

Probation: cutting through the silt

Rod Morgan recommends corrections to the Probation Service.

Few reasonably well informed observers of penal policy could at the close of 2002 have been unaware that our prison system stands on the edge of yet another crisis. A record population, in excess of 72,000, and rising. Police cells being used for Home Office prisoners once again. The delivery of offending behaviour programmes disrupted because of the need practically to manage the excess prisoners within the available estate. A major disturbance and loss of accommodation at Lincoln Prison. The number of recorded suicides higher than ever.

Most people knew about these prison issues because of the media coverage generated by the Director General, Martin Narey, the Lord Chief Justice, Lord Woolf, and the regular drip, drip of *critical reports from the Chief Inspector of Prisons*, Anne Owers. There was by contrast virtually no coverage of parallel developments in the Probation Service.

In October 2002, having made several unsuccessful efforts to excite media interest in the

The evidence, I suggested, all pointed in the same direction. Offenders who ten years ago would have been put on probation or given community service were now being sent to prison, generally for sentences of less than 12 months. And many offenders who ten years ago would have been fined were now getting community service or even being made subject to Community Punishment and Rehabilitation Orders (what we used to call Combination Orders). Court reports were being requested in the types of cases where previously they would have been judged unnecessary. And Probation Service caseloads were silting up with low level, low risk offenders many of whom arguably did not warrant the Service's ministrations. There was, in effect, the equivalent of prison overcrowding in the Probation Service. It was *all hugely expensive and both the Prison and Probation Services were being deflected from concentrating their resources and efforts on the offending population for whose attentions they were most needed*. In the case of the Prison Service, on medium and long-term prisoners. In the case of the Probation Service, on

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impact of the more punitive sentencing trend on probation work, I invited a respected Home Affairs correspondent of a major broadsheet newspaper to meet with me. I showed him the data and explained their impact. The significant rise, from 16 to 30 per cent since 1990, in the proportionate use of custodial sentences for indictable offences. The dramatic reduction in the use of fines during the same period. The marginal growth in the use of community penalties. Nevertheless the 30 percent increase in probation caseloads, not least because of the increase in prison licences. The 40 percent increase in the number of pre-sentence court reports requested, mostly by the magistrates' courts, for roughly the same number of defendants.

All the evidence, I pointed out, suggested that these phenomena were not explained by the system having to deal with more serious offences or offending histories of their type. The courts had become progressively more punitive and interventionist. The proportion of prison receptions and offenders supervised by the Probation Service convicted of serious offences (violence, sexual offences, robbery, etc.) or with no previous custodial experience had fallen, despite the greatly increased use of custody. Conversely, the proportion with no previous convictions or convicted of summary, as opposed to indictable, offences had greatly increased.

medium and high risk offenders who need to be displaced from short-term custody, whose risks of reconviction are statistically the highest and who would most benefit from offending behaviour programmes and practical help to address their chaotic lifestyles and multiple socially excluding disadvantages.

My journalist interlocuter was genuinely surprised. He said he had not appreciated the depth of the more punitive sentencing trend. He undertook to write a piece, and did so. But his attention was unusual. There has been a resounding public silence regarding most of these Probation Service matters. The consequence is widespread ignorance. I even encounter surprise at the figures deployed above – all of them taken from official government Criminal and Probation Statistics – when speaking to judicial and probation audiences. Why? And what must we do now?

The most important explanatory factor is that this increased punitiveness has insidiously crept upon us. There have been no dramatic shocks to assault our liberal sensitivities. The trend has been gradual and subtle, fuelled by pronouncements from leading politicians from both major political parties, legislated for by Parliament and endorsed by the courts and the media. We have toughened, or coarsened, our penal language, introduced more punitive sentencing options, intensified the conditions that can be attached to those options and more rigorously enforced



offenders' compliance with those conditions. We have introduced statutory sentencing minimums and the Court of Appeal has issued more punitive guideline sentencing judgements. The climate of punitiveness has been multi-faceted. Moreover, the rationale offered for several of the above developments have made good sense. It was obviously sensible, for example, to lay down clear rules for offenders subject to community sentences to follow. Their lifestyles typically cry out for stability and discipline. Moreover, the evidence shows that rigorous, equitable enforcement of such a disciplinary framework is associated with reduced re-offending. This begs the question, however, as to which offenders it is sensible to subject to supervised interventions and to what degree.

Secondly, the Probation Service is publicly almost invisible. Unlike the Prison Service, it does not generate scandals. Nor, historically, has it been keen to attract attention to itself. It is predominantly staffed by committed, educated professionals with a fine public service tradition pursuing what is still widely regarded as a vocation. It is a decent Service. Its core value remains that individuals are unique and capable of change. Probation staff quietly, responsibly, pursue that objective. The worst that has ever been said of them is that they have employed methods which have not been as successful in realizing that objective as they might have been.

Thirdly, the Probation Service is in more senses than one a victim service. It wields little clout and it has often been made the fall guy for the failures of the criminal justice system generally. In the mid 1990s it saw its workload increase, its resource base diminish, its core values questioned and its culture abused. Only with difficulty did it hang on to its identity. Yet though the Service has in recent years been considerably better resourced and politically supported, the Service still lacks confidence. Senior Probation managers remain reluctant to put their heads above the parapet to question the wisdom of the

uses to which the Service is put. The result is that the Service has to some extent become the instrument of its own difficulties. The proposals made in pre-sentence court reports, for example, have arguably supported the more interventionist sentencing trend.

The Probation Service needs now to come out of the closet. It is in every measurable respect more professional than ever before. It delivers an increasing range of offending behaviour programmes that are demonstrably effective at reducing re-offending. It collaborates to an extent unimaginable a decade ago with the police to protect the public from high risk offenders. It organizes millions of hours of community service annually, an increasing proportion of which have local crime and disorder partnerships as the beneficiary. The Service has good stories to trumpet and a sensible crime reduction agenda to sell.

We need our senior figures in the Probation Service to become prominent civic advocates and exemplars of a penal policy which is: evidence based; proportionately links punishment and intervention with culpability, risk and public protection; is cost conscious; and works closely in partnership with the voluntary sector. We need professional dialogue between sentencers and the Probation Service about what services it is sensible for the courts to require of the Service. We need public debate about how best to develop a serious, cost-conscious, crime reduction policy in which offenders who currently receive worse-than-useless short-term prison sentences get effective community interventions instead, and how low risk offenders whose principal deterrent has been having been caught, might effectively be fined or less. Parsimony and proportionality should figure prominently in that debate: it should appeal to Treasury and tax-payer alike.

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