protecting’ here, if you want) that we have reviewed cases and said: “Yes, they did all that was reasonably expected”. That should be a reassurance both to the staff but also to the public. We are not afraid to criticise. We do not criticise because something has happened; we criticise because someone has *omitted to do something they could reasonably have been expected to do* that would have made that event less likely. However, you can never prevent it; it is not prison in the community.

### **On the questions of early release from custody, and use of custody:**

... Underlying this and all the other questions is *what it is you want the criminal justice system to achieve*. It is not in my role now to advocate a policy, but I think it is, perhaps, to unpack the costs and benefits of different choices.

What is very clear, and I think a perfectly reasonable assumption, is that the prison population is going up because of lots of complicated changes in the sentencing. Do you want people to be sentenced to less custody? Whether it is front-door or backdoor is a secondary question; the first question is: what does it achieve?

Just for the sake of argument, say the sentencing pattern stayed exactly the same as it is now, except you reduced average sentence length by, say, three months, on average, or (if you look at the alternative option) maybe increasing it by two or three months, on average, and you look at the costs and benefits of what is achieved.

Prison has an incapacitation effect; there is no point pretending that it does not - it does. The problem is that it is a very small effect achieved at a very high cost. That is the cost-benefit analysis that I think you have to make as policy makers. The 16-18 days has an effect of incapacitation; something is achieved - but it is achieved at a certain amount of cost. You could have more, you could have less. I think it is hard to make the case that the benefit outweighs the cost, but it is not for me as Chief Inspector to say which it is; that is the judgment to be made on behalf of the taxpaying public ...

... It is just incapacitation for a period of time. Given that somebody has been sent to prison – you wanted them deterred, you wanted to deter others – [But] people do not think: “Ooh, I might go to prison for 26 months - therefore I won’t do [a crime], but if I go to prison for only 25 then I will”. It just does not work like that.

### **On a possible Sentencing Commission:**

I do not feel able to be an authority on how a sentencing commission works or could work, but I do think we have to learn lessons over the last 40 years (and we do not learn them) that “alternatives to prison”, so-called, turn out to be the opposite of alternatives to prison.

When you create conditional sentencing of any kind, whether it was suspended sentences from 1967 right through to a number that were got rid of in the 1980s ... [it has] the effect of increasing the prison population. And now we have reintroduced conditional sentencing with more suspended sentence orders than ever before!

It is counter-intuitive. People say: “We will make a rule that these will only be given to people who would have gone to prison otherwise”. And it does not matter how well you try to draft the legislation, and it does not matter how conscientious individual sentencers may be – and I am sure the majority of individual sentencers are very conscientious – in the end you expand those sentences. And then, because a large proportion of offenders do not think about what they are doing, they breach the Orders and they end up in custody.

If – and this is a policy decision - the aim is not to increase the prison population by even more, please do not be deceived into thinking that sentences with a label of ***‘This is designed to keep you out of Prison’*** will necessarily have that effect. What we have to think about is recalibrating our expectations about what sentencing is supposed to achieve.

### **Final point:**

I am going to just take it back to the fundamental question that, as a country, we have to decide what we want the criminal justice system to achieve. If you are happy with the current pattern of sentencing then you do have to go on and on building more prison places. That is one of the options and it is clearly a high-risk option, because large organisations are harder to manage than small ones, for all the reasons you have already heard.

What you really have to grasp is a much more difficult and fundamental question: do you want the criminal justice system to do something slightly different from what it is [doing] now? We are incapacitating an awful lot of people who do not need incapacitating, in order to incapacitate a few people who do need to be locked up. It really needs something much more fundamental to be thought through and acted on if that is to be changed.

**Andrew Bridges, HM Chief Inspector of Probation  
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