PRISON SERVICE
JOURNAL
MAY 1994 NO. 93

- MORGAN AND WOOLF
- CRIME IN PRISONS
- POLITICAL VIOLENCE IN NORTHERN IRELAND

Bail Information Schemes ... Prison and the Perfect Woman ... Crime Conference Reports

PRISON SERVICE
JOURNAL

Contents

Subscriptions
HMP Leyhill,
Wotton-under-Edge,
Gloucestershire, GL2 8HL

Printed at HMP Leyhill on recycled paper.

Comment

VICTIMS AND THE CJS

The Criminal Justice System does not do well by victims. Although an essential part of the process, once the complaint is made and a statement taken the victim may hear of the outcome of the case only if called to give evidence. In the majority of cases a plea of guilty is made by the defendant thus the victim will hear nothing unless by chance a newspaper report of the case is seen or a comment made on radio or TV. Nothing is done formally to inform the victim of what is happening at any stage of the process. The victim can take the initiative and keep in touch with the police or courts but that is tolerated only and not encouraged.

There is a reason for that subservient role for the victim and it lies in the notion that offences are first and foremost breaches of societies' law and it is for the State to respond by taking action not the victim. For it to be otherwise might lead to some form of lynch law. On the other hand that is to treat the victim as no more interested than any other member of the community and that is clearly not how many victims feel.

It is against that background of the courts regarding the victim as no more interested than any other citizen that the Prison Service has in its turn tended to neglect the needs of victims. True there have been interesting and useful programmes of bringing together victims and offenders to mutual benefit and some governors have encouraged and facilitated offenders writing letters of regret to their victims. Not all victims welcome these approaches and they need to be sensitively handled to be beneficial and not cause further distress. However these attempts are few and far between and the motive for such programmes comes more from a sense of trying to prompt the offender to face up to what harm has been done than primarily to help the victim.

In some states in the US the victims views are taken into account when considering the possibility of early release. That brings into the process an entirely arbitrary factor which seems quite unjust. Presumably an offender whose victim is liberal minded and forgiving gets out earlier than one whose victim is vengeful or, perhaps, cannot be traced.

To go that far would be wrong but the public mood is growing more sensitive to the needs of victims. Evidence of that was shown in the case of the prisoner who was to run in the London marathon for charity only a week or so before discharge but following an anguished reaction from the victim conveyed to the media by the police, the invitation to run was withdrawn. The media are very ready to offer time to victims to comment upon the offenders' sentence, treatment in prison and imminent release. The victims' expression of dismay at any of these aspects of the CJS cannot be dismissed as motivated by malice or revenge but more often as not needing to be understood as a genuine reflection of the continuing pain experienced long after the offence was committed.

The CJS must recognise the needs of victims and respond in a way that goes some way to meeting those needs without reacting in a way that conflicts with other objectives such as justice and the successful resettlement of offenders. Not to do so will lead to victims withdrawing from taking part in the process as has happened in the past with rape victims until the police adopted more sensitive ways of interviewing. That withdrawal from the process could lead to many cases not being brought to a conclusion and that in itself would defeat justice. Victims seeking redress will then either tolerate further victimisation, take the law into their own hands or become politicised and pressure the CJS in ways it may not like with consequences it may find hard to manage.

What needs to be done is for victims to be better supported in coping with the trauma of being violated by personal attack or the loss of valued possessions. To an increasing extent victim support organisations are addressing this issue but it needs the police, too, to recognise the victims' concerns about why they might have been as they see it picked upon and who might have been the culprit. The response from the police that some victims report is that they are told that burglary for example is common and no-one is likely to be caught. It may be true but doesn't adequately meet the shock, sense of violation and personal significance of the event to the victim of the crime.

Compensation orders are available to courts but are dependent upon an offenders means to pay and courts are not consistent in making orders. Some fairer system of compensation needs to be developed, perhaps on the lines of the more universal system of criminal injuries but with scales of payment commensurate with the damage inflicted.

Victims need to have a say in the CPS decision whether to prosecute and at least if the decision is not to do so to have the reasons given and to have the opportunity to challenge.

The Prison Service needs to develop more programmes bringing together offenders and those victims who wish to do so. Where that has happened even if the offender is not the one who did the damage but committed a similar offence, there is evidence of the victim feeling less abandoned by the system and more able to come to terms with what has happened.

In deciding to grant home leave, governors need to ask the local Probation Service how such leave might affect the victim not in order to stop the leave but so the victim has some notice of the event and doesn't simply bump into the offender walking down the high street.

The principle that an offender is brought to court for committing an offence against the State not the victim is an important one and for it to be otherwise would lead to the victim being open to even more pressure and threats than happens now. That should not mean that the victim is left out of the process altogether. It is important the CJS finds ways of bringing in the victim rather than wait for the sense of grievance many victims feel to build up pressure for what might be hastily conceived legislation which in the name of victims' rights thwarts those of other members of society including offenders. And, of course, it is a simplification to see victim and offender as necessarily separate entities. Many citizens have to play both roles.

4 EDITORIAL PRACTICE

4.1 The Prison Service Journal should publish topical and controversial material but will contain nothing which compromises security or control within penal establishments.

4.2 The Editorial Board will not publish anything it knows to be false, malicious or injurious to individuals or to the Service.

4.3 The Journal may include material critical of prison policy and practice on the basis that all points of view are backed by reasoned argument.

4.4 Conference papers and other relevant material already published elsewhere may be re-printed in the Journal with the author's and publisher's approval and subject to normal copyright rules.

4.5 The Editorial Board has discretion to edit, modify, shorten and annotate material submitted for publication.

4.6 Articles and letters are only published anonymously at the discretion of the Editor.

4.7 The Editorial Board is expected to maintain a balance in the content which will best achieve the objectives of the Journal.

4.8 Copyright ordinarily remains with the author on acceptance of a paper for publication but the Journal retains the right to reprint articles following initial acceptance. The Editorial Board should be consulted if an edited article is to be reprinted elsewhere.

4.9 A disclaimer of the following nature is printed in each edition of the Journal: 'The Editorial Board wishes to make it clear that the views expressed by contributors are their own and may not necessarily reflect the official views or policies of the Prison Service.'

5 EDITORIAL APPROACH

5.1 The Editor may arrange for the modification of submissions for publication in order to maintain standards, meet the house style, and complement other published material. If papers are cut or modified, the Editor must retain the sense and purpose of the original.

5.2 It is a matter of discretion how far material may be modified without reference to the author. In the case of major editing, approval should be sought or the paper returned for re-writing.

5.3 Authors whose contributions are rejected will be written to, given reasons and when appropriate, directed towards another publication such as PSN.

5.4 Under some circumstances, material submitted as an article may be published in the form of a letter to the Editor, but with the consent of the author.

5.5 A complimentary copy of the Journal is sent by the Secretary to each author of material published as an article, letter, review etc. In the case of reviews and re-printed material, a copy is also sent to the relevant publishing company.

5.6 A Guide to Authors is available to all potential contributors.

6 ADVERTISEMENTS AND NOTICES

6.1 The following charges are made for advertisements: £50 for 1/2 page, £100 for a full page, £150 for the outside back cover.

6.2 Notice of seminars, conferences, courses, publications, charities and the like may be included if judged relevant and as a service to staff. The schedule of a periodical journal demands that special attention must be paid to the timeliness of such notices.

Editorial Board April 1994

PRISON SERVICE JOURNAL

ELEMENTS OF POLICY AND PRACTICE

1. OBJECTIVES

1.1 To provide a forum for discussion of topics relevant to the work of Prisons and to supply reliable information about current activities and ideas in associated fields (Notice to Staff 10/1990)

1.2 To present these concepts, developments and comments to the interested and reflective reader in Prisons, in other criminal justice agencies, and the public at large (including the Journal's overseas subscribers) in as effective and economical a way as possible.

1.3 To provide a public forum for opinion and reasoned comment independently of but in a way which complements other in-house publications.

1.4 To contribute to staff training and development, policy making and public relations.

1.5 To publish six editions of the Prison Service Journal annually.

2 COMPOSITION OF THE EDITORIAL BOARD

2.1 The Editor is accountable for the Prison Service Journal to the Director of Personnel, who makes the appointment. The Editor usually holds the rank of Governor 1 and chairs the meetings of the Editorial Board.

2.2 The Secretary is a member of the editorial team and is appointed by the Editor. In addition to contributing (like other members of the Board) to the Journal's production, the task includes arranging and making a note of Board meetings and conducting correspondence.

2.3 Appointments to the Board are made by the managing editor and follow best practice in equal opportunities.

2.4 The Editorial Board meets bi-monthly and holds a policy meeting annually to review performance.

3 RESPONSIBILITIES OF THE EDITORIAL BOARD

3.1 The Editorial Board commissions material, appraises all submissions, and provides editorial guidance on content and presentation.

3.2 The responsibilities of others for the production, distribution and accountancy of the Journal are set out in Notice to Staff 10/1990.

3.3 The Editorial Board is responsible for the following areas:

3.3.1 the content of the Prison Service Journal (its quality, contents, balance, topicality and relevance);

3.3.2 the presentation: design, consistent house style and quality of production;

3.3.3 subscriptions, advertising, and the distribution of ordered and complimentary copies;

3.3.4 the economic use of resources: the length of the editions, the numbers printed, the use of materials, and the frequency of Board meetings.

3.4 The Editor gives account of these matters through the Director of Personnel, to whom an annual report is made (including a financial statement and the circulation figures).

Standards & Accreditation
LESSONS FROM THE USA?

Nigel Newcomen, BA, LLM, MSc, is a grade 7 in DIA1 Division at Headquarters and Secretary to the Prison Service Standards Steering Group.

Introduction

The Prison Service has been engaged for some time in drafting national standards which set out the type and level of service which the public, prisoners and visitors may expect. The writer, who is Secretary to the Prison Service Standards Steering Group, was able to assess firsthand the American experience of setting, monitoring and accrediting prison standards as part of the Service's Senior Management Programme[1]. This article offers some personal reflections on certain of the issues involved.

Background

Standards may be defined as exemplars specifying measurable outputs or levels of service, intended to provide uniform targets and benchmarks for performance. Well-known to British industry and the professions, standard-setting has more recently spread to the service sector and, under the pressure of Government initiatives such as the Citizen's Charter, to the public services. Such standards are usually internally devised, often with some element of external validation (or accreditation) to credibly demonstrate performance. In 1991 the Government White Paper 'Custody, Care and Justice' committed the Prison Service to exactly this approach.

Standards in US corrections have a much longer history. The American Correctional Association's (ACA) national standards were first published in 1977, although their origin can be traced back to the ACA's 1870 'Declaration of Principles' and various later 'Manuals of Correctional Standards'. Numerous state and local codes also exist and a similar approach to standards has now spread to the police through the Commission for Accreditation of Law Enforcement Agencies.

However standards of themselves are relatively dry, technical management tools, reflecting - as well as defining - their codifiers. Therefore it is necessary to attempt to set US standards within the context of contemporary US penal affairs as glimpsed fleetingly in May 1993 - a glance which left abiding images of complexity, legality and crisis.

1. With the help of the National Institute of Corrections meetings were arranged with the Federal Bureau of Prisons, the American Correctional Association, the Commission for Accreditation for Law Enforcement, and the American Civil Liberties Union Foundation's Prison Project. Visits were also made to Maryland's state adult male and female prisons and short sharp shock 'boot camp', Alexandria City's detention centre in Virginia and a community correctional facility or half-way house in Washington DC.

Complexity

The US is a complex mix of cultures and peoples, organised within a fiercely independent federalised political structure. This political complexity, a legacy of anti-colonial distrust of the centre, pervades all public services and has left corrections with a complex, multi-layered system. Thus while there is a federal criminal justice system, including a federal prison system administered by the Federal Bureau of Prisons (FBP), there is no federal oversight or control of state and local prison systems. Despite responsibility for over 90 per cent of prisoners, the latter are run independently - and disparately - by organisations led by elected officials within their own jurisdictions, with a range of populist mandates.

This complexity, almost contradictorily, extends to US correctional standards. Different codes exist at federal, state and local level, and vary in content, specificity and level of implementation. Further confusion and overlap is provided by various sets of standards for professional functions within prisons (eg health care and dentistry), also arranged along national, state and county lines. In comparison the suggestion of a single, national Code of Standards based on agreed aims - outlined in the 1992 Prison Service discussion document, 'A Code of Standards for the Prison Service' - appears a remarkably simple concept.

Legality

The counter-balance to the risk to civil rights of federal disparity is provided by America's Constitution - as interpreted by Federal and Supreme Court decisions. This constitutional emphasis on the courts as protectors of the individual, seems also to have led to a greater willingness by the US judiciary to intervene in the minutiae of prison life to an extent wholly unknown in the UK (despite prompting from the organs of the European Convention on Human Rights, the courts maintain a 'hands-off' approach, for example refusing to provide a remedy for breach of the Prison Rules - Arbon v Anderson 1943 KB 252).

The sheer scale of litigation is astonishing. According to the American Civil Liberties Union Foundation (ACLUF) there were 37,868 law suits and 456 class actions filed in 45 jurisdictions in 1991. By May 1993 40 states were under court order to improve conditions in either the entire state system or major facilities. The ACLUF, which co-ordinates prisoner litigation, argues that this legal deluge means that standard setting and even policy-making in a 'crisis-ridden' correctional system is increasingly left to the courts (privately a number of correctional officials agree, claiming that losing in court in one of their only mechanisms to ensure increased funding). The result, in effect, is that the US has legally enforceable minimum standards borne of court interpretation of constitutional guarantees.

Undeniably the law provides a bulwark against oppression in prison, but the effectiveness of an overly-legalistic approach is open to question. For example the English and Welsh Prison Service's 1993 'Statement of Purpose, Vision, Goals and Values' emphasises treating prisoners with humanity and specifies, inter alia, that their

care will include openness and consultation. It seems improbable that this emphasis on positive relationships with prisoners could be enhanced by the endless threat of litigation.

It seems equally improbable that the legalistic approach enhances managerial effectiveness. The White Paper, 'Custody, Care and Justice' maintains that consistently high standards are more likely to be delivered by a non-legally enforceable code of standards integrated into reformed management systems, than by legal intervention. This view gains some credence in the US where the scale of litigation seems to create overly reactive local correctional administrations compelled to spend excessive management time on litigation and its consequences, rather than on strategic planning.

Similarly the legalistic approach runs the risk of uncoordinated and disparate court findings, often specific to individual or specified groups of prisons resulting in curiously haphazard reforms. To give just one example, cells in the Alexandria Facility are legally required to allow wheelchair access, yet there were no disabled prisoners at the time of visiting; however there was 'doubling' and 'trebling' in one-bedded cells, with prisoners sleeping on the floor.

Crisis

Litigation is essentially reactive, and according to the ACLUF, the scale of judicial intervention is a reaction to a crisis in US corrections. The ACLUF point primarily to a crisis in prison conditions caused by chronic overcrowding. According to the 1992 Corrections Yearbook, US prisons held 776,059 prisoners on 1 January 1992, 60 per cent from ethnic minorities, yet there was certified capacity for only 652,814 (with 15.5 per cent overcrowding overall, rising to 52 per cent overcrowding in the federal system). By May 1993 prison population had soared to over 830,000.

Overcrowding appears to reflect a judicial (and political) determination to fight a staggering crime rate with custody. The US incarceration rate is now over four times that of the UK (in 1992 the figures were 426:100,000 and 98:100,000 respectively) and prison sentences, often mandatory, are between two and ten times longer than comparable nations with over 22 per cent of prisoners serving over 20 years (according to the 1992 Corrections Yearbook on 1 January 1992 there were 2214 prisoners on death row, 13,937 serving natural life, 52,054 serving life and 125,996 serving over 20 years). Additionally remission and parole are restricted, particularly for the vast army of drug offenders (according to the FBP, drug offenders now make up 65 per cent of federal prisoners sentenced since new sentencing guidelines took effect in 1987).

Further confirmation of this 'crisis' was provided by staff of the National Institute of Corrections (NIC) a research and training arm of the Department of Corrections. NIC hold 'hearings' to predict future correctional training and support needs in local and state facilities, and their 1993 sessions concluded that major disorder and riots were probable in the mid 1990's as a result of deteriorating environmental and security conditions. Poignantly NIC also emphasised the staff training needed to cope with increasing numbers of long-term prisoners growing old in prisons designed for

young men. Yet there is little evidence of public disquiet over the scale of imprisonment, no doubt influenced by prime time TV advertisements by groups such as the American Rifle Association demanding the right to hold guns because of the underuse of custody! NIC staff responsible for promoting community corrections look wistfully at the UK's comparative success in encouraging community sanctions and apparently making them palatable to public opinion. However recession-hit America is beginning to balk at the cost-effectiveness of a $19.3 billion corrections system at a time when both crime and recidivism rates continue to rise. Thus in May 1993 there was wide news coverage of cash-strapped counties in California summarily shutting local prisons, laying off staff and releasing their charges. Apparently penal change traditionally begins in sunny California!

The Nature of US Standards

It is in this context of complexity, legality and crisis that US correctional standards need to be evaluated. Codes exist at all levels of the system with varying degrees of overlap and cross-reference. Objectives for standards are familiar, including better management through target setting and benchmarking, but stress is also laid on their potential to enhance professionalism and staff awareness through peer group agreement on direction. Similarly standards, especially if their achievement is accredited, are claimed to provide positive publicity in the face of judicial and pressure group criticism of conditions and may even offer a platform to defend further litigation.

The only national standards are those of the ACA, which now extend to 19 volumes covering all types of establishment and community treatment programmes. ACA standards are divided into 'mandatory' (largely life-ensuring) and 'non-mandatory', although a newer dichotomy of 'core' (a wider list of essentials) and 'certifiable' has recently been created. Both divisions are designed to focus managerial attention, but also to ease external accreditation the lesser standards being self-assessed by the establishment. Interestingly the Prison Service, in its 1992 discussion paper, did not feel any such divide would be helpful in drawing up operating standards that would ensure the achievement of an **overall** level of decency.

Specific and Detailed?

The drafting of ACA standards is undertaken by a 20 member ACA Standards Committee (12 designated by the ACA President, 8 nominated by the ACA Accreditation Committee, all with corrections experience and none from outside groups). Their work involves the delicate and difficult task of ensuring that standards can be superimposed on the complex political and legal diversity of US corrections.

As a result some ACA standards appear less specific, less detailed and less capable of leading to uniform outputs than is expected of the Prison Service national standards. Thus while early drafts of the latter have a whole section on reception, the 1990 ACA adult

correctional institution standard is merely that: 'There is a programme for inmates during the reception period' (3-4274). Similarly on regimes the ACA rather vaguely requires that 'Written policy, procedure and practice provide that institutional staff identify at least annually the needs of the inmate population to ensure that the necessary programs and services are available' (3-4381).

There is, of course, a need to ensure the maximum discretion for local managers as to how they achieve an output - but these examples suggest a lack of appropriate elaboration. Some local and state codes are more specific and detailed, but these are by definition local and disparate and unable to deliver uniformly high standards nationally.

Revision

The Prison Service is currently drafting its standards and has not yet considered the issue of maintaining their adequacy and currency. By contrast the ACA maintains a standing committee with support staff to carry out this function, and considers it a vital role. After all, standards are merely specified levels of performance regarded as appropriate exemplars at a given point in time and can quickly become out-of-date, even redundant. Accordingly the ACA Standards Committee publishes a supplement to its 19 volumes approximately every 2 years and full code revisions every 4 years, after seeking views from corrections officials and holding public hearings.

It is worth noting that this review mechanism has enabled longevity by reducing as well as increasing levels of standards. For example, in response to chronic prison overcrowding, the 1992 ACA Standards Supplement reduced the standard of unencumbered floor space for shared adult accommodation from 35 to 25 square feet. Such pragmatism illustrates that standards are of themselves neutral calibrations, subject to the vagaries of policy change and operational necessity.

Accreditation and Internal Review

The idea of independent review and confirmation ('accreditation') of the achievement of standards is a Citizen's Charter principle endorsed in the White Paper 'Custody Care and Justice'. Accordingly, the Standards Steering Group in its 1992 paper 'Meeting Standards: A Strategy Paper', suggested a possible accreditation process involving HM Chief Inspector of Prisons. However, the Group also argued that accreditation was really the 'icing on the standards' cake'. The essential issue in meeting standards was seen as the Code's integration into the management processes of the Service, and, in particular, the creation of adequate internal review and accountability mechanisms.

This view was strongly endorsed by the large and experienced FBP evaluation staff, based in Washington, who could look back on 15 years of involvement with ACA accreditation in the federal system. As one senior evaluation specialist put it: 'accreditation confirms performance, it does not ensure it - that is a matter for management

and sometimes the courts'.

Nevertheless the ACA emphasis is firmly on accreditation. Their process was developed simultaneously with standards, primarily as a mechanism to enable professional peers to judge and develop each other, rather than claiming a truly independent validation role. The process involves a prison submitting itself, at a fee, for accreditation when it believes it can meet 100 per cent of the mandatory standards and 90 per cent of the non-mandatory standards (or under a new option when 100 'core' standards have been met).

The ACA offers pre-audit consultancy to help assess if a prison is ready to apply. Formal application is followed by a self-evaluation exercise and then a request for an external audit by ACA assessors (generally correctional officials released by their prisons and paid on a per claim basis). Assessors review all measurable standards and also attempt to gauge the quality of prison life by interviewing staff and prisoners at random. There is no piecemeal accreditation: all prisons must attain the overall compliance level to be accredited for 3 years. Where accreditation is not granted, plans of action to remedy deficiencies are provided. Appeals against refusal may be made to ACA's Commission on Accreditation and waivers may be granted.

ACA accreditation is not without its critics. At worst, some suggest a conflict of interest with ACA accreditation work financially dependent on those being accredited; correctional officials sitting in judgment on each other; and applicants even having a veto over the choice of assessor. Moreover, ACA staff openly admit that accredited prisons may slip back after a temporary effort to gain accreditation. Some attempt is made to 'keep-tabs' on such deterioration and an annual 'accreditation certificate' must be returned. Theoretically, accreditation may be revoked but apparently this has not yet occurred. Ultimately it is only when, and if, reaccreditation is sought that improvement may be demanded.

To the FBP this lack of an ongoing stimulus to maintain and improve standards and the small ACA staff's inevitable dependence on self-assessment by prisons, are fundamental flaws which can only be overcome by building in sound internal monitoring and review mechanisms. In the final analysis accreditation has little to do with enforcement - this is a managerial responsibility, sometimes compelled by the courts. Accreditation is widely regarded as having presentational merit, may educate staff as to professional expectations and may enhance institutional self-esteem but, ultimately, it is no substitute for sound iterqtive management.

In the pursuit of this managerial excellence, the FBP has developed a remarkably thorough internal programme review (IPR), which itself meets government auditing standards. To maximise skills and resources, assessment staff are seconded by Federal Prisons to review teams for between a few weeks and a number of years to meet a comprehensive programme. The teams undertake detailed desk inspections using statistical and systems analyses and then pursue qualitative issues with surveys, interviews and personal inspections. The FBP argue persuasively that this process of internal monitoring and inspection by seconded experienced staff is efficient

and effective - way beyond anything that the ACA could entertain.

It is possible that the FBP review model may prove of value to the Prison Service at a time when it is seeking to devolve power and to reduce the size of the centre, while at the same time its strategic planning functions demand stronger, more robust, more reliable and more valid mechanisms to ensure standards and corporate objectives are being met.

Conclusions

The context of US correctional standards differs markedly from our own. In particular the US has more complex political structures, greater judicial intervention and more severe penal problems - comparison must therefore be cautious. Nevertheless certain general conclusions may be drawn:

- To be effective, standards should be specific, detailed and related to what is actually to be delivered.
- To enable longevity, a process for revising and amending standards is essential; the ACA example of a standing committee of experts, plus an element of independence to encourage external credibility, appears appropriate.
- Accreditation has certain presentational benefits if it provides independent validation of performance, but accreditation does not ensure performance.
- The FBP experience suggests that performance is dependent on adequate internal monitoring and review, which are essential to ensure standards are being met.
- The model of internal review created by the FBP using short-term secondments of field staff, appears both effective and efficient - allowing comprehensive internal inspection and review, without requiring a large permanent, central bureaucracy ■

CRIMINAL RECORDS

AIDS: As at 20 July 1993 some 12 prisoners are known to have died as a consequence of AIDS related illness while in custody: all were in outside hospital or hospice at time of death.

TIME ON REMAND: The average time spent in custody on remand from first appearance in the Magistrates Court to Crown Court was 125 days in 1992 and 119 in 1991

LIFERS: In 1992 some 330 discretionary life sentence prisoners became entitled to a discretionary lifer panel hearing. Up to 44 had had such a hearing by the end of 1992 and of those, six were released.

(NACRO Briefing October 93)

CONFRONTING CRIME IN PRISON

David Wilson was governor of HMYOI Rochester until taking up his current post in Prison Service Headquarters

When members of the general public are asked about the place of prisons in tackling crime, they tend to think in the present tense and to stress the functions of retribution, deterrence and prevention. This attitude is caricatured in the expression 'lock them up and throw away the key'. By contrast, members of the Prison Service, whilst not immune from such sentiments, are more inclined to be forward looking and to put their faith in ways of dealing with prisoners that will be of benefit to them and the community after release. This article argues that both the public and the Prison Service should pay more attention to the reality of prisoners' daily behaviour and experience if we want imprisonment to be viewed as the punishment of last resort, whilst at the same time finding ways of improving prisoners' prospects on release.

Criminal Behaviour

It is a popular myth that imprisoning someone prevents them engaging in crime. I believe that it is important to recognise that individuals are liable to behave much the same in prison as they did outside. Prisoners are human beings like the rest of us and it should hardly be surprising if change for the better does not occur at the drop of a hat. Indeed, given that we concentrate together people with serious criminal records, and put them in a situation where they are very dependent on us, there is a risk that aspects of their behaviour may worsen.

Bad behaviour on the part of prisoners may take the form not only of crimes, but of deception of those in authority and other patterns of behaviour similar to those which made them vulnerable to conflict with the law in the first place. Assault, robbery, carrying offensive weapons, theft and, increasingly, drug-related offences are all too common in prisons. As in the outside world, crime in prison usually goes unreported and in any case may not result in arrest and charge (or being placed on report).

Our determination to be forward looking is reflected in a number of ways. We try to ensure decent living conditions, including more time out of cell, not only for their own sake but because we hope that prisoners will be less likely to become embittered by their experience.

We offer programmes designed to impart work skills and tackle offending behaviour. And we encourage prisoners to maintain links with their families and the outside community.

However, such efforts will be doomed if we do not take more account of the darker side of prisoner behaviour and do not recognise that our efforts themselves sometimes contribute unwittingly to the problem. For example, more time out of cell may in certain circumstances increase the crime level in a prison and, arguably, result in us failing in our basic legal duty of care for the vulnerable. Similarly, use of various types of temporary release and moves towards more visits and better visiting conditions make it easier for drugs and other items to be smuggled in.

Games Prisoners Play

The incessant demand for temporary release, particularly on the part of Category C and D prisoners, highlights another aspect of behaviour that we need to respond to. Their rather powerless position exacerbates the tendency of many prisoners to try to deceive people in authority as they may have tried to do outside.

A wide variety of ploys, including emotional blackmail, may be used to secure that 'day out,' and application time can become a series of ritualistic games. Manipulation is further encouraged by vagueness in official guidelines and inconsistency in decision making between establishments and even between managers within the same establishment.

Does it matter that we may be deceived in the cause of a prisoner securing a brief taste of the outside world? It does if we are concerned about learning and personal development. It is no use congratulating ourselves that a prisoner has been given a chance of securing a job or dealing with a family problem if no such intention or need ever existed. All that will really have been achieved is reinforcement of the attitude that those in authority can be manipulated. It also matters that so many do not return from temporary release and/or engage in crime whilst outside. It is arguable that prisoners who breach licences pose more of a collective threat to the public than those who escape.

Balancing of Aims

The rather gloomy picture I have painted does not mean that we should dilute our attempts to move towards model regimes or to meet standards. What it does suggest is that we need to keep a number of aims in balance. It is unwise to increase time out of cell unless there are sufficient staff to supervise and a reasonable proportion of that time can be spent engaged in interesting and structured activities, bolstered by incentives as appropriate. Bored, unsupervised prisoners form a recipe for bullying and other mischief. I come on to the role of prison officers later. Similarly, improvements to visiting arrangements must be matched by measures to reduce drug trafficking, such as closed visits, and perhaps a reduced allowance of visits, for those who abuse open visits.

As for temporary release, it might help if more specific guidelines were provided for establishments to base their criteria on. At some point, we should we indicate to prisoners that the fact of their sentence to imprisonment rules out being allowed to deal directly with certain problems or attend particular outside events. For example, going home (other than on normal home leave) to fix a hole in the roof, to accompany a family member to a hospital appointment or to attend a school open evening ought surely to be highly exceptional. There is no shortage of better criteria for temporary release, particularly in areas such as community work and educational or training courses.

Furthermore, maintenance of links with the community does not have to involve preservation of family ties. The last thing some families need is more pressure to visit the missing member in prison, or the threat of him or her landing temporarily on their doorstep. In examining for hidden agendas behind requests for home leave or other forms of temporary release, we often need verified information on the state of family relationships. In some cases, it may be more appropriate to suggest marriage guidance counselling, to help couples decide whether to stay together, than to grant temporary release.

As far as failures to return from release on licence are concerned, we seem unduly selective in having a key performance indicator for escapes from prison but not for numbers unlawfully at large. Setting a target to reduce the latter would concentrate minds on achieving the right balance between helping prisoners prepare for release and keeping them in custody.

Personal Development and Empowerment

Part of the answer to inappropriate behaviour lies in providing prisoners with opportunities for personal development. To achieve this, we must not only confront them every time they try to pull the wool over our eyes, but we must ensure that structures and programmes are in place. The requisite framework - sentence planning, personal officers, courses to counter offending and related behaviour etc. - is too familiar to need going into in detail. Making a success of regimes also calls for sufficient resources, which I refer to later.

Even more important in my view, is the need to open up communication with prisoners and involve them where appropriate in decisions that affect their individual lives and the life of the prison. Much progress is already being made by way of open reporting and giving prisoners written reasons for decisions. Consultation on facilities, bullying, catering and other issues is also expanding.

This is more than just a way of keeping the lid on prisons. To return to the theme of learning, we need to promote the value of co-operation within a community and the possibility of improving quality of life by lawful means. On release from prison, this may translate into involvement in tenants' associations, voluntary organisations etc and could be at least as powerful an agent of ameliorating criminal behaviour as some 'therapies'.

In the same spirit, prisons must be seen to operate generally in a fair and just manner, for example through the way that order is maintained and adjudications are conducted. It has long been recognised that credible means of pursuing grievances and access to legal processes may prevent internal disorder. In addition, experience of justice in prison may be as effective a stepping stone as any to law-abiding behaviour outside.

The Role of Prison Officers

Creation of a safe environment, promotion of personal development and empowerment of prisoners all place demands on resources, including buildings and staff. Success will depend in part on keeping the overall size of the prison population in check and on being able to accommodate more prisoners in smaller units. A

reasonably crime-free environment also calls for sufficient numbers of prison officers intermingling with prisoners in purposeful ways.

There is a tradition in our Service of prison officers relating to prisoners and not merely guarding them. Even so, the role of prison officers has sometimes been an overly reactive one. Increasingly, their role will need to become more active and intensive as they take on functions such as counsellors, course leaders and representatives of prison management at meetings with prisoners. There is plenty of scope for job satisfaction in those types of work and officers should therefore have little to fear from diversion of some less challenging tasks to other grades.

Development of both helping and consultative roles involves a more democratic and demanding prison environment. It assumes, of course, that staff are themselves adequately cared for and consulted by management. There is room for further improvement in matters such as physical facilities for staff, staff appraisal, briefing meetings and staff training. The new roles mentioned above beg a considerable training requirement and some staff will need to specialise to a degree, for example in dealing with particular types of offending behaviour.

Resources

There are considerable financial implications in the developments I have suggested are needed, hence the importance of the overall size of the prison population. A concern that I have about market testing and contracting out of whole establishments, is that better facilities for prisoners, and generous access to them, may not be matched by enough staff on the ground or by staff with the requisite skills. If the prevailing prisoner subculture is to be weakened and modified and prisons are not to live up to the cliche of being universities of crime, residential units must be smaller and a significant prison officer presence is required. Moreover, as I have indicated, the potential of staff for involvement with prisoners needs to be harnessed in an increasingly focussed and sophisticated way.

Conclusion

The negative aspects of imprisonment which flow from separation from the outside world and the strength of the criminal subculture, added to its high cost, dictate that it should be reserved for cases where the demands for retribution and general deterrence allow no lesser punishment. To the extent that imprisonment is necessary, I have tried to argue that there are ways of countering the negative aspects and promoting positive forces.

Confronting crime, whether inside or outside prison, does not come cheaply, but the alternatives to investment are to pay lip service to our statement of purpose and vision, or even to make matters worse. Analysis of prison life suggests to me that we have some way to go in safeguarding the rule of law inside and bolstering the hopes of those who wish to change. Politicians and members of the Service at national and local levels all have roles to play.

VERBALS

"What I have outlined today is a strategy designed to secure continuing and lasting improvements in standards, quality and cost efficiency across the whole of the prison system in England and Wales. But it has to be remembered that private sector involvement is one of several measures all aimed at creating a climate in which existing practices are questioned and new ideas and approaches tried. If these objectives are to be achieved, the private sector must be large enough to provide sustained competition and involve several private sector companies - a genuinely mixed economy."

(Home Secretary on 2 September 1993)

Reviews

FILMS

IN THE NAME OF THE FATHER (15)

Jim Sheridan (132mins)

In 1974 the I.R.A planted a bomb in a Guildford pub that killed five and injured 64.

Gerry Conlon,his friend Paul Hill and two others were arrested for this callous atrocity. Throughout their numerous interrogations they maintained their innocence until, weakened by lack of sleep, food and drink, they signed false confessions.

Their trial, based on scant and questionable evidence, is swiftly followed by a sentence of LIFE behind bars. Along with the four were Conlon's father Guiseppe and the Maguire family.

Until then the relationship between father and son had been far from perfect. But when father and son are thrown together and forced to confront each other's inadequacies and mutual lack of respect a new bond emerges.

Despite Guiseppe's failing health he eventually persuades Gerry to join his relentless campaign to prove their innocence.

After 15 Years of tireless investigation their lawyer Gareth Peirce uncovers a vital piece of evidence previously withheld from the defence. This is sufficient to overturn their convictions and secure their release.

The British Justice System is still reeling from the effects and 'In The Name Of The Father' will have you reeling too.

Fear not this is not in anyway a political diatribe. It is a powerful, extraordinary achievement from 'MY LEFT FOOT' director Jim Sheridan which manages to be thoroughly entertaining, even at times amusing while telling a harrowing true story of injustice.

Each performance is well performed from Daniel Day Lewis as a breezy Conlon to Pete Postlewaite as his much maturer father Guiseppe. Our lustrous Emma Thompson makes a brief entrance as Conlon's lawyer Gareth Peirce with a marvellous display, while Corin Redgrave's cruel Police Inspector makes even the mild mannered want to smash his face in.

The film has recently received four Goldern Globe nominations and should attract considerable-controversy for years to come, mixing as it does fiction with fantasy.

CARL CORRIGAN
Officer H.M.P WOODHILL

VERBALS

"For example, the contrast between the squalid, overcrowded and desperate conditions in F wing in 1990, and the warm, light, open and positive atmosphere which now prevails is a credit to all concerned. Some of these improvements can be attributed to a reduction in the inmate population and to the quality of Brixton staff. Much of what is taking place has been brought about by positive leadership and commitment from the Governor and his management team ..."

(Chief Inspector of Prisons reporting upon HMP Brixton on 5 August 1993)

"For many years, the education system was one of the few positive aspects of an otherwise depressing prison scene. In education officers, the Prison Service had access to a group of well-trained, skilled and - on the whole - well-motivated staff. Education was cheap, popular with prisoners, and there was some evidence from other jurisdictions to indicate that it contributed to rehabilitation ..."

(The Future of the Prison Education Service - Prison Reform Trust report of 2 August 1993)

HOME OFFICE CRIMINAL JUSTICE CONFERENCE

BATH SPA HOTEL
29 JUNE - 2 JULY 1993

SUMMARY REPORT

Bob Morris, Home Office Criminal Department hosted a national conference in the Special Conferences Unit programme about reducing re-offending. The main objective of the programme is to develop greater awareness and understanding of the work of the different criminal justice services and of the scope for improved contact and co-operation between them.

In practice co-operation can be tough rather than easy. It may involve an acceptance of change, giving up an individual service or professional advantage to secure a benefit for the criminal justice system as a whole.

Among the speakers were Edward Frizzell, Director of the Scottish Prison Service who spoke about the progress that had been made in the system since the riots in the late 1980s; the emphasis now placed on the individual responsibility of prisoners to make good use of the opportunities available to them; and of the regime for sex offenders in Peterhead.

Jim Semple, Governor and a team from Blantyre House offered different perspectives of life there. The aim of the regime was to move away from dependency through development of the prison community.

Two prisoners from Blantyre spoke of their initial surprise at the courtesy, and civilised treatment at Blantyre.The emphasis on independence brought them back to reality. Blantyre was what you made of it. It had shifted their way of thinking from resentment and bitterness to coming to terms with themselves and with going back into society.

For the two members of staff the emphasis on supportive relationships between staff and prisoners was a challenge which brought distress and disappointment as well as reward. Blantyre was trying to put back some of the values that had got lost in other parts of the system. As a result they certainly felt they had got better jobs.

Innovation and versatility were demonstrated by the groups involved in the Risley Car Crime project. Triggered by the joyriding tragedy in Toxteth the idea came from two Liverpool prisoners serving sentences at Risley. It was led by them with support from prison staff, in particular the Senior Probation Officer and with funds from a local charity. Young joyriders and other youngsters at risk were faced with the reality of what a prison sentence would be like, and with the tragic impact of joyriding on families and the community.

The STOP programme (Straight Thinking On Probation) demonstrated how one probation service was now changing the emphasis of its work to reducing re-offending through cognitive skills programmes which are also being introduced in prison. These programmes originated in Canada and Robert Cormier, Research and Program Development, Office of the Solicitor General, Canada, identified steps taken there to reduce reoffending.

A highlight of the event was a discussion led by Roger Graef, writer and film maker, who introduced 'Bobby' one of the young offenders profiled, in his own words in the book 'Living Dangerously'. Roger Graef emphasised that to affect people's perception of young offenders it was important to draw on understanding,

perhaps to influence local press and radio; to forgive, as with one's own children; and to condemn the act not the person. Above all we should not give up hope.

Some conclusions from the conference:

i) despite the diversity of origins and interests amongst those attending the conference, there was in fact much agreement about approaches to offending. At the same time, this community of agreement had to be set alongside very different interests in individual offences where no-one should forget the damage or the impact on individual victims;

ii) New material needed ingestion into a properly thought through and articulated approach. How secure and how significant were the new findings; what was their impact in practice; what changes in existing practice were implied? It was clearly important to exchange information so that local initiatives were built upon rather than ignorantly replicated.

iii) It was good to learn about innovation. But more was learned about the delivery of programmes from those responsible for organising sometimes large-scale programmes in the probation and Prison services.

iv) It was always helpful to try to keep a sense of perspective and hearing about experience of the Canadian correctional system had itself been a useful corrective. In much the same way the victim and police perspectives offered at the conference had been particularly cogent in warning treatment professionals about the dangers of isolated and isolating professionals pride.

v) Confidence about the viability and efficacy of programmes for reducing re-offending was recovering – and there was now a launch into a period of more confident experimentation. It was not 'nothing works', nor was it 'everything works' Rather, it was a case of 'let us make all that we can work where we can.' ■

Copies of the conference report are available from the **Special Conferences Unit:**

Room 216
India Buildings
Water Street
LIVERPOOL L2 OQN
Tel: 051-236 0867

Research in the Criminal Justice System

Introduction

Why is research important? What is its relevance?

By Mike Maguire, University of Wales, Cardiff where the 1993 Criminology Conference was held at which several of the contributions in this Issue of the Journal were presented.

The British Criminology Conference is held every two years in a different British university. The 1993 conference, held in Cardiff, was the largest yet. Almost 450 delegates attended - mainly academics, but also including strong contingents of policy-makers and practitioners - and 180 papers were delivered on a very wide range of topics. It is particularly pleasing to see some of these papers published in a special issue of the *Prison Service Journal:* continuing dialogue with practitioners is vital to the maintenance of the currently buoyant health of criminology in the university world.

While most *Journal* readers will be familiar with some aspects of criminology, they may not have a clear overall picture of the scope of the subject, what kinds of questions it addresses, what kinds of research are done, or - equally important - how it relates to policy and practice. Having recently co-edited a weighty volume, the (perhaps foolhardy) aim of which was to produce an overview of current criminological knowledge in Britain,[1] I am all too aware of how difficult it is to generalise in these areas. However, crude as it will necessarily be in the space available, a brief outline may help to set the following papers in their broader context, as well as, hopefully, encouraging some readers to explore the criminological literature further.

It is important to stress at the outset that people who write or conduct research under the broad heading of 'criminology' work in a variety of institutions, come from a wide variety of academic or professional backgrounds, and tackle questions at many different levels and with different aims in mind. They include lecturers based in law, psychology and sociology departments, academic and other staff in specialist research institutes, and the Home Office's own team in its Research and Planning Unit. Their sources of funding and security of tenure also vary widely - a factor which can greatly influence the style and content of their research.

At the same time, there are a number of fairly distinct research traditions, with greater or lesser relevance to policy and practice. One of the oldest is the search for reasons 'why people commit crime', typified by research methods in which groups of known offenders (often prisoners) are compared with control groups of 'non-offenders', in the hope of identifying any social, physical or psychological factors which consistently differentiate them. This kind of research has over the years produced a confusing array of claims that 'crime' is 'caused' by anything from unemployment or bad housing to maternal deprivation, diet, or an extra Y chromosome, all of which are open to serious question, and it has been largely abandoned since the 1970s. It has recently, however, seen something of a revival through the sophisticated statistical work of Professor David Farrington at Cambridge, which suggests that future delinquency can be predicted with a fair degree of accuracy at an early age. This, of course, raises major questions about the desirability and ethics of some form of intervention to prevent it.

A quite different tradition, developed principally by Home Office researchers in the late 1970s, focuses not upon the offender (whose motives are of little interest here), but

1. Maguire, M., Morgan, R. and Reiner, R. (1994) The Oxford Handbook of Criminology. Oxford University Press.

upon the identification of patterns of crime - where, when and how offences take place. This assists the targeting of preventive initiatives to foreclose opportunities for crimes to be committed: examples include measures which have reduced hooliganism within football grounds, the improvement of lighting in walkways on housing estates, developments in vehicle security, and so on.

A third tradition, also relatively new, entails research into the workings of the criminal justice system - most commonly, the police, courts and prisons. This may involve evaluation of the organisation's effectiveness (for example, in the quality and consistency of decision-making, as in sentencing studies like that of Catherine Fitzmaurice published in this Issue; or in the delivery of services), studies of the 'culture' of those working within it (as in Keith Carter's work on prison officers, described in this Issue), or surveys of the experiences of its 'clients' (as in the Home Office's national survey of prisoners, or my own studies of crime victims' views of the police response). Such research, sometimes referred to somewhat disparagingly as 'administrative criminology', may lead to specific recommendations for change and is thus of clear relevance to practitioners and policy-makers.

The most vigorous critics of any of the above kinds of research are most likely to be associated with a quite different criminological tradition: that of studies with a broad sociological focus, where the emphasis is unequivocally upon theoretical analysis and any practical policy implications are of secondary interest. Writers in this tradition tend to argue that too many criminologists fail to take serious account of the problematic nature of concepts such as 'crime', which is socially defined rather than an objective category of behaviour. There are, of course, many branches of theoretical criminology (among which feminist theories are currently prominent), but most agree on the need constantly to question official definitions and to explore issues such as the social construction of criminal identities, the representation of class or gender bias in the criminal law, and so on. Such work is often not to the taste of people outside the academic world, but, just as the physical sciences develop through the interaction of 'pure' and 'applied' research, it is crucial to the long-term development of frameworks for understanding social activity. Without it, academic criminology would lose a great deal of its potential for producing insight and new ideas.

Finally, mention should be made of studies which are primarily descriptive, some of which have had a considerable influence in drawing attention to the unexpectedly high incidence of 'hidden' forms of crime infrequently reported to the police. These include 'self-report' studies of sexual crimes and domestic violence, interview/participant observation studies of 'fiddling' at work, white collar crime, and so on. Interview-based descriptive studies have also greatly increased awareness of the reactions and feelings of crime victims. Indeed, many would agree that the British Crime Survey, which also comes into this general category, was probably the single most influential research project in the criminological field in the 1980s.

In sum, research into crime-related areas has grown enormously in recent years, not only in quantity, but in the range of approaches adopted and topics covered. A flavour of this diversity can be gained from a random selection of the titles of workshops held at the 1993 conference: explanations of crime; juvenile crime; feminist criminology; child sex abuse; white collar crime; prisons; probation; policing; sentencing; drugs and crime; self-report studies; the Royal Commission on Criminal Justice; crime prevention; domestic violence; car crime; victims of crime; and so on. Much of this, particularly research on the workings of organisations, is clearly of direct relevance to practitioners, but it is also important to recognise that 'relevance' is not restricted simply to a project's capacity to produce solutions to immediate practical problems. Studies aimed purely at 'knowledge' can produce valuable insights which, in combination with many other factors (key events, media interest, and so on) may have a long-term effect upon how the world of crime and punishment is viewed; this, in turn, eventually impacts upon the way that people working within the system do their jobs. This can be seen, for example, in a broad shift in attitudes towards the rights of crime victims; in greater awareness among police and social workers of the problem of crime within families; and perhaps, in the prison world, in greater willingness to involve prisoners in decisions affecting their lives ■

POLITICS AND PRISON MANAGEMENT
The Northern Ireland EXPERIENCE

Brian Gormally, Kieran McEvoy and David Wall.

The authors are, respectively, Deputy Director, Information Officer and Director of the Northern Ireland Association for the Care and Resettlement of Offenders. The article is based upon a presentation to the British Criminology Conference 1993.

Introduction

Prison management must be one of the most difficult and complex areas of practice within the exacting discipline of managing human beings. The task of containment is difficult in itself and the contribution of general management theory is often of questionable value. Furthermore, it is an area of practice which is frequently and comprehensively overrun by ideological and explicitly political demands which may have nothing to do with the immediate concerns of good management.

The recent call in Britain for more 'austere' regimes is not, we may surmise, disinterested advice to prison managers, but rather an example of an ideological foray into territory long claimed as a political battleground. Similarly the announcement by the Home Secretary of the building of six new prisons — to be placed under private management — is not simply a statement about the penological contention that 'prison works.' Leaving aside the arguments on that dubious view, few would dispute that it represents the importation into the prison service of an explicitly party political ideology — privatisation — which has been developed in an intellectual arena quite separate from prison management.

Of course, the very concept of 'prison management' is often impugned. Some elements of Right and Left actually meet in denouncing the idea. It is seen, on the one hand, as devaluing the sacred duty of chastising evildoers or, on the other, as masking the repressive conspiracies of an authoritarian state. It would be naive to suggest that the equally ideological concept of a value-free, politically disengaged but omniscient Super Management is an adequate riposte to the dynamics thrown up by the interaction between prison management and politics. Rather what is needed is an acknowledgement that the relationship is fundamental and a systematic analysis of how it works.

The Northern Ireland Experience.

It is on this point, as on others, perhaps, that the experience of the Northern Ireland prison system may throw some light. If any prison system has operated in an atmosphere of sharp and violent political confrontation, it is this one. In Northern Ireland, the standing of successive administrations has been largely defined, not by progress towards political settlement, but by progress in terms of security policy. In effect, that means the number of 'terrorists' who can be locked up in prison.

The vast majority of those thereby locked up will define themselves as political prisoners. Perhaps the key political battle of the past fifteen years — the hunger strikes of 1980-81 — was focused explicitly on the prisons. Practically the only issue to unite Unionist and Nationalist politicians on Belfast City Council over the past two years has been the call for segregation of Republican and Loyalist remand prisoners in HMP Belfast. In short, nowhere is the interaction between politics and prison management of more significance.

It could, of course, be argued that the very singularity of the Northern Ireland experience makes it irrelevant for any other system. Certainly, the Northern Ireland prison population is an unusual one after twenty five years of political violence. The IRA has continued its campaign of violence

against what it regards as the British occupation of the North of Ireland. Loyalist paramilitaries, who wish to maintain the link between Northern Ireland and Britain, continue their own campaign against Catholics who they perceive as sympathetic to the IRA and its objectives. The result is a prison population consisting of at least two-thirds of prisoners whose original motivation was political, many of them serving long sentences.

We would argue, however, that every system has its unique features and problems, but that many issues of prison management — and its relationship to politics — remain the same. The principle focus of prison management must be the interaction with prisoners. How to exercise authority without violent confrontation; defining an irreducible bedrock of principle; delineating the limits of pragmatism; refining attitudes to prisoner organisation; how to practice genuine negotiation without collaboration or collusion — these issues exist in any prison system and have been particularly illuminated in the Northern Ireland system over the past two decades.

Other relationships must also be important to the effectiveness of prison managers. For example, in Northern Ireland at present, it is our perception that prison managers have a certain degree of autonomy in decision making. However. there are at least four and possibly five. additional dynamics. Obviously there is the interaction between the prison managers and the prisoners in their charge. There is direction (or 'interference') from above by Westminster-based political masters. There is inertia and occasional outright opposition from below — from the organised ranks of prison officers. There is also, in our view, a tendency, in the managerial level itself, towards over-confidence in their own methods of operation which can involve erecting into an article of faith or a principle, that which started out as a pragmatic management tool. A fifth, inevitably speculative dynamic, is the extent of the professional interest taken in the prisons by the covert security and intelligence services.

With these in mind, it is our contention that there have been three models of prison management deployed in Northern Ireland over the past twenty-four years. Each implies a specific relationship between politics and prison management. We argue that these relate to actual historical events but they also serve as distinct theoretical constructs or 'ideal types' which explain how prison systems can operate in situations of social and political conflict.

The three models we have termed:

(i) Reactive Containment 1969-1976
(ii) Criminalisation 1976-1981
(iii) Normalisation 1981-onwards.

Below we give a brief analysis of the first two models, but concentrate on normalisation as the contemporary and, in our view, most interesting method of prison management.

Reactive Containment 1969-1976

The essential characteristics of reactive containment, in overall security policy terms, are the suppression and containment of the insurrectionary enemy; a willingness to use conventional military force; the prorogation of aspects of civil liberties; contemporaneous negotiation with the 'enemy' and with other political forces in the search for a political settlement. The model implies an acceptance that the violence facing the state is political in origin, however 'wrong', and therefore confers some kind of legitimacy on its perpetrators.

For the Northern Ireland prison system, this model meant internment without trial, 'special category status' for those convicted through especially invented no-jury courts, military guards on the prison camps and, eventually, a huge, money-led recruitment drive for more prison officers. Prisoners were contained with the minimum of formality, yet given a relatively high status. Their regime approximated to that of 'prisoners of war'.

Criminalisation 1976-1981

Criminalisation is fundamentally a redefinition of political violence as simple criminal activity. It is an attempt to remove any legitimacy from the 'terrorists'. Negotiations are more or less rejected and the total defeat of violence is held out as a real possibility.

This policy puts the prisons in the front line. Every symbol of 'difference' between 'terrorists' and ordinary criminals, any notion of the political character of some inmates, has to be removed from the system.

It involved the end of 'special category status', the rigid enforcement of the wearing of prison uniforms, the universal imposition of prison work and a refusal to recognise the existence of paramilitary organisational structures.

Normalisation 1981-onwards

Normalisation represents a significant break from the two earlier models. It may be argued that it relegates political ideology to a more equal relationship with the demands of prison management. Alternatively, it can be argued that it seeks to achieve the fundamental goals of the state, in relation to the prison system, discarding irrelevant political posturing. It involves a realisation and acceptance that political violence and division are a 'normality' of a given criminal justice system and society — part of a broader range of other 'normalities' which should receive equal emphasis, such as ordinary crime, ordinary policing, unemployment etc. — and an acceptance of the anomalies that this entails.

The main principles of normalisation derive from a number of political decisions:

a) an acceptance that the prison system, at any rate, is not a mechanism that can 'defeat' political violence; rather it is a mechanism for managing some of its consequences, and an abandonment of the policy of Criminalisation, in so far as that is designed to coerce prisoners into a practical and symbolic acceptance of the status of common criminals;

b) a recognition that political conflict and division are permanent (ie, will exist for the foreseeable future) and hence must be seen as 'normal';

c) an acceptance of the 'permanence' of 'temporary' legislative and administrative structures which have been adapted to contain political violence and yet are seen as forming just one specialised part of the 'normal' criminal justice system.

For the prisons normalisation implies development of a number of strategic directions:

1) the recognition of groups of politically motivated prisoners who are distinct from 'ordinary' prisoners and from each other. This policy includes elements of, first, flexibility and negotiation, second an attempt to limit, quarantine and marginalise the paramilitary groupings and, third, through a carrot and stick approach, constructively engaging with their adherents.

2) a policy of minimising causes and occasions of conflict with prisoners and their families. This involves a culture of realism and a readiness to spend money to avoid trouble.

3) creating a culture of normality around the system by, first, much greater access for media and the public to information and the institutions themselves ('glasnost') and, second, proactive and sophisticated media intervention.

We have only room here to give some examples of this policy of normalisation. A greatly extended version of the discussion will be found in the 1993 edition of the American journal, '*Crime and Justice*'.[1]

The Release of Life Sentence Prisoners

One is the relatively 'early' release of life sentence prisoners. The average length of time served in a life sentence in Northern Ireland for those convicted of 'terrorist crimes' is 14-15 years, while individuals convicted of similar offences in England are likely to serve a minimum of 20 years.

This is clearly a political decision and part of a policy designed to limit the activism of those released. However, it is implemented through a complex Life Sentence Review Procedure. A Board of 'independent' experts reviews cases, at the latest after ten years have been served, on the basis of reports from prison sources, sometimes the Probation Service and written representations from the prisoner, his family and any other person or agency that has a view. The Board consists of Senior Civil Servants, the Chief Probation Officer, a Psychiatrist and Medical Officer.

The Board can recommend release or a further review after a set period (maximum three years). If the recommendation is for release, the trial judge (if alive) and the Lord Chief Justice are consulted. The Secretary of State takes the final decision.

The result of this system is that, since 1985, approximately 200 lifers and over fifty 'Secretary of State's Pleasure' cases have

1. Gormally, Brian, Kieran McEvoy and David Wall. 1993. *'Criminal Justice in a Divided Society: Northern Ireland Prisons.'* In Crime and Justice: *'A Review of Research.'* Vol.17 edited by Michael Tonry. University of Chicago Press.

been released. The extraordinary thing is that at the time of writing only a handful have had their licence permanently revoked for further offending, none for becoming reinvolved with political violence.

On the whole, ex-lifers are not embittered, institutionalised rejects, but early middle-aged men, often very mature, anxious to make something of the rest of their lives. A punitive refusal of reasonable release would change that very much for the worse. At times, there has been speculation that particular Ministers have intervened in pursuit of their own political agenda (for example, longer sentences for murderers of security force personnel). However, there has never been any clear evidence of this, and the other elements of the system seem to have 'smoothed out' any political interventions. This is a case of a pragmatic policy, yet one which has a proper care for society's safety, overcoming punitive ideology.

Home Leave Scheme

Another example is the Northern Ireland prison system's unique 'home leave' scheme. Every summer and Christmas approximately one third of Northern Ireland's prison population are released unsupervised for a week. All prisoners are allowed periods of home leave in the last year of their sentence, in order to assist in preparing for release. They are helped to get jobs and can re-experience family life before final release. But it is the offering of summer and Christmas vacations to long term prisoners, most of whom will have to serve many more years before release, which is the unusual feature of this scheme. Prisoners who have served eleven years of a determinate or indeterminate sentence are eligible for this scheme.

Those who maintain their allegiance to their respective paramilitary organisations after sentencing, define themselves explicitly as political prisoners. Such prisoners are held in segregated accommodation, in the Maze prison, with other prisoners from their own paramilitary groups. They organise themselves in the prison within military structures, all negotiations with the authorities are done through their own 'OC's' (Officers Commanding), the prisoners wear their own clothes, do no prison work and exercise a considerable degree of autonomy as to how they spend their days on the wings.

These committed, political prisoners are the main beneficiaries of the home leave scheme. So far not a single paramilitary prisoner has failed to return in the years of the scheme's operation. It may seem curious upon first glance that paramilitary prisoners, particularly Republicans, who would define themselves as prisoners of war with a duty to escape, voluntarily walk out of their prison and walk back twice a year, presumably resuming their duty to escape.

It is equally paradoxical that the authorities feel they can release "terrorists" for a summer or Christmas vacation, but maintain they are too dangerous to be released finally. In practice, the authorities rely on the discipline of paramilitary prisoners. For they will neither escape nor become militarily reinvolved during the period of furlough and risk ruining the scheme for their comrades. Ordinary non-political prisoners in Northern Ireland (colloquially known as 'ODC's - ordinary decent criminals) are extended the same privileges and, predictably, small numbers of them periodically fail to appear on time. This does not, however, jeopardise the overall operation of the scheme.

There are many more examples of the avoidance of occasions of unnecessary conflict. Many are to do with not imposing the symbols of imprisonment on politically motivated prisoners, as was attempted during the period of criminalisation. As was noted earlier it was around a number of these symbols that the five demands of the hunger strikes in 1980-81 were organised.

Normalisation avoids these pointless and tragic battles which claimed the lives of ten hunger strikers and eighteen assassinated prison officers. It is now accepted that politically motivated prisoners, especially Republicans brought up in a long tradition of prison protest, will not accept the symbols of criminality. Normalisation drops those as unessential to the purpose of imprisonment. It maintains what is essential: political prisoners stay locked up and offer that level of cooperation which allows a prison to run. Why should the system demand any more?

Encouraging Political Debate

It could be argued that the above samples represent a certain exclusion of politics and an assertion of the supremacy of

a relatively autonomous and pragmatic management. We would not see it quite that way. We would argue that normalisation represents, at least in part, a more sophisticated interaction between management and politics. In fact, we believe normalisation itself represents a clear recognition of the political centrality of prison management. Furthermore, it can be pro-active in encouraging a certain kind of political debate.

For the issue is not how to exclude political debate from the prison system, but how to raise its level. In Northern Ireland, there is much talk of a 'democratic deficit.' This refers to the absence of an active local politics which leads to real power or influence. The region is governed by a combination of 'direct rule,' (a group of British Ministers and their central government departments) and a huge range of quangos that carry out most of the functions of local government. It can be argued that the prison service's response to this deficit has been to apply the concept of 'stakeholders' to encourage quasi-political debate about the prisons.

'Stakeholders,' are defined as groupings which have some genuine 'stake' in the running of the prison system. So far, this has included voluntary organisations, the Association of Boards of Visitors, members of associated quangos and other 'respectable' elements. The prison welfare departments of paramilitary organisations have been excluded, as have organisations with an explicitly civil libertarian philosophy. However, the laudable intention has been to encourage wilder debate about the future of the prison service.

In preparing their long term strategic document 'Serving the Community', the prison service set up a series of meetings where these preordained stakeholders were allowed to present their views in an interchange with management. There has developed a culture of amenability where major figures within the prison establishment are willing to leave themselves open to meetings and discussion. Debates both in public and private are often frankly and strongly argued but rarely acrimonious. This is a change from earlier times. Questioning of official policy, which, during the periods of reactive containment and criminilisation would have been 'giving succour to terrorism', have been transformed to 'constructive criticism' by normalisation.

This kind of debate has been accompanied by a much greater openness to the media with television, in particular, having been given unprecedented access to sensitive areas of the prison system. We would surmise that the purpose of these developments has been to inform the political debate. If normalisation is a more sophisticated articulation of the relationship between prison management and political direction, additional elements must be introduced. A straightforward dialogue (or, at worst, simple line of command relationship) is replaced by a more complex debate mediated through an interlocking network of agencies and community representatives. In principle, this should enrich the process of political accountability which has to culminate in the responsibility to Parliament of Government Ministers.

It should be noted that, viewed from this perspective, normalisation is as much an active critique of the concept of an unaccountable, autonomous prison management agency as it is of crude party political manipulation. Democracy and accountability can only be fully manifested in the political arena; the point is to maximise the constructive inputs into that arena.

Conclusion

It would be wrong to give the impression that we now have in Northern Ireland a prison system from which conflict and violence has been entirely removed. There are still occasional outbursts of deadly violence between prisoner factions and between them and prison officers. This is perhaps inevitable given the nature of the prison population. Indeed there are those who would argue that the authorities have, at times, failed to learn the lessons of their own successes in avoiding such conflict. There are without doubt countervailing tendencies and contrary examples to the policy of normalisation. Nonetheless, we think that the current, general trend of practice in prison management in Northern Ireland does offer some valuable lessons in developing the relationship between politics and management.

In our view it is quite wrong for prison managers to expect that politicians will see the error of their ways and withdraw from the arena and simply let the experts get on with the job of managing prisoners. All

political parties will inevitably vie for the law and order vote. The prisons will remain one of the key battlegrounds for any government's 'war on crime'. The experience in Northern Ireland of the government's 'war on terrorism' offers many illustrative examples of the necessary accommodations between politics and management.

Perhaps the key lesson, particularly from the normalisation era, is that managers can reflect back to the political arena, not an assertion that politicians should have no interest in prison management, but rather an offer of the opportunity to invest sensibly in policies that work. That perspective can help the prison system genuinely serve the community rather than act as a mechanism to exacerbate its social divisions ■

THE BOUNDARIES of Sentencing Consistency

Dr. Catherine Fitzmaurice, Cranfield School of Management, Cranfield University

This paper is about the predictability of magistrates and judges. More specifically, it is concerned with the predictability of their sentencing decisions[1]. However, because predictions are, in this instance, the product of a statistical model, this paper is also concerned with the model and, importantly, with the interaction between model and predictability[2].

Furthermore, the predictions and the data on which they are based constitute an important tool which can help inform discussions and changes in sentencing practice. More generally, it is argued here that empirical evidence on sentencing practice constitutes a much needed basis on which to decide on modifications whilst precipitous changes to criminal justice legislation can but harm the future performance of the criminal justice system.

Predictability and Targeting

In the late 80's, the predictability of custody emerged as a practice issue in Probation Services. Probation staff wanted to ensure that recommendations for non-custodial disposals were made when offenders were at risk of custody. Conversely, they also wanted to avoid recommending high tariff non-custodial disposals when an offender was not at risk of a custodial sentence.
In effect, probation officers were routinely confronted with the task of predicting sentencers' decisions. However, the need which emerged in probation was for a more 'objective' indication of custodial risk and this necessitated the development of various instruments used widely in Probation and largely derived from the work of David Bale (1990) who constructed the Cambridgeshire Risk of Custody Scale. Three elements characterised that scale: the predictive method it used, its emphasis on Cambridgeshire Courts and its focus on custody.

The research relayed here aimed to develop a predictive instrument which rested on a methodology which had been tested over time (Nuttall et al, 1997; Sapsford, 1978; Ward, 1987) and had been found robust with criminological data (Farrington and Tarling, 1985). In addition, it aimed to

1. This paper presents some of the findings of a research project funded by the Home Office Research and Planning Unit whose support the author gratefully acknowledges. The views expressed in this paper, however, are solely that of the author. The writer would like to thank Paula Stanley for her invaluable help and support throughout the life of this project.
2. This article is based on a paper delivered at the 1993 British Criminology Conference. The more technical aspects and results of the statistical work have been omitted here for ease of exposition. The original paper, where those are included, can be obtained directly from the author.

reflect individual court practices and to ascertain whether custody as well as sentences other than custody could be predicted.

A first scale was initially developed on a limited number of cases (Fitzmaurice, 1990). The same method was used for the research reported here but the sample was much larger. It consisted of some 4,000 cases, representing offenders who had been sentenced in 17 different Courts where they had received one of eight sentences ranging from discharge to custody[3]. On each of these cases, 32 variables were collected which covered personal characteristics such as age and sex, criminal record, outcomes of past disposals, current offence and social circumstances.

The first scale used all these 'predictive' variables. The question was to know whether it was possible to offer predictions on the different sentences with a smaller number of variables. Hence, five different models were identified which involved respectively seven, nine, 12, 16 and 17 variables. Each model including the 32 variable model, was constructed, run and analysed, for each of the eight outcomes.

The message from this time consuming and repetitative work was fairly simple and consistent: some models performed better than others in predicting certain sentences but no single model towered above the rest in terms of its performance.

Predictability and Consistency

The comparison of the different models' performance lead to a number of conclusions. Some have to do with predictions per se; others with what these predictions mean in terms of sentencing practice. The first is that there is no simple solution to the question of accuracy. The choice of a given statistical model entails an acceptance of the strengths and limitations inherent to that model over the advantages and limitations of the others. What is, however, very important is that the statistical information collected on each model provide precise information about these strengths and limitations. Consequently, they enable informed decisions to be made about accuracy over all disposals and hence about the trade-off between models.

The second conclusion is that, whatever the model used, certain disposals are quite difficult to predict. Of course, this does not necessarily exonerate the model itself. However, in some instances, there is clear evidence that the poor predictability of some disposals was related to sentencers' practices. So, for example, discharges and suspended sentences have proved to be difficult to predict regardless of the models. However, closer scrutiny of the actual raw scores indicates that discharges and suspended sentences cases are not readily identifiable as very different sentences in the tariff. It would appear from the data that the lack of predictability of these two disposals may be related, in part, to the interchangeability with which some sentencers used them.

Prior to the CJA 1991, this had very significant consequences as further offending following a suspended sentence was likely to lead to an immediate sentence of imprisonment whilst further offending following a discharge was very unlikely to have the same result.

This lack of differentiation also means that regardless of the model used, the ability to predict will be severely restricted. In this respect, it is also worth noting that the distribution of scores for Fully Suspended Sentences were found to be close to those characterising Probation Orders and Community Service Orders. This may go some of the way to explain the difficulties in predicting each outcome; it also raises the question of the relative lack of differentiation in sentencers' practices.

In other words, the smaller the differentiation between sentence use and the more difficult predictions become for each individual disposal. However, as the examples above illustrate, the very process of prediction can provide some empirical understanding of the assumed underlying 'tariff'.

A third issue which the predicting work highlighted concerns the interaction between sentencers' decisions and the intervention of

3. These were: discharges, fines, probation orders, community service orders, specified activities orders, partially and fully suspended sentences and custody.

Probation Services. Here, the case in point concerns Community Service Orders and Specified Activities Orders (also referred to as Schedule 11). In the Service where the data was collected, the policy concerning these two disposals had been consistent over time. It was to recommend CSOs and S11 orders as high tariff disposals and alternative to imprisonment. The main difference between the two revolved around the notion of social need: when such a social need was identified by officers, a Specified Activities Order was seen as a more desirable and effective form of intervention.

The overall number of Schedule 11 cases is much smaller than of Community Service Orders and, not surprisingly, S11 are more difficult to predict than CSOs. Of course, it is just possible that the smaller number of S11 orders can be explained in terms of lack of social needs on the part of offenders. However, it is also clear, from the data, that the two orders differ in terms of tariff position. The difference in tariff position does not accord with the policy of the Service concerned.

To put it another way, the raw scores and the information on which they are based enable us to demonstrate inconsistencies and to raise questions about where inconsistencies lie: do they stem from practitioners who may not recommend both disposals according to their Service's policy or do they rest with the sentencers who may favour one kind of available sentence rather than another? (The third option, of course, is that both are inconsistent!)

Predictability and Younger Offenders

The sample included offenders aged 17 upwards. A particular sub-group, that of young offenders aged 17-24, was of specific interest because of the large proportion they constituted in the sample: nearly 60 per cent of the cases of whom 70 per cent were recidivists.

This sub-group, defined by the Government paper 'Tackling Young Offenders', is very much an arbitrary category. It includes offenders which could be said to fall more logically into smaller age bands such as 17-20 and 21-24. Because of this, the data held in the data base was also analysed by these age groups.

In terms of the sentencing of first offenders, the data highlighted some differential practices. First, courts seemed to rely more on discharges and Community Service Orders (CSO's) for first offenders aged 17-20. For those aged 25 and above, courts appeared to rely more on suspended sentences and custody.

Differences in sentencing patterns of recidivists affected more the very young: the most frequent sentences given to 17-21 recidivists were CSO's and custody, and both taken together constituted half of the sentences given to them. Amongst 21-24 recidivists, the most frequent sentences, in order, were custody, probation and fines, with these three accounting for well over half the sentences. For recidivists aged 25 or above, the most frequently used sentences are the same, but probation is favoured, followed by custody and then fines. Again, these three account for well over half the sentences.

What was really striking concerned two high tariff disposals: CSO's and Specified Activities. They were clearly a sentence for the very young. Over half of the CSO's and S11 sentences are given to the 17-20 years old recidivists. They were also the most frequently used sentence for the very young first offender: 67 per cent of the 75 CSO orders made on first offenders were given to offenders aged 17-21.

As the analysis of the patterns of offending, which is not relayed here, and that of sentencing, which is briefly summarised above showed specificity in terms of age and previous record, we ran the general predictive models again, this time differentiated for age and criminal record. Hence we had a number of categories: first offenders and recidivists in the younger age group (17-20); first offenders and recidivists in the older age group (21-24). We also compared these results to those concerning offenders aged 25 and above, and compared the results for the younger age group with those affecting offenders aged 21 and above.

In terms of time, the task was quite formidable but the conclusion is not proportional to the amount of work it required: simply stated, the more differentiated the models, the better they performed.

Even if we only take one measure out of the many we used, namely true positives (those cases which were predicted by the model as receiving the sentence and had received this sentence), the difference between the general model and its most differentiated version amounts to an increase of between 10 and 20 per cent in true positives.

Predictions, Models, Sentencers and the 1991 CJA

In summary, the data show that predictions enabled by the Sentencing Prediction Scale improve considerably our ability over chance to predict sentences. However, the data also suggest that some disposals will always be difficult to predict. This is likely to be so when numbers are small. Importantly, it is also likely when the sentencing patterns which underpin them lack in consistency or when sentence use is poorly differentiated.

The attempts to build models related to specific categories of offenders raise interesting questions. One of these concerns the way in which the model operates and raises questions about the additivity of deviation points on which the model is based.

Importantly, the work reported here emphasised the interaction between process and product. In many ways, the predictions themselves are, by no means, the Holy Grail. There are considerable benefits to be gained from such a process. Besides raising questions about the method, the process of developing the models provides empirical evidence on the way sentencers use the options open to them.

Put differently, the work highlights that, while our models constitute the boundaries of our ability to predict, they enable us at the same time to define the boundaries of sentencing consistency.

Past Behaviour and the Shaping of the future

This message is even more important now than it was prior to the CJA 1991. The changes which the Act have brought about (and the subsequent changes to the changes!) renders this kind of work even more necessary. We need ways of mapping out practice.

This is particularly so in relation to the central notion of offence seriousness and the (vexed) question of previous convictions. In both instances, predictive scaling can provide a different understanding of sentencing practice and of the way in which it relates to the philosophy of the Act.

Finally, there always was a problem at the very heart of the development of the predictive scaling of court sentences. The problem was that it was initiated by Probation Services for use by Probation practitioners. However difficult this may be, this agenda ought not to be left solely to the motivated probation practitioners; it should be shared more widely and certainly involve the sentencers.

The Need for Empirical Evidence

Interestingly, one of the most important consequences of the CJA 1991, and one which should not be overlooked, was that it opened a climate of discourse on sentencing practice by magistrates and judges.

By changing fundamentally the traditional sentencing framework, the CJA 1991 substituted for a known system, one which was unfamiliar and for known legislation, one which raised many questions of interpretation.

In this sense, the CJA 1991 represented quite a breaking point: it not only offered an opportunity to subsume a range of penalties into a coherent system based on a single sentencing philosophy, it also engendered, for example with fines, some attempts at defining the nature of the proportional relationship between offence seriousness and sentence severity.

This is not to say that the CJA 1991 constituted some universal panacea. So, for example, the nature of the philosophy of just dessert still appeared to some as ill founded or incomplete. Moreover, the nature of the proportionality was left for sentencers to decide and, despite Magistrates' Association guidelines or Court of Appeal judgements, the likelihood is that proportionality would mean different things to different sentencers (Fitzmaurice and Pease, 1986). Similarly, it is most likely that the emerging order of punitiveness of penalties would not have

been uniform across all sentencers and would have required investigation for the same reason.

Given the magnitude of the task and the profound changes which the Act brought about, it was to be expected, from the outset, that adjustments to the CJA 1991 would be necessary. Sadly, the speed with which changes were effected so shortly after the implementation of the CJA 1991 (and not withstanding those which are likely to follow) forfeited the ability to make changes in the light of sound empirical evaluation. Moreover, some of these changes constituted radical responses which were not necessarily warranted by the nature of the problem (of unit fines) or which appeared as departures from the very philosophy which guided the 1991 Act (of previous convictions).

Unfortunately, such precipitation can only make sentencing practice appear like a weather vane in the midst of a cyclone.

These problems are likely to intensify. The recent shift in philosophy which suddenly reaffirms the need and value of imprisonment contrasts sharply with the greater reliance on community based penalties which the Government strongly advocated before the CJA 1991. It will be remembered that it did so on the basis of the limited effectiveness of incarceration relative to its costs.

It could be argued that the apparent shift is as political as the move which initially prompted the adoption of 'just dessert' as the underlying philosophy of sentencing. However, its aim is to alter the relative balance of incarceration and community based penalties which the 1991 CJA had tilted in favour of the latter. This is bound to affect every agency concerned with criminal justice and consequently their attempts to deliver on another Governmental philosophy: that of an efficient and effective management of public resources. On the surface, this philosophy has not changed. It could be argued, though, that a precipitous and ideological shift in punishment philosophy, unrelated as it appears to be to its predictable or possible consequences for the agencies concerned, constitutes an effective negation of such a philosophy.

The rapid repeal of major parts of the Act and the imminence of forthcoming legislation are creating a climate in which a reflective scrutiny and a sober assessment of the effects of the CJA 1991 on sentencing practice and criminal justice agencies cannot take place.

This is all the more regrettable that the ability both to learn from past decisions and behaviour and to anticipate the consequences of possible decisions are the most effective tools we have to help us shape more adequate future behaviours. To forfeit these hastily, without the benefit of sufficient empirical evidence or in contradiction to it, reduces greatly the chances of shaping a fair, equitable and manageable criminal justice system.

References:

Gale, D. (1990) *'The Cambridgeshire Risk of Custody'* in Mair, G. (Ed), Risk Prediction and Probation: Papers from a Research and Planning Unit Workshop, Home Office Research and Planning Unit Paper No 56, London, HMSO.

Copas, J. and Tarling, R. (1986) *'Some Methodological Issues in Making Predictions'* in Blumstein, A. (Ed) Criminal Careers and 'Career Criminals', Vol 2, National Academy Press.

Farrington, D. and Tarling, R. (Eds) (1985) Prediction in Criminology, Albany State University of New York Press.

Fitzmaurice, C. and Pease, K. (1986) *'The Psychology of Judicial Sentencing'*, Manchester University Press.

Fitzmaurice, C. (1990) *'Predicting Risks in Courts: the Staffordshire Sentencing Prediction Scale'* in Mair, G. (Ed), Risk Prediction and Probation: Papers from a Research and Planning Unit Workshop, Home Office Research and Planning Unit Paper No 56, HMSO, London.

Nuttall, C., Barnard, E., Fowles, A., Frost A., Hammond, W., Mayhew, P., Pease, K., Tarling, R. and Weatheritt, M. (1977) Parole in England and Wales, Home Office Research Unit Study No 38, HMSO, London.

Sapsford, R. (1978) *'Further Research Applications of the Parole Prediction Index'*, International Journal of Criminology and Penology, 6, p247-254.

Ward, D. (1987) *'The Validity of the Reconviction Prediction Score'*, Home Office Research Study No 94, HMSO, London.

The Contribution of

PRISON-BASED BAIL INFORMATION SCHEMES

to better jobs

Brian Williams and Tina Eadie. Brian is lecturer in Applied Social Studies at Keele University and Tina lectures at Nottingham University and is a senior probation officer with Derbyshire.

The 'Better Jobs' initiative was declared a priority in the 1991 White Paper, 'Custody, Care and Justice' (Home Office, 1991) and was restated in subsequent Prison Service Annual Reports (Home Office, 1992). It was intended to ensure that the impetus generated by the Woolf Report was maintained and implemented in terms of staffing policies. The main themes of the initiative include enhancing prison officers' roles, working with professional colleagues and career development. All three of these themes are present in the shared working approach to Bail Information Schemes in prisons. The Woolf Report itself commended prison - and court - based Bail Information Schemes. This article draws on some recent research findings to consider whether the establishment and operation of prison-based Bail Information Schemes can make a positive contribution to the 'Better Jobs' initiative.

The aim of all Bail Information Schemes is to avoid unnecessary remands in custody by providing the Crown Prosecution Service with positive information about defendants which is relevant to the Bail Act, and maximising the appropriate use of community facilities and services. Bail Information Schemes reflect the divergent strands apparent in the current law and order policy; on the one hand, decarceration in an attempt to control prison populations is being actively pursued - and Bail Information Schemes can make a positive contribution to this. On the other hand, Ministerial statements and media talk about 'getting tough' on crime to restore public confidence are likely to affect the chances of a successful bail application from a person already remanded in custody.

Similarly, prison officers working with prison-based Bail Information Schemes have to hold the balance between two differing perspectives; one is to ensure that prisoners are held securely in the penal institution, the other is a more welfare-orientated task - working towards the release on bail of those prisoners who are assessed as being inappropriately remanded in custody. Interesting questions can be asked about how it feels to be wearing the two hats, how remand prisoners themselves react to the dual role of their custodians and whether or not the helping role does result in increased job satisfaction for the prison officers involved in the Bail Scheme.

In a report by HM Inspectorate of Probation (Home Office, 1993) on Bail Information it is noted that both Prison Service headquarters and Governors of individual establishments believed that there are important benefits to be obtained from having prison officers involved in the Bail Information process. These are stated as 'greater job satisfaction, a chance to make an important contribution to the sentencing process and experience of working in partnership with other parts of the Criminal Justice System' (Home Office, 1993, p.28).

The involvement of prison officers in prison-based Bail Information Schemes has been well documented in a piece of research undertaken by one of us (Williams, 1992). This research was undertaken at HM Prison Moorland, a new prison intended, when it opened, solely for under-21 year old males. The initiative for the Bail Information Scheme came first and foremost from the Governor of the prison. He was a member of the project team implementing 'Better Jobs' and was determined to see a BIS established at Moorland.

The start date of 12 August 1991 for the scheme at Moorland was delayed due to riots during that month. When the scheme did commence, there was resourcing for three quarters of a probation officer and three quarters of a prison officer. Later in 1992 an additional probation officer was

resourced through the Home Office hypothecated grant scheme - a means of providing protected funding for the Schemes.

The Moorland study involved a small number of semi-structured interviews with prisoners who had experience of the Scheme. Prior to setting up these interviews, some time was spent getting to know the prison by having informal discussions with staff and inmates about the regime and its workings. The interviews took place during the evening. At the time the prison was operating an alternate evening association arrangement and prisoners were given the option of being seen during association or when locked up. A total of 12 young men were interviewed at the prison and a further two were interviewed following release on bail. In all, six of the 14 were released on bail following involvement with the Scheme. This is a fairly representative figure.

Better Jobs?

So what does the Study tell us about the impact of prison-based Bail Information Schemes on prison officers' perceptions of their jobs? Do the Schemes help to create 'Better Jobs'? Do they improve relationships between prison officers and probation officers, and between uniformed staff and inmates? Jepson and Elliott (1985, p.66) give as one of the main objectives of shared working in prison probation departments, 'to enable prison staff to participate more fully in work within the establishment in the field of inmate welfare'. This has undoubtedly been a key task for the prison officers involved in the Bail Information Scheme but these officers are a tiny proportion of officers in Moorland.

Jepson and Elliott (op cit) and later Smith (1991) confirms that such schemes do result in enhanced job satisfaction for prison officers but can also lead to increased frustration; they reported that this was caused by having insufficient time to do a good job and by lack of continuity. At Moorland, issues were raised about insufficient time to undertake the task of Bail Information and lack of continuity was also raised as an irritation for everyone involved with the Scheme. The difficulty of finding out what happened to the defendants on whom they had reported to the court was found to be extremely frustrating; if an inmate did not return from court there was normally no way of knowing whether the bail application had been successful or whether he had been remanded to another prison. Mair (1988, p.12) reports on how contact with community teams was important both in terms of reducing the potential isolation of the task and boosting morale through hearing about successful applications. Improved liaison with court-based probation officers and the expansion of fax facilities has reduced this considerably.

What happens when the alarm rings?

A degree of isolation can be experienced in any kind of specialist post and the Bail Information Scheme is no different; staff find it difficult to discuss work problems with colleagues who have no detailed understanding of the task. Another point of interest was the different type of work the original two Scheme officers were undertaking when not involved in Bail Information work; the prison officer would find himself back in a disciplinary officer role, sometimes working evenings and weekends, whereas the probation officer's tasks would still be welfare-related on a Monday to Friday, nine to five basis. Another major difference between prison and probation officers working for the Scheme is that the prison officers will carry radios and be required to respond immediately to general alarm calls. As well as being disruptive, having to respond to a message during an interview or change locations could result in vital information being lost.

Training for the prison and probation officers involved in the Scheme was undertaken by the National Training Officer prior to its commencement. The training consisted of a three day residential course. Smith's (1991) research into shared working suggested that some prison officers are not very confident about report writing and were worried that their reports often compared badly with others'. At Moorland, the staff of the Scheme produced excellent reports to short deadlines, but some of them may well have found this work unfamiliar, difficult and stressful. Preparatory training is likely to have been useful, but was not made available.

Smith's research also considered the contradiction for prison officers between helping and disciplinary roles. Inmates might have reservations about talking to members of uniformed staff about their personal circumstances. What emerged from the Moorland Study was that most inmates interviewed had no strong feelings about whether they were seen by a prison officer or a probation officer regarding their bail applications. A question was asked 'Do you mind talking to prison officers, or to probation officers, about your bail application?' and all 14 respondents said they would talk to either. When a follow-up question was asked as to whether or not they had a preference, six said they would prefer to talk to a probation officer. This suggests a slight preference but no strong feelings either way. Responses included the following comments:

'I'd see either. He's alright, he's trying his best. He keeps coming back and asking me more questions' (seen by a prison officer) - 'Doesn't make any difference, really, I don't think ... Not fussy, I'll see either' (seen by a prison officer) - (Williams, 1992, p.78)

Style of interviewing and the way in which inmates were initially approached were probably important factors in ensuring that marked preferences were not expressed. It is therefore to the prison officers' credit at Moorland and a tribute to their professionalism that negative attitudes towards shared working expressed in other studies (see, for example, Smith, 1991 and Williams, 1991) were not found at Moorland.

Financial Costs

The fact that there had been riots at the prison as the Scheme was being established suggests that officers involved had worked hard to develop a good reputation for the Scheme, especially relating to issues of trust and confidentially. During the first three months of the Scheme's operation there were few clients and no successes. The first success came in November 1991 and from then on a steady flow was maintained. In terms of the Scheme's cost effectiveness, staff only have to get bail for an inmate every few weeks to recover the full financial cost of the Scheme.

The Moorland research is currently being followed up; this phase of the work involves checking the extent to which the recommendations made about that Scheme have been followed and how much the situation has changed since the original research was completed. There are indications that at Moorland, many of the findings of the 1992 research report have been acted upon. The Scheme there has been expanded considerably and has been visited by many colleagues involved in setting up similar Schemes elsewhere.

Losing their jobs

A major change, however, is soon to be implemented; remand prisoners will be sent to the new privately run prison due to open at Doncaster. This will mean that the Moorland Scheme ceases to exist which, in turn, will have implications for 'Better Jobs'; the Scheme has given prison officers access to further training, job satisfaction, expertise in a specialist area of practice and recognition from both inside and outside of the prison. Having experienced this, will their job seem less satisfying when the Scheme is no longer in operation at the prison?

Funding is currently being sought by the authors of this paper for a larger study which will also enable comparisons to be made between prison-based Schemes in the region. The research will have the overall aim of increasing knowledge and understanding about the effectiveness of prison-based Bail Information Schemes. The concept of effectiveness will include the impact of Schemes on inter-agency relations, prison officer job satisfaction and user satisfaction as well as the more obvious cost effectiveness.

It is timely to undertake research of this type in these areas; it will be interesting to look at how (and whether?) a new Bail Information Scheme develops in the privately contracted prison at Doncaster. North Yorkshire, which up to now has not had a prison-based Scheme, is currently considering the merits of establishing one at HMYOI Northallerton. The Scheme at HM Prison Leeds in West Yorkshire has been affected by the departure of the Bail Information Officer and a failure to fill the post during the past year. This is currently

being remedied. In Humberside, the Probation Service advertised in June 1993 for a Bail Information Officer for Wolds Remand Prison. Research there will afford interesting comparisons between Schemes in the public and privately operated spheres.

Overall we believe that prison-based Bail Information Schemes contribute to 'Better Jobs' for prison officers. Despite the contribution being small due to small numbers of officers involved with Schemes, it remains significant in terms of offering a broader based job description to those officers ■

References

Home Office, *'Custody, Care and Justice: The Way Ahead for the Prison Service in England and Wales'*, Cm. 1647, HMSO, 1991.

Home Office, *'Report on the Work of the Prison Service April 1991-March 1992'*, Cm. 2087, HMSO, 1992.

Home Office, *'Bail Information: Report of a Thematic Inspection'*, HM Inspectorate of Probation, 1993.

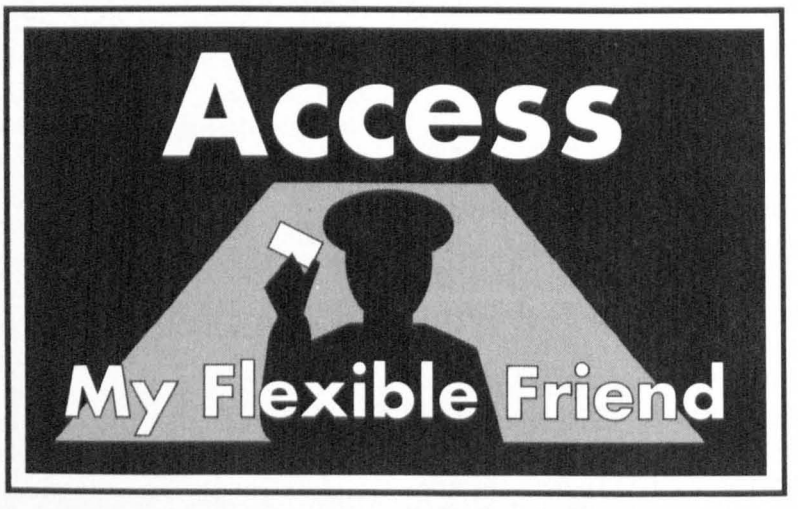
Jepson, Norman & Elliott, Kenneth, *'Shared Working Between Prison and Probation Officers'*, Home Office, 1986.

Mair, George, *'Bail and Probation Work: the ILPS Temporary Bail Action Project'*, Home Office Research and Planning Unit, Paper 46, HMSO, 1988.

Smith, David, *'Shared Working at Garth'*, *'Prison Service Journal'*, 82, Spring 1991, pp.33-6.

Williams, Brian, *'Work with Prisoners'*, Venture, Birmingham, 1991.

Williams, Brian, *'Bail Information'*, Horton, Bradford, 1992.



Keith W. Carter, University of Wales College at Cardiff, School of Social and Administrative Studies.

Extract from a presentation at the British Criminology Conference 1993.

"The social system of a prison is a difficult thing to uncover... A prison is founded in part on secrecy and the observer from the free community is invariably defined as an intruder, at least initially."
(Sykes 1958: xix, xx)

Historical Background

Prison research over the past 50 years has invariably focused itself on the inmates. Like most interested politicians, penal reform groups, and other professionals, academic researchers have taken on board the inmate perspective, highlighting the inhumane treatment, overcrowding, slopping out and the many other injustices faced by the prison population. Important as these issues are, the focus upon them has produced an unbalanced perspective upon the institutional cocoons which prisons have become, whereby the staff working in them have been almost ignored. Hans Toch (1989: viii) argues, "Fewer occupational groups in our society are more maligned... fewer are faced with more difficult challenges and are more misunderstood, mismanaged and alienated."

Indeed the world of the prison officer has, in the United Kingdom, been almost forgotten. The last extensive sociological account on prison staff took place at Pentonville and Maidstone between 1958 and 1960 (Morris 1963) and since that time, "very little has been written about prison staff, except in terms which apologizes for their apparent intransigence". (Thomas 1978: 58) My own research, funded by a University of Wales scholarship, attempts to redress some of the imbalances inherent in

the literature, examining the role of prison officers working in a Victorian local prison which I have called Martindale. The research is in pursuit of a primarily fieldwork based doctoral thesis on the topic of the occupational culture of prison staff. The fieldwork, 16 months of ethnography, qualitative data collection, observations, unstructured interviews, and a staff questionnaire have been completed. This paper outlines some of the situational and institutional problems facing a researcher who wishes to examine this forgotten occupational group.

Overcoming Staff Prejudice and the Stereotyping of Academics

As most research in prisons has examined the inmate perspective, many researchers have publicly distanced themselves from the staff in order to develop a rapport with their study group. The staff have felt alienated by those actions, and many have argued that researchers have been liberal in their approach to prisoners, but highly critical of the staff, displaying no empathy or understanding of the internal occupational pressures. Kauffman (1988) pointed out that researchers were openly hostile to staff when she was a prison warder: McCleery (1961: 273) states he, 'deferred to the guards' requirements with apparent ill will' when trying to disassociate himself from the official power structure; Goffman (1961), Cohen and Taylor (1972) and Jacobs (1977), evaded any meaningful relationship with the staff in order to assist with their studies.

Likewise, in their research in prisons in the United States, Fleisher (1988), Lombardo (1989), Kauffman (1988) all experienced negative attitudes from prison officers about researchers, especially academics. Fleisher (1988: 16) states that staff believed many of them had 'all brains and no balls,' and many of them, 'come in here, spend a few days, leave, and call themselves experts.' Kauffman, an ex-prison guard, personally experienced hostility from researchers and Goffman (1961: 7) never socialised with the staff.

Researchers intending to study inmates have only two groups to deal with: the staff and the inmates. In order to develop rapport and a credibility with one group, some of them have openly challenged the authority of the staff, even demeaning them, according to one American commentator, in front of the prisoners (Kauffman 1988). Prison staff have been secondary to their primary object, the collection of data from inmates and staff co-operation, apart from access into the prison, is not a paramount consideration.

In my own ethnographic research I had to overcome this mistrust of 'outsiders', and the stereotyping process, built up over many years about them. Many officers at Martindale saw 'outsiders' as serving no useful purpose. Prison officer Smith, with over 12 years' experience, said, 'They are not interested in us, all they want to do is criticise. Living in their ivory towers they never experience how difficult the job is sometimes. They have a one sided view and always paint us as the baddies, so why should we help them?'

One of the main criticisms raised by staff, at all levels, was once a research project had been completed, they never heard any more from those individuals or the results they came up with. A senior officer remarked, 'What's in it for us? You come in here and then that's the last we hear. You never see our point of view or are here long enough to understand the problems we have to cope with.'

Early in the research the staff at Martindale were in dispute with the Prison Department about the overcrowding at the prison. Many of the staff believed that I was 'a plant from the Home Office', or 'a member of Group 4 Security engaged on a feasibility study for privatisation', or simply a 'spy'. Those allegations to me seemed groundless. But to those men and women, who felt they were doing a forgotten and difficult job, they were a reality. Representatives of the Prison Officers' Association asked, 'Who's paying you? Who do you represent? What restrictions have been placed on your findings? Why should we trust you? How do we know you are who you say you are? You might be a plant from the Home Office.'

Later, on reflection, I had to admit to myself that in some senses I was a spy, although an unwilling one, because a copy of my doctoral thesis could be read by the Home Office. The only safeguards I could

offer them were my independence, complete anonymity and an honest appraisal.

Pyramidical Rank Structure: The Levels of Access

The pyramidical rank structure within the prison contains nine levels of access that must be negotiated by the researcher who wishes to investigate the culture of prison officers. Although each level has a relationship with all the 'players' in this scenario, many of them are individually antagonistic towards each other. The lack of communication and dialogue between them seems to be an inherent defect in the structure, but most especially between the uniformed personnel and the management grades.

Each level of access requires a different approach. The situation can be represented as akin to a complex computer banking system, in which the required access to each rank (and the research data wanted from each) can be only obtained by use of a different 'access card'. Although different card holders may appear to be more important because of their rank, to the researcher they have equal status. Access is negotiated via the top echelons within any institution, but the organisation itself is run by the lower ranks in reality. Norris (1989: 90) points out that police officers have more discretion and individual autonomy at the bottom end of their rank structure, and this equally applies to the prison officers.

What is the Code of entry? Have I the right Pin-number?

Pin numbers

What I called 'pin numbers' were a type of credit rating, a form of institutional acceptability encouraging the various card holders to open up, and allow access to their, or other colleagues' 'data files' (ie, information including their views, experience and knowledge held in their heads). Some pin numbers in this research were interchangeable, and others had to be adapted when dealing with the mutually antagonistic groups.

Four pin numbers were used at all levels of access: the researcher's age; his dress; past biography; and independence.

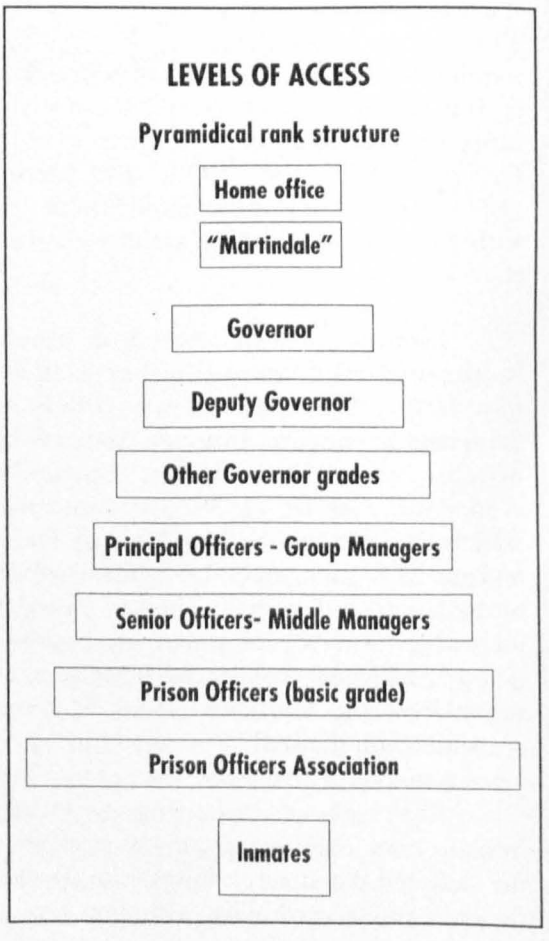
Age

Age inside a 'para military' structure has always been symbolic of experience, signifying respect and some authority (Hockey 1986). Promotion eligibility within the prison service is by seniority, and many of the staff have to wait many years before they are even considered for the next rank. My maturity, over 45 years old, was seen by many officers as an asset in this project.

Dress

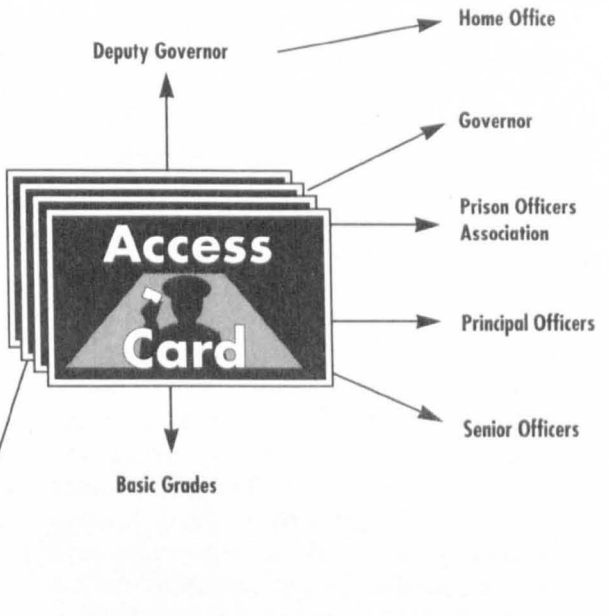
Self presentation throughout the whole research project was an important factor, especially when researching a uniformed occupation. The researcher did not wish to be seen as a 'student' (long hair, jeans and sneakers). The impression must be an institutional one. Wax (1981; 365) argues... '[the investigator's] hosts will judge and trust him, not because of what he [initially] says about himself or about the research, but the style in which he lives and acts, by the way he treats them.'

Having been a police officer the researcher knew how to identify himself with the rules of establishment. A short haircut, a suit and



ACCESS CARD HOLDERS

TYPE OF CARD	CARD HOLDERS
Diamond Card	Holder:Home Office
Platinum Card Holders	Governor Deputy Governor Other Governor Grades
Gold Card Holders:	Prison Officers Association Principal Officers
Silver Card Holders:	Senior Officers
Bronze Card Holders:	Basic Grade Staff
Library Card Holders:	Inmates



polished shoes were essential ingredients to building an acceptable image.

Past Biography

Whilst acknowledging that my past biography and influences of institutional socialisation on my life can influence objectivity, in this research my past was a major pin number at all staff levels. I said to the various groups, 'Look I've been there. I'm not a typical academic. I've dealt with the same [cons], [client groups], [shit], [arse-holes], [problems], and I understand where you are coming from. I've been in the real world.'

The phrases, 'cons, shit, arse-holes, client group, and problems,' were adapted depending on the person I was speaking to, but the over-all aim was to identify, gain their trust and insulate myself from their subjective perceptions of 'intruders' and their fears about academics.

Independence

Early into the research many of the uniformed staff expressed worries about the motives and independence of the researcher. What many of the uniformed wanted was an 'outsider' who would be willing to listen and attempt to understand what it was really like to work inside the establishment. Prison Officers asked the question, 'Who's paying you for this piece of research? Is anyone going to suppress what you say? All we want is a fair and truthful appraisal from someone other than the Head Office.'

Members of the POA and those of the uniformed staff who rightly believed I was funded by the University of Wales welcomed my interest and greatly assisted me throughout the project. Being impartial and completely independent was an essential factor because of the friction between the Prison Department and the uniformed personnel at Martindale.

Impression Management

'Fronting' techniques used by employees in occupational settings (see Skolnick 1996: Goffman 1961: Holdoway 1983) were also used in this research. The approach adopted by the researcher, was flexibility and altered depending on which group he was dealing with at the time. It was important for the researcher to be sensitive to problems identified by each card holder, and at times he had to disassociate himself from one group in order to build up a relationship with another group. Undertaking research into prison officers is a game of winning the trust of all the actors, and at the same time identifying oneself with their individual moans, complaints and mistrust of each other, while trying at the same time to remain and be seen as independent.

After negotiating access with the governor

the researcher was introduced to one of the Principal Officers who said, "I xxxxxxx decide who comes in here not the governor. You should have seen me first."

Similarly a representative of the Prison Officers Association said, 'You need our approval before you come in here. Who's paying for this research? You could be a spy from the Home Office. What's in it for us? What do you think of the governor?'

It was obvious that there were internal frictions between the various card holders and it would jeopardize the project if the researcher was seen to be favouring one group rather than another. The initial access granted by the platinum card holder (Governor), is only access into the establishment. The researcher must use his skills of communication, tact and diplomacy to secure the cooperation, trust and assistance of all the other groups within the prison.

During the research, various complaints were made by one group against another, such as the general lack of communication, supervision and assistance received by basic grade officers from senior officers, principal officers, and governor grades. Obtaining data about these accusations had to be done tactfully, as many of the allegations were levied against supervisory staff. When supervisors asked the researcher, 'What were the other staff saying about their roles', he couldn't disclose individual complaints to them. The researcher relied on the lack of communication between ranks, hoping that the discourse about them would remain hidden. Working with eight mutually antagonistic groups is not unlike attempting to juggle eight balls at once, hoping they do not collide with each other and become one.

The possession of keys.

The researcher was trusted with keys enabling him to have complete, unrestricted access throughout the whole prison. No permission had to be sought from any of the card holders and no restrictions were placed on where he would go in the prison.

Some of the staff were alarmed that an 'outsider' possessed keys, and believed that he would compromise security. The gift of the keys, made by the governor, was a 'two edged sword'. First, many of the staff would not believe that any person, other than a 'plant' from the Home Office, would be given such things. The industrial dispute with the POA; the fears of privatisation; Agency Status and the low morale felt by some of the officers made any attempt to allay their anxiety almost impossible.

Secondly, possessing keys firmly placed the researcher into the world of the discipline staff. He retained his freedom, unlike other 'outsiders' who were under the control of the staff. He was identified as a member of staff by some inmates, and so because of the keys felt vulnerable at times. He was aware that in the past, staff had been overcome and the keys taken from them.

Conclusion:

Working in a spatially restricted environment and dealing with numerous individuals and the various card holders is a nerve-racking experience and a difficult road to walk for the researcher. The writer does not intend to give the impression that he was manipulative or unethical in his differing approaches.

Reflecting on the inter-personal strategies he adopted made him pose the question, 'Why not be yourself, a Phd student?' The researcher's own identity crisis, a 45 year old mature student, made him want to be seen as more important than he really was. The lack of an occupational identity and the hang-up of being a 'student' greatly assisted him in empathising with the prison officers' own alienation. His knowledge of inmates coupled with direct experience of a uniformed occupation (police) allowed him to gain unique insights and access into the hidden culture of prison staff. The student approach may not have been so successful. This strategy helped the researcher to regain a degree of self esteem working within the field, and overcome some of the prejudices levied against 'outsiders.'

Ethnography is an intrinsically difficult method of qualitative research, and examining the staff perspective in local prison highlighted many of those problems. Negotiating with eight, potentially, mutually antagonistic card holders, located in a spatially restricted environment, poses problems for any ethnographer. That coupled with the paranoia about 'outsiders'

and the low morale and the poor industrial relations inside the prison service makes research role an almost insurmountable goal. The flexible friend is the researcher, always negotiating, altering approaches, attempting to understand every person's point of view but not favouring any one group or individual.

The unique access along with the researchers own occupational insecurity enabled him to personally experience and empathise, on some occasions, with the prison officers' occupational stress and vulnerability in the contemporary prison service. Further research is needed to redress the research imbalance and rectify the alienation of officers in the past. It is hoped that this type of access may be granted to myself and other researchers at other establishments. There is no doubt that independent research into the role of prison officers would be welcomed by the majority of staff within the service and would shed some light on the other side of the coin, the staff perspective ■

Bibliography

Cohen S., Taylor L. (1972) *Psychological Survival —The Experience of Long Term Imprisonment*. Harmonsworth, Middlesex, Penguin Books.

Fleischer M. (1989) *Warehousing Violence*. London, Sage Publications.

Goffman E. (1961) *Asylums*, Harmonsworth, Middlesex. Penguin Books.

Hans Toch (1989) In Lombardo, L, *Guards Imprisoned, Correctional Officers at Work*, (2nd Edition), Cincinnati, OH, Anderson Publishing Company.

Hockey J. (1986) *Squaddies*. Exeter, Exeter University Press.

Holdoway S. (1983) *Inside the British Police; a force at Work*. Oxford, Basil Blackwell.

Jacobs B. (1997) *Statesville: The Penitentiary in Mass Society*, Chicago, University of Chicago Press. Kauffman K. (1988) Prison Officers and Their World, London, Harvard University Press.

Lombardo L. (1989) *Guards Imprisoned: Correctional Officers at Work, (2nd edition), Cincinnati*, Anderson Publishing Co.

Mcleery R. (1981) Authoritarinism and the Belief System of Incorrigibles, in The *Prison: Studies in Institutional Organisations and Change*, (ed.) Donald R. Cressy, 260-306, New York, Holt, Rinchart and Winston.

Morris T., Morris P. (1963) *Pentonville—A Sociological Study of an English Prison*, London, Routledge and Kegan Paul Ltd.

Norris C. (1989) 'Avoiding trouble: the patrol officer's perception of encounters with the public', in Weatheritt M. (ed), *Police Research: Some Future Prospects*, Aldershot, Gower Publishers.

Sknolnick J. (1966) *Justice Without Trial*, New York, Wiley.

Sykes G. (1958) *The Society of Captives: A Study of a Maximum Security Prison*, Princeton, New Jersey, Princeton University Press.

Thomas J. (1978) A Good Man for Gaoler?—Crisis Discontent and the Prison Staff in Freeman J. (ed) *Prison Past and Future*, London, Heinemann.

Wax M., Cassell J. (1981) From Regulations to Reflection: Ethics in Social Research, *American Sociologist*, 16: 224-229 (November).

SERIOUSNESS OF OFFENCES

The Results of the South Yorkshire Study

by Michael Cavadino, Anne Claytor and Paul Wiles Centre for Criminological and Legal Research, University of Sheffield, and South Yorkshire Probation Service.

This study was carried out under the auspices of the Joint Board for Research and Development in Criminal Justice, and made possible by the generous financial support of the Sheffield Town Trust. Thanks are also due to Ann Celnick, Brian Williams, Bill Eldridge, the contacts in the agencies, and all those who participated in the study.

ASSESSING the seriousness of offences has always been a task of primary importance for practitioners working within the criminal justice system, for such assessments are a key factor influencing decisions of all kinds within the criminal process. Police decisions to devote resources to a particular case or particular type of crime; decisions by police and Crown Prosecution Service to charge, prosecute, caution or drop charges; decisions by magistrates and judges about bail, venue of trial and of course sentence; and decisions by social workers, probation officers and defence solicitors as to how to frame pre-sentence reports or pleas of mitigation - all rely heavily on the practitioners' perceptions of how serious an offence is.

The Criminal Justice Act of 1991, heavily influenced by the philosophy of 'just deserts',[1] elevated the importance of offence seriousness to even greater heights. The philosophy of the Act was stated by the Government in the preceding White Paper (Home Office, 1990: para 2.2): 'Punishment in proportion to the seriousness of the crime has long been accepted as one of many objectives in sentencing. It should be the principle focus for sentencing decisions'. Consequently, section 1 of the Act laid down that an offender should not normally be sentenced to custody unless the offence (or a combination of two offences) is 'so serious that only such a sentence can be justified for the offence'.[2] Similarly, section 6 states that a 'community sentence' (a phrase encompassing probation, community service, combination orders, supervision and attendance centre orders) should not be passed unless the current offence is 'serious enough to warrant such a sentence'. Moreover, the length of any custodial sentence and the restrictions on liberty imposed by a community sentence are normally required to be 'commensurate with the seriousness of the offence' (sections 2(2) and 6(2)).

It is an important feature of the Act that the 'seriousness' which it makes so central is the seriousness of the *current offence* rather than the seriousness of the offender's previous record, let alone any other characteristics or circumstances of the offender. Indeed, section 29 of the Act stated that an offender's previous record of convictions was not normally to be regarded as an aggravating factor rendering the current offence more serious. While this particular provision has proved to be especially controversial and the Government has (in May 1993) announced its intention to repeal it, offence seriousness is likely to remain centre-stage even after amendment of the legislation.

If the seriousness of an offence is being assessed for purposes of sentencing at least two kinds of judgements need to be made. Firstly, how serious is this offence compared with other offences? Secondly (given that first judgement) what kind of sentence is appropriate for an offence of this level of seriousness? The first question implies the existence of a *scale of offences*, while the

1. see Cavadino and Digan (1992) especially pp 50-52 and 107-109.
2. Section 1 makes an exception in the case of violent or sexual offenders for whom a custodial sentence is necessary to protect the public from serious harm.

second question concerns how you match that scale to a second scale, the *scale of punishments* available. The general framework of this second scale is laid down by the 1991 Act itself, under which the scale has three divisions. The most severe category of punishments comprises custodial penalties; a middle category comprises 'community sentences' (probation, community service, supervision, attendance centre and combination orders); fines and discharges inhabit the least severe category. However, relatively little guidance is given as to how the two scales are to be mapped onto each other in order to achieve the appropriate penalty for the current offence.

The 1991 Act logically requires that both these judgements should in principle be made on the basis of the nature of the *current offence(s)* and before considering the characteristics of the *offender*, although these may be of great importance, for example in mitigating the punishment or guiding the selection of a particular community sentence rather than another.

This study was designed to investigate whether criminal justice practitioners could make judgements like this if given some information about an *offence* but no information about the *offender*, and how much agreement or disagreement there might be between practitioners when making these judgements.

The study was also something of a pilot venture to explore the possibilities of conducting small-scale research within the criminal justice system of a local area. It was carried out under the auspices of the **Joint Board for Research and Development in Criminal Justice**, a multi-agency body containing representatives of different criminal justice agencies within South Yorkshire and academics from the University of Sheffield. Interim results of the study were fed back to local practitioners and discussed with them at a day seminar held at the University

METHODOLOGY

A questionnaire was distributed to 155 practitioners working in the criminal justice system in South Yorkshire[3] in February 1993, comprising crown prosecutors, defence solicitors, lay magistrates, magistrates' clerks, police officers, prison service employees, probation officers and social workers. Those selected for the questionnaire were not (and were not intended to be) a random sample of the membership of each agency[4]. Instead (with the exception of the defence solicitors[5]) a contact person was found within each agency who was asked to distribute questionnaires to a specified number of persons within certain categories in the agency whose role involved them in having to make decisions as to offence seriousness. 136 completed questionnaires were returned, so the overall response rate was a gratifying 88 per cent. This varied between categories, from 100 per cent for clerks, crown prosecutors and prison service employees to 61 per cent for solicitors.

The criminal justice practitioners were asked to place a variety of fairly widely-defined offences (eg, murder, domestic burglary, theft from employer) in order of seriousness (the *'general offence'* question). Next they were asked to judge the seriousness of seven *hypothetical cases* (A to G), the questionnaire giving brief details of the offence and its circumstances but no information about the offender or his or her circumstances (see Appendix A). They had to place the offences within one of the three divisions of seriousness implied by the Criminal Justice Act 1991 (a - *not serious enough* to warrant a 'community sentence'; b - *serious enough* for a community sentence but not so serious that only custody can be justified; c - *so serious* that only custody can be justified). They were also asked to specify up to two appropriate sentences for each offence from a list provided and, if specifying two sentences, to state whether they were intended to be alternatives or to be imposed in combination. Finally, the practitioners

3. The study concentrated on the city of Sheffield. However police officers from the whole of South Yorkshire were asked to complete questionnaires and (there being no prison in Sheffield), prison service staff were sampled from elsewhere in South Yorkshire.
4. Solicitors were identified individually as being particularly involved in criminal defence work and sent questionnaires on an individual basis.
5. Strictly speaking, of course, not all of these groups of practitioners (eg, defence solicitors) are 'agencies'; however, the term is used in this report for convenience.

were asked how easy or difficult it had been to make these judgements without information about the offenders, and invited to add any comments.

The questionnaire asked practitioners to give their personal opinions about offence seriousness and appropriate penalties, and specifically asked them to carry out the exercise without referring to any official guidelines (such as those provided for magistrates by the Magistrates' Association and those used by probation officers as aids in compiling pre-sentence reports).

The hypothetical cases were constructed in the hope that they might show up any differences between practitioners in their attitudes about the appropriate penalties for particular offences. Thus it was necessary to frame cases which some practitioners might think serious enough to warrant custody while others would not. This was achieved (successfully, as it turned out) by customising cases using the Magistrates' Association Sentencing Guidelines (1992) and reports of Court of Appeal sentencing decisions in *Current Sentencing Practice* (Thomas, 1982).[6] Most cases were given one aggravating feature which according to guidelines or caselaw might indicate custody, but where it was felt some practitioners might opt for noncustodial sentences nevertheless. An exception was made in the two cases of domestic burglary, Case B being deliberately constructed as the more serious-seeming offence.

RESULTS

The 'General Offence' Question

The question asking practitioners to place various general offences in a rank order of seriousness produced a clear rank ordering of offences with murder at the top and shoplifting at the at the bottom (see Table 1).

TABLE 1: RANK ORDERING OF "GENERAL OFFENCES"[7]

	Offence	Mean Ranking
1	Murder	1.0
2	Rape	2.0
3	Grievous Bodily Harm	3.5
4	Street Robbery	4.5
5	Domestic Burglary	5.1
6	Actual Bodily Harm	5.8
7	Aggravated TWOC	7.8
8	Non-Domestic Burglary	8.3
9	Theft from Employer	8.8
10	Taking Without Consent	9.6
11	Theft of Wallet or Purse	9.9
12	Shoplifting	11.6

In general, there was a great deal of consistency between the different criminal justice agencies as regards this ranking[8]. For example, within every agency murder was placed top with rape second and shoplifting last, while third place was always taken by either grievous bodily harm or robbery. However, there were a few instances where an agency ranked particular offences significantly higher or lower than did others. Actual bodily harm was ranked particularly highly (4th on average) by social workers and prison staff, theft from an employer was ranked high (7th) by magistrates' clerks and solicitors but low (11th) by social workers, police and prison staff; taking without consent was high (8th) for social workers; and robbery was low (6th) for magistrates9.

The Hypothetical Cases

Most of the practitioners reported that they did not find it at all easy to judge the seriousness of the hypothetical offences in the abstract without information about the offenders. Only 19 per cent said that it was 'easy' or 'not very difficult', while 23 per cent said it was 'difficult', 34 per cent that it was 'very difficult' and 24 per cent that it was 'almost impossible' . Many also specifically stated in the space for added

6. Except for case D, a 'joy-riding' case covered by the new Aggravated Vehicle-Taking Act 1992 and therefore not yet dealt with in guidelines or Court of Appeal caselaw. Here a relatively mild set of circumstances was selected which nevertheless brought the offence within the legally 'aggravated' category as opposed to a simple taking without consent ('TWOC') offence.
7. In the questionnaire, the offences were described as in Table 1 except as follows: ABH and GBH were phrased 'assault occasioning actual bodily harm' and 'assault occasioning grievous bodily harm'; 'TWOC' and 'aggravated TWOC' appeared as 'taking a vehicle without consent and damaging it' and 'taking a vehicle without consent but not damaging it'.
8. An overall statistical measure of consistency between the agencies produced an extremely high level of statistical significance (Kendall's W = 0.950; $p<0.0001$).
9. In all these cases the agency differed significantly from at least three other agencies on a modified pairwise t-test.

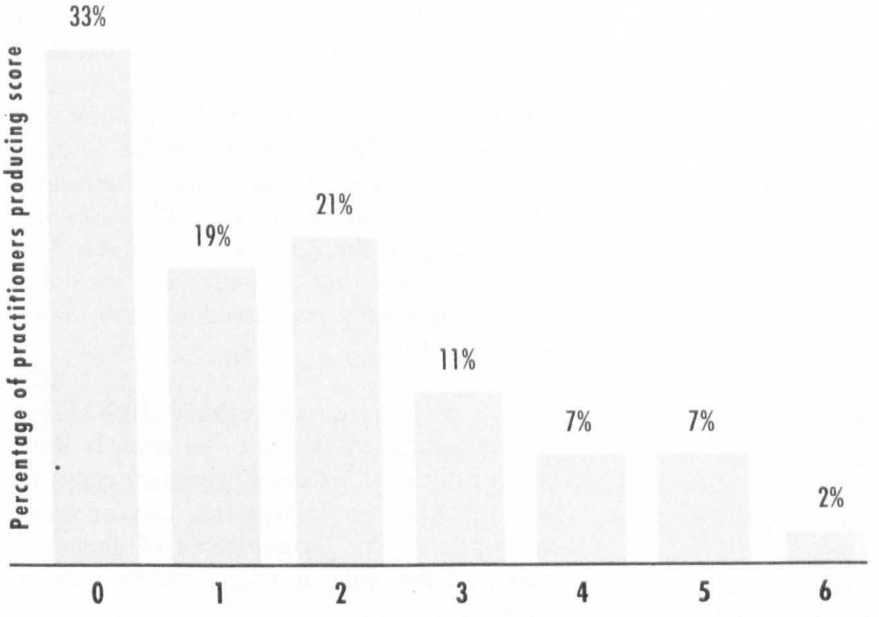
comments, that they were unhappy about making judgements relating to sentence without further information not only about the offenders' past criminal records but also about their backgrounds and motivations for offending; many also wished for further details about the circumstances of the offences. Nevertheless, the practitioners still succeeded in putting ticks into boxes in (literally) 99 per cent of cases. Perhaps this suggests that what the 1991 Act requires of sentencers is a difficult and rather foreign task to most people, but by no means an impossible one.

The hypothetical cases worked well in demonstrating differences in opinions between practitioners, in so far as for each offence there were some practitioners who favoured custody and others who did not. It was possible to construct for each person who filled in the questionnaire various 'scores', showing how seriously each subject viewed the offences generally. One measure (the *'custody score'*) awarded one point each time the practitioner said that one of the offences was 'so serious that only a custodial sentence can be justified'. Another (the *'not serious score'*) similarly awarded one point for each offence the practitioner rated as not serious enough for a community sentence.

As can be seen from Figure 1, the *custody scores* for individuals ranged from 0 to 6 (the theoretical maximum being 7) with an overall mean score of 1.7 and a median score of 1. The overall distribution was weighted towards the lower end of the scale. In other words, the majority of practitioners thought that non or only one of the offences was so serious that only a custodial sentence could be justified, higher custody scores being achieved by a gradually declining number of practitioners up to a maximum number of six.

Between agencies there were some differences in distribution of the 'custody scores'. For solicitors, social workers and probation the distribution was similar to that shown in Figure 1: that is, skewed towards the low end of the 'custody score' scale. Crown Prosecutors, magistrates and police had a more normal distribution, whilst the magistrates' clerks distribution was skewed towards the high end of the scale.

FIGURE 1: CUSTODY SCORES



It is important to note that a judgement that an offence is 'so serious that only a custodial sentence can be justified' does *not* (under the terms of the 1991 Act) make such a sentence inevitable. As Lord Taylor CJ has said in the Court of Appeal 'there may well be cases where, notwithstanding that the offence itself passes the custody threshold, there is sufficient mitigation to lead the court to impose a community sentence'. The logic of this position, which many practitioners understandably find eluslve, seems to be as follows. To judge that an offence is so serious that only custody can be justified does not mean that custody must be inevitable for any offender who commits it. The facts of the offence, taken in isolation from any facts about the offender, may lead to a conclusion that in the normal run of events only custody could be an appropriate penalty - in other words that a typical adult offender committing such a crime would have to be imprisoned. But when the sentencer goes on to consider the characteristics, background and history of the *offender*, the view may be taken that there are sufficient mitigating circumstances to pass a community sentence or suspended sentence instead[10].

Many of the completed questionnaires reflected this possible choice between custodial and non-custodial penalties for 'so

10. Lord Taylor CJ (reference as previous note) itemised 'good character, genuine remorse, isolated lapse' as examples of such mitigating circumstances.

serious' offences depending on information about the offender. In 77 per cent of cases the practitioner placed in the 'so serious' bracket no alternative sentence to immediate custody was specified [11], but in 23 percent at least one non-custodial sentence was specified. By far the most popular of these alternatives was the suspended sentence, which figured in 18 per cent of 'so serious' cases, despite the provision in section 5 of the 1991 Act that a suspended sentence should now only be passed in exceptional circumstances.

There were some noticeable differences between different agencies as regards their perceptions of offence' seriousness and willingness to designate custody as appropriate. The 'league table of agencies' based on the 'custody score' can be seen in Table 2.

TABLE 2: MEAN "CUSTODY SCORES" OF CRIMINAL JUSTICE AGENCIES

		Mean "custody score"
Most custody	Magistrates' clerks	4.4
	Prison service employees	2.9
	Crown prosecutors	2.4
	Police	2.1
	Magistrates	1.7
	Defence solicitors	0.9
	Probation officers	0.7
Least custody	Social workers	0.3
	Overall mean	**1.7**

Not all the differences between agencies were statistically significant, although many were. For example, magistrates (occupying a middle position) did not differ *significantly* from those practitioners closest to them on custody score (police, crown prosecutors and defence solicitors), but scored significantly higher than probation officers and social workers and significantly lower than prison service staff and their own clerks. The full picture is provided by Appendix B.

Despite the differences *between* agencies, there was not so much difference *within* agencies. There were almost no significant differences between different sub-categories of practitioners within agencies; for example, between youth court magistrates and other magistrates. The one exception to this was the probation service: senior probation officers scored significantly low on the 'custody score' while prison-based probation officers (and to a lesser extent court-based probation officers) scored relatively highly[12].

Nor were there many 'mavericks' within the agencies; members of an agency tended to spread reasonably evenly along a regular distribution curve for the agency. Thus, for example, no clerk scored less than two on the 'custody score', while no social worker scored *more* than two. No magistrate scored more than four - and so on. The agency with the smallest internal spread was the Crown Prosecution Service (all of whom scored two or three), while the prison service covered the whole range from zero to six. Distributions for the different agencies are displayed in Figure 2.

There was much less difference between agencies as regards the 1991 Act's other major cut-off point, as to whether an offence is serious enough to warrant a community sentence as opposed to a disposal such as a fine or a discharge. The only agency that differed significantly from any other on the 'not serious' score was social services: social workers scored significantly higher than any other group of practitioners except magistrates[13].

The different hypothetical offences were not seen as equally serious. The 'league table' of offences is given in Table 3.

Table 3 displays some interesting but easily

11. There were in total 228 responses to the effect that an offence was 'so serious that only a custodial sentence can be justified; in 224 of these sentences were prescribed, and of these 171 gave no alternative sentence to custody. These cases where no alternative to custody was specified included 33 where the practitioner wanted to combine custody with some other penalty. The most popular combination was custody plus a compensation order (24 cases); some (4 cases) wanted to combine immediate custody with a suspended sentence, perhaps expressing a wish that the partly suspended sentence had not been abolished by the 1991 Act.
12. The mean custody scores were as follows: 0 for senior and bail information POs, 0.25 for juvenile field officers, 0.4 for adult field officers, 1.3 for court POs and 1.7 for prison POs. Seniors had significantly lower scores than either court or prison POs, while prison POs had significantly higher scores than any other group of POs except court POs. (Modified pairwise t-test with significance threshold of five per cent)
13. Modified pairwise t-test, significance level five per cent. The mean 'not serious' scores were: social workers 1.6, magistrates 0.93, police 0.91, prison service and probation 0.8, solicitors 0.76, CPS 0.5, magistrates' clerks 0.12.

FIGURE 2: "CUSTODY SCORE" DISTRIBUTION BY AGENCY

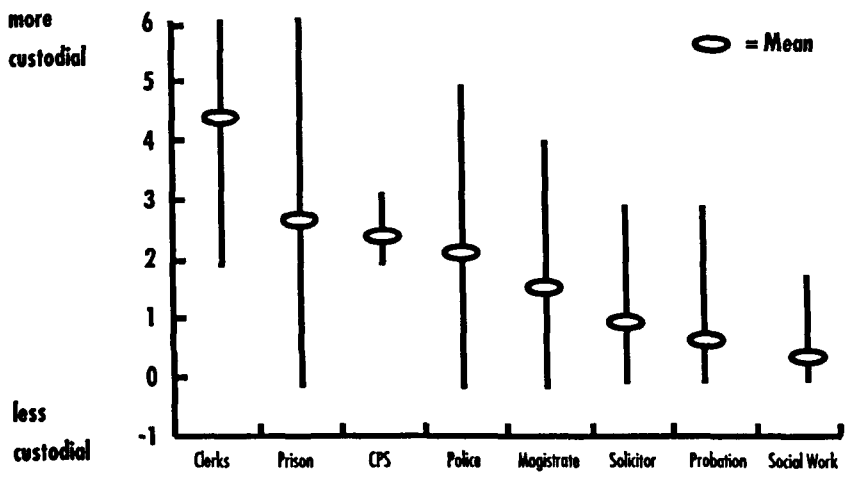


TABLE 3: RANK ORDERING OF HYPOTHETICAL OFFENCES[14]

Case	No. saying "so serious"	No. giving custodial sentence
B - Domestic burglary at night	73	69
C - Commercial burglary	37	38
D - Aggravated TWOC	37	38
E - Assault/ABH	39	35
A - Domestic burglary (day)	29	29
G - Theft in shop	11	9
F - Theft by employee	2	4

explicable differences from the ranking of 'general offences' in Table 1. In the previous table, domestic burglary was rated as more serious than actual bodily harm (ABH), aggravated vehicle-taking and non-domestic burglary. The questionnaire contained two hypothetical domestic burglary cases, one of which (carried out at night) was fairly clearly more serious than the other. Practitioners duly ranked the more serious of these two cases higher than the hypothetical ABH, aggravated TWOC and commercial burglary case, but were prepared to treat the lesser domestic burglary as less serious than these other offences[15]. Similarly, practitioners presumably rated the hypothetical 'theft by employee' case as relatively trivial on the particular facts provided and therefore to be ranked below the theft from a shop, while ABH and aggravated TWOC similarly changed places in the rankings. This demonstrates that criminal justice practitioners, as one might expect, do not judge every offence in one general category (such as 'domestic burglary') as automatically more or less serious than one in another category but will be influenced by the particular facts of the individual cases[16].

As was the case with the 'general offence' question, the relative ranking of the different hypothetical offences remained fairly constant across the agencies, although there were some variations[17]. For example, five of the eight groups of practitioners thought the night-time domestic burglary the most serious offence, but social workers thought the ABH offence (the only violent offence among the hypothetical cases[18]) more serious, the magistrates ranked the commercial burglary very slightly higher, while prison staff rated the TWOC case

14. It can be seen from Table 3 that, although the numbers saying an offence is 'so serious' that only custody can be justified are very close to those suggesting custody as the sentence or one possible sentence for that offence (never differing by more than 4), they are not identical. A few practitioners said that an offence was 'so serious' but went on to prescribe non-custodial penalties, sometimes in combination, with suspended sentences predominating in their choices. Less frequently, a practitioner would fail to state that an offence was 'so serious' but would nevertheless suggest custody as the sentence (or one possible sentence). It may be that these latter simply disagreed with the provision of the Criminal Justice Act 1991 which states that custodial sentences should be reserved for cases which are 'so serious that only such a sentence can be justified for the offence'.
15. These relative rankings of domestic and non-domestic burglary are also of interest in the light of the observation by Parker et al, (1989: pp 130-1) that magistrates, although professing to treat domestic burglary more seriously, in practice often deal with commercial burglary more severely, being impressed by the higher value of property typically involved. In this questionnaire the commercial burglary case involved a sum of £8,314, but was rated by practitioners overall as less serious than a domestic burglary involving goods to the value of £100. Magistrates, however, were (albeit only very slightly) more likely to rate the commercial burglary as serious enough for custody than the more serious domestic burglary.
16. Interestingly, however, both the police and crown prosecutors rated the two domestic burglary offences as the two most serious offences, although the average ranking of the daytime burglary was only fifth.
17. For one of these discrepancies, see the previous note. Overall agencies were again extremely consistent in their relative rankings of offences. (Kendal's $W=0.683$; $p<0.0001$)
18. The results suggested that social workers may be operating with an ideology which holds that any violent offence is automatically more serious than any other offence. Not only did they rate the hypothetical ABH offence as the most serious (unlike the other groups of practitioners), but on the 'general offence' question they placed ABH fourth after murder, rape and GBH, again ahead of domestic burglary.

most serious, the commercial burglary second and the night-time domestic burglary third. At the other end of the scale, every agency scored the theft by an employee as the least, joint least or second least serious case. Thus there seems to be quite a high degree of consensus between the agencies as to the *relative* seriousness of different offences - as to how one offence should be ranked against another in terms of seriousness. What they do differ on is at what point an offence becomes so serious that only custody can be justified. In other words, it is not the *scale of offences* that is controversial so much as the *matching* of that scale to the other scale: the *scale of punishments*.

CONCLUSIONS

1. The Criminal Justice Act 1991

As we have seen, the logic of the 1991 Act requires sentencers to make judgements about the seriousness of *offences* in the abstract, before considering the characteristics and history of the *offender*. This study seems to demonstrate that although criminal justice practitioners are reluctant to make such judgements, they are nevertheless capable of making them, and with a high degree of coherence and consistency - albeit with a certain amount of dissensus between agencies as to appropriate sentencing levels as discussed in the next section.

Of course, the questionnaire was far from simulating a real-life situation (although there was nothing particularly outré about the hypothetical cases' facts). In practice a practitioner would not have to make a decision about offenders without knowing at least something about their personal characteristics and probably about their criminal record if any, and it is not easy to be unaffected by such knowledge even if one wishes to be. But at least the results of the study suggest that relatively impersonal assessments of offence seriousness are certainly not impossible, and the difficulty of making them would not seem to vitiate the entire strategy of the 1991 Act. In this respect, it is an Act which is capable of working.

2. Consensus and Dissensus between Criminal Justice Practitioners

Not unexpectedly, the results show that criminal justice practitioners are not entirely of one mind when asked about the seriousness of offences. However, as we have seen this disagreement is largely confined to the question of *how serious an offence has to be to justify a custodial sentence.* On other issues - the general ranking of types of offence in degree of seriousness, the ranking of hypothetical cases in degree of seriousness, and even the degree of seriousness required to warrant a 'community sentence' rather than a fine or discharge - there was very little difference between the agencies.

Most if not all the differences between the agencies can be seen as not only comprehensible but perhaps possibly desirable in the context of the different roles and functions of the different agencies. Referring to Table 2 in particular, it may be a healthy sign that lay magistrates, who are meant to represent the opinions and interests of the general public in making their sentencing decisions, occupy a middling position among criminal justice practitioners as regards their attitude to custodial sentencing. Similarly, the role of social workers and probation officers involves recommending non-custodial sentences to magistrates via pre-sentence reports; while defence solicitors must plead in mitigation that their clients should be diverted from custody. So it is both appropriate and understandable that they should be less custody-minded than magistrates; in fact it could be seen as worrying if they were not, for it could impair their ability to fulfil their roles within the criminal justice system.

Perhaps the most surprising result is the high 'custody score' of the magistrates' clerks (as seen in Table 2): much higher than any other group of practitioners, and in particular much higher than the lay magistrates in the same court. Several possible explanations for this were canvassed by practitioners at the day seminar to which the study's interim results were reported. One theory was that the clerks, unlike the magistrates, do not in real life face the responsibility of actually deciding on sentences or making decisions which could adversely affect offenders and consequently may be more likely to recommend tough but imaginary decisions in a hypothetical exercise. It is not clear, however, why in this case the clerks should appear so much more custody-minded than prison service

employees. Another suggestion was that the clerks, who unlike the magistrates work at the court full-time, see individual recidivist offenders returning to court more often than do magistrates and consequently become cynical about the prospects of anything other than custody working to control their offending. However, on this basis one would expect the police (who see even more of recidivist offenders) to outscore the clerks.

What could be the most plausible explanation was suggested by a comment which one clerk made on the questionnaire form. The clerk said that custody was clearly appropriate for most hypothetical cases on the basis of current caselaw. Given the methodology by which the hypothetical cases were constructed this was an accurate observation. Despite the instruction in the questionnaire that the practitioners should give their own personal opinion about the seriousness of the offences, it is quite possible that magistrates' clerks were influenced by Court of Appeal caselaw suggesting that custody is appropriate for offences which might in practice receive a non-custodial sentence at the magistrates' court[19].

3. Local Criminal Justice Research

Perhaps above all, this study shows some of the possibilities and advantages of carrying out small-scale research on the criminal justice system of a local area. The existence of a multi-disciplinary body such as the **Joint Board for Research and Development in Criminal Justice** facilitated the research by ensuring that it was supported by strategically placed officials within the different agencies who either acted as contacts for distribution and collection of questionnaires or were in a position to designate another agency member to perform this role. The creation of the questionnaire took time, but the effort was rewarded: the questionnaire worked well (despite relatively small numbers) in discriminating between practitioners with different views and philosophies while also demonstrating that in some respects the different agencies were not on such different wavelengths as some might have imagined. Most importantly the research results provided the stimulation for an excellent inter-agency day conference, at which practitioners explored why differences between agencies might exist. A better understanding of agency differences is not merely of academic interest but is a necessary pre-requisite for the criminal justice system to act as the 'system' it so often fails to be ■

References

Cavadino, M and Digan, J (1992), **The Penal System: An Introduction**, London: Sage

Home Office (1990), **Crime, Justice and Protecting the Public: The Government's Proposals for Legislation**, Cm,965, London: HMSO

Parker, H. Sumner, M. and Jarvis, G. (1989), **Unmasking the Magistrates: The 'Custody or Not' Decision in Sentencing Young Offenders**, Milton Keynes: Open University Press

Thomas, D. A. (1982), **Current Sentencing Practice**, London: Sweet & Maxwell

APPENDIX A

THE HYPOTHETICAL CASES

CASE A: CHARGE - BURGLARY

The defendant forced open the door of a house in the daytime while the occupants (a working couple in their thirties) were out, stealing a television set and video recorder jointly worth £450. The defendant pleaded guilty.

CASE B: CHARGE - BURGLARY

The defendant and an accomplice entered through the open window of a house, occupied by a woman aged 69 whose husband was away from home, in the small hours of the morning. The occupant being hard of hearing did not wake up, and the defendants searched the ground floor of the house before leaving with a small amount of money and jewellry worth a total of £100. Both defendants pleaded guilty; neither is thought to have played a leadership role in the enterprise.

CASE C: CHARGE - BURGLARY

The defendant pleaded guilty to breaking into a department store at night and stealing goods worth £8,314. The defendant was arrested shortly afterwards and all the property was recovered.

19 In general it seems that the level of sentencing in the Crown Court is more severe than that in the magistrates' court, while the levels envisaged by the Court of Appeal (whose judgements make up the sentencing caselaw) are more severe again. On this point, see Cavadino and Dignan (1992: 94-5).

CASE D: CHARGE - AGGRAVATED VEHICLE-TAKING

The defendant picked the lock of a BMW and hot-wired the engine in order to take a companion for a fast drive. Subsequently the car collided with a lamp post at speed, causing a total of £750 worth of damage but no injuries. The defendant pleaded guilty.

CASE E: CHARGE - ASSAULT OCCASIONING ACTUAL BODILY HARM

The defendant was one of a group of people who boarded a bus and refused to pay a fare. When the driver came to remonstrate with them, the defendant seized him by the neck and knocked his head against a window, causing minor bruising. The defendant pleaded guilty.

CASE F: CHARGE - THEFT

The defendant pleaded guilty to stealing goods worth £50 from the supermarket of which the defendant was deputy manager.

CASE G: CHARGE -THEFT

The defendant was observed in a department store acting to distract the attention of staff so as to enable a 12 year old child to leave the store with items of clothing without paying. The defendant pleaded guilty to theft of the items, whose combined value was £100.

APPENDIX B

STATISTICAL DIFFERENCES BETWEEN AGENCIES' CUSTODY SCORES†

	Clks	Pris	CPS	Pol	JPs	Sol	Probn
Prison	**						
CPS	**	NS					
Police	***	NS	NS				
JPs	***	**	NS	NS			
Solicitors	***	***	**	**	NS		
Probation	***	***	**	***	*	NS	
Social Work	***	***	***	***	**	NS	NS

† Modified t-test pairwise comparison.

* - $p < .05$

** - $p < .01$

*** - $p < .001$

"NS" = not significant, i.e. $p > .05$

Report on the BRITISH CRIMINOLOGY CONFERENCE

University of Wales, Cardiff, 28th - 31 st July 1993

The BoV Co-ordinating Committee sponsored two BoV members at the conference, and each wrote a report for the committee. This report is adapted from my submission. Any opinions are my own and do not necessarily represent those of the Co-ordinating Committee.

Sally Simon is a magistrate and a member of the Board of Visitors at HMYOI Feltham

Who is the conference for?

This is a biennial conference primarily, but not exclusively, for researchers (academic, practitioner and freelance), students and teachers of criminology in universities and other higher education institutions. There were over 400 participants, most from the above groups but also a number of practitioners in the criminal justice system from the UK, and a number of overseas researchers and practitioners. The conference provides a platform for criminologists to present their current research and a meeting place for discussing current issues, networking and socialising.

Why is it difficult to understand what researchers are saying?

As it is a forum mainly for professionals talking to each other, papers tend to be presented in the language ('discourse' in the trade) of the social research world, and, as in any specialist trade, concepts and terminology have evolved which may be unfamiliar in the 'everyday' world. This can be frustrating for an outsider. But for those of us familiar with prisons, for example, we need to remind ourselves that although we often profess to find the 'jargon' of other specialisms confusing, we take for granted the 'essential terminology' needed to understand the prison world! Having said that, researchers do vary in their ability to present their ideas clearly and some papers were more accessible than others.

Comparisons between 1993 & 1991

The conference was noticeably larger this year, although I sensed that there were fewer practitioners from the Criminal Justice System. There was a large increase in both the numbers of workshop sessions and papers.

	1993	1991
Participants	over 400	350
overseas visitors	35	60
plenary sessions	4	5
workshop sessions	63	30
prison sessions	4	5
policing sessions	11	4
prison research papers	17	20
Total number of papers	190	130

N.B. figures in the above tables are approximate

It is interesting to note that there was a decrease at this conference in both the proportion and actual numbers of papers dealing with penal topics, and a huge increase, for example, in issues concerned with policing. I am told by the organisers that this represents the distribution of papers received by them, and this is likely to indicate the relative proportions of current research in these two subjects. One can only speculate on whether this represents a shift in the policy of the Home Office which commissions work and provides a major

proportion of the research money in criminology.

Conference programme

The research reports covered a huge range of topics from sessions on criminology theory to crime at sea. All the familiar topics of current concern were there, including car crime, young offenders, probation, bail schemes, violence and suicide in prison, mentally disordered offenders, victims, diversion and reparation, alcohol and drugs, white collar crime, sentencing, issues of race, women, domestic violence, masculinity, origins of crime, etc. etc. This year also had sessions on the 1991 Criminal Justice Act, and the recently published report of Royal Commission on Criminal Justice.

The conference was also concerned with 'method'. Some sessions were devoted to critical considerations on 'how' researchers gather information and the techniques used to analyse and understand the social world. The methods used in a research project will affect the validity of any interpretations. Research projects range from the huge to the very small scale; from quantitative studies, using surveys and statistics, to qualitative studies which use the subjective perceptions of how individuals experience and make sense of their lives.

Two examples of research methods

As an example of the huge, quantitative approach: Delbert Elliot, in one of the four plenary sessions, described the current findings of an enormous undertaking, the National Youth Survey, a longitudinal study, which is following the lives of a group of young people in the USA, aged between five and eleven years' old when the study started in 1976. This has cost $12 million to date (a larger crime study in Chicago has a $50 million budget!). Complex statistical techniques are used to analyse the impact of the large number of variables in the neighbourhoods, family, friends, school, alcohol, drugs, etc., in the careers of those who have become offenders with crimes of serious violence, in an attempt to describe and quantify in a complex web of pathways and the amount each variable might contribute to the development of offending behaviour.

At the other end of the scale in the UK Tony Jefferson, in Sheffield, gave a paper on a single case-study qualitative approach. He used only books and 'brain-power' to explore and understand the self-destructive behaviour of Mike Tyson, the famous boxer now imprisoned for rape, and used this to develop a more satisfactory way of thinking about masculinity.

Both types of research are valuable. They contribute to our knowledge of the world and both could be useful to policy makers in government and other agencies who seek ways of intervening in the social world to reduce the impact of crime.

Some eminent participants

The conference provided an opportunity to listen to some eminent criminologists: Stan Cohen, a leading British criminologist now working in Israel, opened the first plenary session with a rivetting paper on his current work in the field of human rights and crimes of the state. He is a brilliant speaker, a fine example of a researcher who can deal with a complex and difficult subject with clarity even for the layman. Sir Leon Radzcinowicz, at 92 the oldest living British criminologist, spoke at the conference dinner. The plenary session with Michael Zander, a member of the Royal Commission, stimulated a controversial and sometimes acrimonious debate on the work of the Royal Commission on Criminal Justice. There was also an historic session which brought together for the first time in many years the three writers of the 1973 'New Criminology': Ian Taylor, Paul Walton and Jock Young.

Conclusion

The conference offered something to everyone who attended. For me it was a chance to listen to a different perspective on the world of prisons, the courts and crime in general, which I inhabit as a BoV, magistrate, citizen, and sometime student of criminology: in short to re-charge my intellectual batteries ■

Reducing Re-offending
THE STEPS CANADA IS TAKING

Robert B Cormier, Ph.D., Department of Public Security, Ottawa, Canada.

This article is a shortened version of a paper presented at the Criminal Justice Conference held in Bath, 29 June to 2 July, 1993.

Reducing re-offending by changing offenders from criminal to law-abiding lifestyles is a central theme in corrections in Canada. How do we go about doing this? In reflecting on this question, I came up with seven steps that Canadian policy makers, administrators and practitioners are taking in this regard.

Step 1.

Committing ourselves to doing it - by legislation, policy, public pronouncements, mission, objectives, plans, and so on.

In Canada, this commitment to reducing re-offending is reflected in the statements of purpose in the *Corrections and Conditional Release Act* which was passed in June, 1992.

The purposes of corrections and conditional release are given as follows:

> The purpose of the federal correctional system is to contribute to the maintenance of a just, peaceful and safe society by
>
> a. carrying out sentences imposed by the courts through the safe and humane custody and supervision of offenders; and
>
> b. assisting the rehabilitation of offenders and their integration into the community as law-abiding citizens through the provision of programs in penitentiaries and in the community.
>
> The purpose of conditional release is to contribute to the maintenance of a just, peaceful and safe society by means of decisions on the timing and conditions of release that will best facilitate the rehabilitation of offenders and their reintegration into the community as law-abiding citizens.

These purposes, which are clearly complementary, are also reflected in the mission statements of the Correctional Service of Canada and the National Parole Board. The common, underlying theme is offender change. Indeed, the Canadian correctional system is predicated on the assumption that offenders can change from a criminal to a law-abiding lifestyle, and that a major thrust of the enterprise is to encourage and assist them in doing so. The legislative and policy framework does not claim that all offenders can be rehabilitated but it makes a clear commitment to rehabilitation. It seeks more than a just measure of punishment, more than humane treatment, more the 'normalized' prisons - it sets itself the task of actively assisting offenders in their rehabilitation. We recognize that this is a serious challenge but we believe that it is worth pursuing.

Step 2.

Seeking the commitment of those working in the system: the mission of reducing re-offending has to be taken seriously by staff if they are to act upon it (and this involves changing staff attitudes and behaviour).

This is essentially a matter of cultural change. It begins with senior officials behaving in a manner consistent with the mission and building mechanisms that support and reward staff for contributions that further the mission. The mission and corporate objectives are strongly reflected in policy, planning and program documents in the Correctional Service of Canada. The new Commissioner has strongly endorsed the mission, and has continued in the direction set by his predecessor.

Still, getting the full commitment of staff remains a challenge five years after the mission was adopted. In his first major

address to senior administrators, the Commissioner announced that a study, including an employee survey, would be done shortly to see to what degree cultural change has been accomplished. Clearly, working with staff to engage them effectively in the enterprise is crucial because it is they who give effect to the strategies to reduce re-offending. It is an area that requires continuing attention.

Step 3.

Delivering services and programs that target the identified, criminogenic needs of individual offenders, and allocating resources to higher risk rather than lower risk cases (and continuing to build the knowledge base for corrections through further research on risk, needs, treatment and recidivism).

Perhaps the most important principle that we have learned from the research literature is that correctional treatments must target aspects of the offender's personal and social functioning that are associated with criminal recidivism (Andrews, 1989; Andrews, Bonta and Hoge, 1990). We must assess these aspects, referred to as 'criminogenic needs', for each offender and provide services and programs that respond to those particular needs. If anti-social thinking contributes to re-offending, don't target self-esteem, target anti-social thinking. If difficulty keeping a job contributes to re-offending, don't target getting a job, target keeping a job. Those aspects of functioning, ie, certain attitudes, feelings, behaviours, skill deficits, living arrangements and reinforcement contingencies that support continued criminal activity, provide the appropriate focus for correctional treatment and management.

A second principle which I would mention under this heading is the 'risk' principle', the essence of which is that the benefits are greater when correctional treatment is applied to higher risk cases than to lower risk cases. There are several studies (eg, Andrews and Kiessling, 1980), particularly in respect to levels of services for probationers, which support this principle. The implication is that correctional agencies should devote their treatment and service resources to higher risk rather than lower risk cases.

Step 4.

Developing programs on a sound theoretical basis, implementing them with integrity using trained and committed staff; evaluating and refining them.

From my analysis of the literature, I would conclude that a broad social learning perspective, including a behavioural extension of differential association theory (as reflected in the work of Don Andrews and his colleagues) has provided the most fruitful theoretical framework for correctional treatment (Andrews, 1980; Andrews, 1984; Andrews and Kiessling, 1980; Andrews, Bonta and Hoge, 1990; Andrews, Zinger, Hoge, Bonta, Gendreau and Cullen, 1990).

The key components include reinforcement contingencies, modelling, cognitive restructuring and problem solving. In this framework, the general goal in correctional treatment is to create situations where the reward-cost contingencies favour the reinforcement of pro-social (as opposed to pro-criminal) attitudes and behaviours, where there is modelling of pro-social behaviours, and where offenders learn the skills required to live a non-criminal lifestyle.

The appropriate stance for a correctional worker in this model is to be clear in the exercise of legal authority while establishing a relationship charaterized by warmth and trust in which modelling and reinforcement can occur. From this perspective, rehabilitation is viewed as a process whereby offenders acquire the personal and social skills necessary to function as law-abiding citizens, while the values and attitudes that support a criminal lifestyle are changed to become more consistent with a pro-social orientation (Cormier, 1989).

This approach is evident, for example, in the work of Robert Ross and Elizabeth Fabiano (Ross and Fabiano, 1981; Ross and Fabiano, 1985). An excellent example of a program based on this model is the Correctional Service of Canada's Cognitive Skills Training Program which was first implemented on a pilot basis in 1988 (Fabiano, Robinson and Porporino, 1991).

Step 5.

Being sensitive to factors that may require different approaches to offender assessment and treatment (factors such as culture and gender).

Under this heading, a major challenge for Canadian corrections concerns Aboriginal offenders. There are just over 1500 aboriginal offenders incarcerated in federal institutions. This represents about 11 per cent of federal prisoners; Aboriginal peoples make up from two to five per cent of the general population depending on the definition used. Their representation in provincial prison is much higher in those regions of the country where there are proportionately more in the population.

The principles guiding the overall strategy in this area are

a) a full partnership with Aboriginal bands and organizations,

b) a comprehensive criminal justice strategy adopting a tripartite approach with federal, provincial and Aboriginal authorities, and

c) community-based solutions designed to facilitate community involvement.

The primary programs introduced so far are Native liaison services which help to link offenders with the community to facilitate reintegration, Native spirituality where Elders come into the institutions to provide spiritual teachings, and a few, recently developed programs that attempt to combine elements of standard treatment approaches and traditional Aboriginal culture.

Beyond specific programs, there is the larger issue of Aboriginal communities' taking greater ownership of criminal justice matters for their community. In this regard, there is considerable excitement about alternative models of justice that are consistent with traditional Aboriginal values - models that would be holistic, restorative and healing for the whole community rather than focused primarily upon the offender.

There are projects of this kind just beginning but it is too early to tell how they will work. We may well learn something from these experiments that we could profitably transfer to the mainstream system.

Step 6.

Building links between institutional and community programs so that there is continuity in services and treatment following release to the community.

Continuity in services and treatment is important in all cases, but I would like to use the management and treatment of sex offenders to illustrate the point. One thing that experts in this field agree on is that we do not have a cure for sexual offending. Hence, the strategy is to create and maintain the conditions that will allow the individual to control his behaviour.

The Warkworth Sexual Behaviour Clinic (Barbaree, 1992), which operates at a medium security penitentiary where approximately half of the 600 inmates are sex offenders, provides a good example of the most advanced programming in this area. The treatment includes the usual components of sex education, behaviour therapy and social skills training, but the central concept which shapes the program is the offence cycle. Although sexual offences are often thought of as impulsive behaviours, closer analysis shows that there are identifiable precursors (Pithers, Kashima, Cumming, Beal and Buell, 1988). The offence cycle, which consists of the sequence of events and behaviours which precede sexual offending, is a particularly useful concept because it provides the offender with an understanding of his sexual deviance and the situations and emotional states that are the danger signs for repeat sexual offending. It is also very helpful because it provides the basis for relapse prevention training, the last component of the treatment program, where offenders are taught coping skills that they can use when they are confronted with the antecedents of their offence cycle.

Following treatment, a post-treatment report documents the risk assessment, the details of the offence cycle, and the relapse prevention plan. This report, particularly the relapse prevention plan, is enormously useful for those who are responsible for the supervision and treatment of these offenders

in the community because it forms the basis for continued treatment and monitoring in areas relevant to re-offending. The relapse prevention model as a link between prison-based and community-based treatment is a relatively recent innovation and has yet to be evaluated, but it appears to be a very useful way of bridging the treatment and management of sex offenders from prison to the community.

Step 7

Trying to make optimal use of limited resources by creating partnerships to coordinate activities among departments and agencies that are involved and share an interest in reducing re-offending.

There is a growing recognition of the need for partnerships. For example, corrections and mental health cannot function effectively in isolation. They have common clients who, at best, alternate from one system to the other and, at worst, fall through the cracks between them. We are looking for models of coordination, ie, ways of building partnerships to solve problems.

During this period of serious and prolonged fiscal restraint, we are seeing genuine efforts to use existing resources more effectively. For example, in one province a group of representatives from various interested departments have come together to work in a co-ordinated fashion to reduce sexual offending. They began by doing an inventory of current expenditures on assessment, treatment and management of sex offenders. It turned out that there was an established university-based sex offender assessment clinic that was being funded by federal corrections and another assessment unit that was being developed at a provincial mental hospital in the same city. They agreed that one centralized assessment unit for the province would suffice, and the plan is to merge the two into one that would be accessible to all the agencies that require the service (court assessments, federal and provincial offenders).

They began to think of the regional mental health centres throughout the province, the probation offices (provincial corrections) and the parole offices (federal corrections) as a collective resource. The result is a plan to establish regional treatment programs and to train staff in all three departments in relapse prevention techniques. They prepared a protocol that outlines the contribution that each department will make to the co-ordinated strategy and sought the agreement of the Deputy Ministers involved. This is just a beginning. Clearly, we need more of this if we are to achieve our goal of reducing re-offending ■

References

Andrews, D. A. (1980) 'Some experimental investigations of the principles of differential association through deliberate manipulations of the structure of service systems', 45 *American Sociological Review*, 448-462.

Andrews, D. A. (1984) The Supervision of Offenders: Identifying and Gaining Control over the Factors Which Make a Difference, *User Report No. 1984-65*, Ottawa: Ministry of the Solicitor General of Canada.

Andrews, D. A. (1989) 'Recidivism is predictable and can be influenced: using risk assessments to reduce recidivism', 1 *Forum on Corrections Research*, Correctional Service of Canada, 11-17.

Andrews, D. A., Bonta, James and Hoge, R. D. (1990) Classification for effective rehabilitation: rediscovering psychology, 17 *Criminal Justice and Behaviour*, 19-52.

Andrews, D. A. and Kiessling, Jerry J. (1980) 'Program structure and effective correctional practices: a summary of the CaVIC research', in Ross, R. and Gendreau, P. E. (eds.) (1980) *Effective Correctional Treatment*, Toronto: Butterworths.

Andrews, D. A., Zinger, Ivan, Hoge, Robert D., Bonta, James, Gendreau Paul, and Cullen, Francis T. (1990) *'Does correctional treatment work? A clinically relevant and psychologically informed meta-analysis'*, 28 Criminology, 369-404.

Barbaree, Howard E. (1992) *'The Warkworth Sexual Behaviour Clinic operations manual'*, unpublished.

Canada, Statutes (1992) *An Act Respecting Corrections and the Conditional Release and Detention of Offenders and to Establish the Office of Correctional Investigator*, Bill C-36, Chapter 20.

Cormier, Robert B. (1989) Offender Rehabilitation, *User Report No.* 1989-3, Ottawa: Ministry of the Solicitor General of Canada.

Fabiano, Elizabeth, Robinson, Dave and Porporino, Frank (1991) *A Preliminary Assessment of the Cognitive Skills Training Program: A Component of Living Skills Programming*, Ottawa: Correctional Service of Canada.

Pithers, William D., Kashima, Kennon M., Cumming, Georgia F., Beal, Linda S. and Buell, Maureen M. (1988) 'Relapse prevention of sexual aggression', in Prentky, R. A. and Quinsey, V. L. (eds.) (1988) *Human Sexual Aggression: Current Perspectives*, 528 Annals of the New York Academy of Sciences, 244-260.

Ross, Robert R. and Fabiano, Elizabeth A. (1981) *Time to Think: Cognition and Crime: Link and Remediation*, Department of Criminology, University of Ottawa.

Ross, Robert R. and Fabiano, Elizabeth A. (1985) *Time to Think: A Cognitive Model of Delinquency Prevention and Offender Rehabilitation*, Tennessee: Institute of Social Sciences and Arts, Inc.

Prison and the Perfect Woman

Crime: Against her nature? pt.2

In this second part of the article the author continues to examine the treatment of female offenders by the criminal justice system. Part 1 discussed current theory and practice and appeared in the March edition Number 92 of the Journal. This part concentrates on the historical perspective.

***Stuart Reddish** is a Research Fellow in the Department of Applied Social Science at the University of Stirling. Before returning to academic life, he was in business for a number of years, was a local councillor and stood for Parliament. He is currently working on perceptions of sentencing for murder.*

Social Classification

If we start with a premise that women have an inherent potential for instability, and that one method of social control is to provide a continual means of redress to that potential, what reasoning is there to support it? Ken Watkins (1975 p. 119) in his book on social control quotes the words of Thomas Shelf, who wrote:

'mental illness may be more usefully considered a social status than a disease; since the symptoms of mental illness are vaguely defined and widely distributed, and the definition of behaviour as symptomatic of mental illness is usually dependent upon social rather than medical contingencies . . . the status of the mental patient is . . . an ascribed status'.

Watkins follows this with his own comment that

'Whether properly regarded as medical symptoms or not, what we have here is a social control device and one that may work at a very great number of levels (1975 p.120)'.

This takes us back again to the work of Thomas Szaz, whom Watkins quotes:

'Extending the connection Szaz argues that there is not merely a parallel but a direct relationship between the medieval persecution of witches and the present 'treatment' of those mental health patients who are officially certified. He argues indeed, that an extremely general form of social control is operating under either regime. Both witchcraft and mental illness provide necessary scapegoats for society, those upon whom the evils of the system can be blamed. Just as witchcraft was a form of heresy against religious precepts, which were also the social precepts of the day, so mentally abnormal behaviour is the label given to unconventional behaviour in order to persecute it'.

Witch burnings

Because of the trend over time to subvert the positive attributes of the 'real' woman, it may be necessary to understand the socio-historical connection between women's experience of the Criminal Justice System and the general persecution of women within our society since the fifteenth century.

The contradictions that exist in the treatment of women by the criminal justice system and the resistance to consider changes in the dominant discourse with regard to stereotyping serve to illustrate the failure of 'man made' laws to accept the complexity of considerations in passing judgement without understanding. It is man's obsession with power, control and manipulation that becomes vital to maintain a 'mechanical

philosophy'. It was and is, imperative to men that the manipulation of nature ceased to be a matter of individual efforts and that it became associated with the general collaborative social interests that sanctioned the expansion of commercial capitalism (Marchant 1980). This is where the real significance of the criminal justice system and its overwhelming concern with the behaviour of women takes shape. It becomes the servant of society in constraining the role of women and maintaining the stereotypes. The criminal justice system is not solely to blame for this inherent injustice towards women within society but it is fast becoming the prime example of patriarchal suppression in the moulding of attitudes in times of conflicting commercial and human interests. The preserving of ownership and property rights being a prime example of this allied to marital responsibilities and the role of courts in the influence of a labelling process.

In order to substantiate the socio-historical origins consideration of events in the formative times of European 15th, 16th and 17th centuries need to be first taken into account to establish historical precedent. At the same time as science and 'mechanism' (in this sense used as a pejorative link with the control of nature) was creating a 'new world order' another significant social phenomenon was rife: witchburnings. For Mary Daly (GynEcology p. 183 1978) the intent *'was to break down and destroy strong women, to dismember and kill the Goddess, the divine spark of being within women'*. Marchant (1980) felt that *'the control and maintenance of the social order and women's place within it was one of the many complex and varied reasons for the witch trials; religious, social and sexual attitudes toward women and their role in contemporary society played a significant part in delineating the victims* (p. 138)'.

The inclusion of religion as part of the assertion of patriarchy is not surprising as we shall see later, but the inclusion of science (p. 140) is. In 1563 Johann Weyer reflected attitudes towards women that were to become inherent in the prevailing natural philosophy 'witches who because of their sex are in-constant and of dubious faith, and because of their age, are incapable of clear thought. They are especially vulnerable to the devils wiles[1]'. However, many views of 'learned men' were cited in defence of witches. but this only served to portray them as the weaker and more credulous sex and old women especially as being particularly stupid and mentally debilitated. A *'few men such as Weyer, Spee and Laymann, had the courage to express their views more or less openly . . . but most of the opposition was under the surface and its utterance suppressed, either by fear of public opinion or more often by fear of prosecution on the charge of aiding and abetting the works of the devil'* (Lea 1957).

As Marchant (1980) points out, *'Disorderly female nature would soon submit to the controls of experimental method and technological advance, and middle and upper class would gradually lose their roles as active partners in economic life becoming passive dependants in both production and reproduction'*. It is therefore not insignificant to consider the 'witchburnings' alongside the likes of Francis Bacon (1561— 1626) a celebrated 'father' of modern science, and a contemporary of events.

These events such as the 1612 trials of Pendle Forest influenced Bacon's philosophy and literary style. Much of the imagery he used in delineating his new scientific objectives and methods derives from the courtroom and, because it treats nature as female, to be tortured through mechanical inventions, strongly suggests the interrogations of witch trials and the mechanical devices used to torture witches. In a relevant passage Bacon stated that the method by which nature's secrets might be discovered consisted in investigating the secrets of witchcraft by inquisition[2].

In 1624, shortly before his death, Bacon wrote 'New Atlantis' (his Utopia). He illustrated a patriarchal family structure in which the 'father' exercised authority over the kin and the role of the woman had been reduced to near invisibility. The new mechanical order and its associated values of power and control would mandate 'the death of nature'.

Rousseau commented in 'Emile'(1762), only a few years after Bacon, that *'woman, who is*

1. De Praestig iis Daemonium: quoted in Marchant 1980.
2. De Dignitite et Augemtis Scientiarum 1623 taken from Marchant 1980.

weak and who sees nothing outside the house, estimates and judges the forces she can put to work to make up for her weakness, and those forces are men's passions. Her science of mechanics is more powerful than ours; all her levers unsettle the human heart'.

Censuring and Division

The notion of a historical construction however has been considered by Foucault (1971) and Sumner (1990). However, it runs alongside both men and women being involved in the process of social conditioning. If as Scraton infers *'that to consider criminological tradition unified by its commitment to a biologistic view of woman's nature is also to fail to address the underlying question of essentialism;'* it is the premise *'that there is some general category of 'womanhood' that may function as a basis of explanations (1990)'*. This must therefore imply that 'manhood' is also a product of social 'engineering' to remain within the mechanical parlance.

Foucault (1971) quotes 'la Mesnardiere':

'Most men are censured, not without reason, for having degenerated in contracting the softness, the habits, and the inclinations of women, there is lacking only a resemblance in bodily constitution. Excessive use of humectants immediately accelerates the metamorphosis and makes the two sexes almost as alike in the physical as in the moral realm. Woe the human race. If this prejudice extends its reign to the common people; there will be no more ploughmen, artisans, soldiers, for they will soon be robbed of the strength and vigour necessary to their profession'.

In the spirit of the point that is being made, this was written in France in 1770.

In Britain at the beginning of the 19th century we had the 'rustic' writings of William Cobbett *'It must be evident to everyone that the practise of tea drinking must render the frame feeble and unfit to encounter hard labour or severe weather, while it deducts from the means of replenishing the belly and covering the back, hence succeeds a softness, an effeminacy, a seeking for the fireside, a lurking in bed, and in short all characteristics of idleness[3]'.*

There is a plethora of information running through the centuries beginning notionally around the witch trials that serves to separate women from nature and men from women . The headlong pursuit of capitalism only underpins this situation. However, to bring us back to the present we have the modern phenomenon that no matter what observations abound as to the perpetuation of misconceptions in the construction of a woman's defence plea or the changes in labelling between the courts and arriving at prison, all routes for women ultimately lead to 'therapy'! The question posed was 'Prison and the Perfect Woman: are outsiders inside?' The obvious answer is yes. The underlying answer is no. The real problem lies in a definition of offender and how this applies specifically to women facing sentencing. Women in general and women who 'offend' in particular have little or no chance of having their case considered impartially; there is an expectation laid down by society over hundreds of years that must be satisfied.

Society needs to have some women in prison to preserve the status quo. If there are any political changes in society that prevent the system from maintaining its prior strength it creates new spheres of control. In this way it responds initially to public opinion but it maintains the male right to invent new cause for concern and new crimes to be controlled.

The resistance of the courts in 1991 to overrule a husband's immunity from rape within marriage because of a statement made in 1736 by the then Chief Justice (a) illustrates the role of history in shaping men's expectation of power over women and (b) shows that in the words he used in that statement ('by their mutual matrimonial consent and contract the wife hath given herself in kind unto her husband which she cannot retract') there is an unwillingness to move on and consider the massive need to respond to women's rights and listen to their opinion over and above the 'desire' of men. However, the discussions that have ensued since the concept of 'virgin births' has become a reality and has shown that there is a long way to go before women have total control over their own destiny and their own bodies. The fact that men could consider themselves as supernumerary in the debate

3. attributed but undated circa 1810.

has led to various considerations of controls. At its conclusion this could involve the criminalisation of 'virgin births', as with abortion in the past, and reminders of the Health Acts of 1911 (when any woman could be hauled off the street to a police station for an internal V.D. examination by men). The discussions are a reminder that men can still, if required, create public reaction and subsequent laws to maintain their power over women. This therefore implies that any woman at any time is at risk of becoming an outsider, hence the only underlying pathology for this is that she is a woman. Once behaviour has been established as being contrary to the ideal, for whatever reason, steps are taken to redress the situation. If a woman consents to return to the stereotypical role model in her defence she can avoid custodial sentences at best and be treated the same as or 'equal' to a male offender at worst, but, she will still require 'help' and 'therapy' from various agencies to stay a good wife, mother and woman. If she is sentenced as a bad wife, mother or woman, or even as a criminal, she is still given therapy to 'help' her re-establish her feminine role and become once more acceptable in society. The level of deviance is therefore not the issue, it is establishing a willingness to conform, no matter how long it takes to get her back on the inside outside. ■

Bibliography

Daly, M. (1978) **GynEcology**. London, Womens Press Ltd.
Foucault, M. (1971) **Discipline and Punish**.
Lea, H.C. (1957) **Materials Towards a History Of Witchcraft Vol 1**. London, Yeseloff.
Marchant, C. (1980) **The Death of Nature**. London, Wildewood.
Scraton, P. (1990) Scientific Knowledge or Masculine Discourse. **In** Gelsthorpe, L. and Morris, A. **Feminist Perspectives in Criminology**. Buckingham, OU Press.
Sumner, C. (1990) Foucault, Gender and the Censure of Deviance. **In** Gesthorpe, L. and Morris, A. **Feminist Perspectives in Criminology**. Buckingham, OU Press.
Watkins, K. (1975) **Social Control**. London, Longman.

VERBALS

'Criminal Justice agencies appear atomised, operating independently of one another, pursuing differing aims, with differing philosophies and little sense of shared priorities or common purpose. In the view of many critics, the resulting consequences of incoherence and inefficiency are compounded by a profound lack of interdepartmental co-ordination or co-operation.'

(From the 'Dynamics of Justice' a report by a Howard League Working Party - 19 July 1993)

'[We] will be devising more specific descriptions of the work of the judicial posts to be filled and the qualities required ... I also intend the progressive introductions of open advertisements for some judicial vacancies ... I shall support this programme with such further measures as may seem appropriate to encourage applications by women and black and Asian practitioners.

Whom we appoint to be judges and how we appoint them is a matter of great public importance. My procedures, decision and recommendations do not represent a closed and secret system. I wish them to be as open and defensible as their nature allows, while protecting the confidence of my consultations with the responsible professional community.

In making judicial appointments, I have always supported fully the principle of equality of opportunity. The new measures I envisage will continue to enhance this principle. And I do not think it inconsistent to say that I very much want to see greater numbers of women and black and Asian lawyers on the Bench and in Silk.'

(Lord Chancellor, Lord MacKay of Clashfern - 7 July 1993)

Letters

RETENTION OF PRISON OFFICERS FROM ETHNIC MINORITIES

Dear Sir,

In issue 90, Anver Jeevanjee made some bold and challenging remarks about racism in prisons.

From my perspective as Equal Opportunities Officer for the Prison Service and deputy head of the personnel management division, I cannot let those remarks pass unchallenged. Mr Jeevanjee states that the Prison Service has low rates of recruitment and retention of ethnic minority staff. This is not so. In April-December 1992, 7.5% of all applications to join the Service as a prison officer came from members of the ethnic minorities. Members of the ethnic minorities represented 2.4% of all officer appointments in the same period. Our latest figures, taken from the period 1 January 1990 -15 October 1993, show that the Prison Service recruited 180 prison officers from the ethnic minorities within this time. All but one of these officers are still in the service, a retention rate of over 99%.

The Prison Service is committed to equality of opportunity and the efforts which have been made in recent years to attract applications from members of the ethnic minorities are continuing. We want to see a Prison Service which is representative of the public which it serves. We are far from complacent — the representation of ethnic minorities, at just over 2.5% of all non-industrial staff in the Prison Service, is far too low — but I believe the Service deserves some credit for the progress which has been made towards securing greater equality of opportunity. To talk of the low retention of ethnic minority staff is to give a misleading impression which may hinder our efforts to recruit able people from all sections of the community.

I have recently met with Mr Jeevanjee to discuss equal opportunities in the Prison Service.

Ivor Ward, Equal Opportunities Officer for the Prison Service

Europe Post Maastricht

Dear Sir,

Your leader article on Europe (Issue 90) struck a chord with me and as a Chief Constable I would like to emphasise some of the points made from a policing perspective.

Whilst the European Community was developing, policing arrangements were certainly not very high up on either the political or the economic agendas. It seemed more like an administrative detail that could be tidied up at a later stage. However, as the implications of the Single Market were realised, policing issues quickly assumed greater importance. Some pundits suggested as the borders came down, drugs trafficking, money laundering, terrorism and international crime would reach epidemic proportions. In the event that has not been the case, but the freer movement of goods, services and people within the community did highlight the need for effective international policing arrangements. An impossible task one might think for the 52 police forces of the United Kingdom. In fact remarkable progress has been made in the field of international police co-operation.

Long before the removal of internal barriers in Europe, police forces across the world were co-operating through Interpol. With its recently developed European Secretariat embracing 29 European countries this has become an effective organisation collating information and producing intelligence on international criminal activity.

Interpol, however, is not directly accountable to national parliaments and the Maastricht Treaty approved the creation of the European Police Organisation (Europol) to co-ordinate criminal intelligence across the 12 member states. Based in the Hague it is now in the process of establishing a European drugs unit to tackle illegal cross border drug movement. Working closely with the British National Criminal Intelligence Service (NCIS) it will be possible to identify International crime patterns. Operational

policing will still remain the responsibility of individual member states with the pan-european organisations retaining a co-ordination and information gathering role.

The differing legal - systems between member states inhibit the development of some form of European police organisation along the lines of the F.B.I. In the absence of political will from all the member states to harmonize legal systems, an incremental approach of bilateral and multi-lateral cooperation has emerged. The British Government remains cautious about a federal Europe and we are keen to maintain local control over policing whilst recognising that some types of crime need international co-operation although I would stress international co-operation and not control.

British caution is reflected in our remaining outside the Schengen group of nine European countries which, through the Schengen Information System, propose to operate a multinational intelligence network. ;To join the network Britain would have to relinquish border controls. There are also reservation about the way some Schengen countries handle data protection. I believe that greater co-operation and sharing of information is desirable. This is relatively well established in the field of drugs trafficking and terrorism.

'Approximation' of criminal codes between countries is the next step to simplify international legal procedure whilst a full blown federal police force is a long way off.

The locally based independent nature of British policing is something that Chief Constables are with good reason reluctant to give up. Whilst our European neighbours in national police forces find this hard to comprehend, it has certainly not inhibited us in building co-operative and effective working arrangements across Europe. We have little to fear from the continent and a great deal to gain. By creating a workable and secure intelligence network across Europe the most dangerous and serious criminals can be tracked and brought to justice in any member state, while the rest of us enjoy the freedom of movement associated with the European Union.

Yours sincerely
Tony Leonard
Chief Constable
Humberside Police

VERBALS

'Each officer has been issued with an impressive package of material to underpin the training which has covered the central elements of confidentiality, interview techniques, open reporting, support resources and recording ... A no nonsense approach ... made it clear to staff that personal officer work was obligatory and with no additional time provided ... [It had also been made clear to prisoners] that personal officers were the first people to be consulted about problems and that their help and support would be required when applying for home leave or temporary release.'

(Chief Inspector of Prisons reporting upon HMP Shepton Mallet in July 1993)

'Many of the positive features of that system have now been lost. Whatever the rights and wrongs of the principle of contracting-out, the practice has brought confusion and waste. It may be many years before the education service in prisons recovers to its former level.'

(The Future of the Prison Education Service - Prison Reform Trust report of 2 August 1993)

Scene from here

Thoughts About **Control** *in Prisons*

Rod Morgan is Professor of Criminal Justice and Dean of the Faculty of Law at the University of Bristol. He was one of three Assessors to the Woolf enquiry.

This article is an adaptation of a talk recently given to a seminar on 'Control in Prisons' at the Prison Service College, Newbold Revel.

I am an ardent Woolfist. I could scarcely be otherwise. The Woolf Inquiry took a year of my life during the course of which we worked as a team. In retrospect I think the Woolf Report got things broadly right. But the analysis was not without flaws and now that some of the Woolf recommendations are being implemented it is clear that we did not anticipate all of the repercussions.

Analysing Control Mechanisms.

Let us start with the building blocks. Woolf referred to a troika of elements which together make for a balanced regime — security, control and justice. In the event the Home Office reassembled the elements as custody, care and justice[1]. I have no quarrel with that. Indeed, as I have argued elsewhere, Woolf overloaded the term justice[2]. He meant too many things by it — fairness, due process, humanity, positive programmes, normalisation, preparation for release, and so on — for it to be wise to use a single concept. It was perfectly sensible to break out care and justice. But the important distinction between security and control should not have been lost and in any case control is not a proper objective for the Prison Service. The Scottish Service put this part of the equation better[3]. Control is not a good in its own right. Indeed quite the reverse. The objective is order, for which control may be the means. But not necessarily so. Forms of control, either the mechanisms or the manner in which they are used, may subvert order. Lord Scarman understood this well. Public tranquillity is the paramount objective, not the enforcement of the law. Under certain circumstances law enforcement may undermine public tranquillity[4].

It follows that all control mechanisms should be the subject of critical empirical analysis: do they assist the maintenance of order? To the extent that we slavishly persist with traditional controls, we are simply reinforcing the tendency decried by the 1990 White Paper, *Crime, Justice and Protecting the Public*, and which Mr Howard has conveniently forgotten:

'It is better that people... exercise self-control than have controls imposed upon them... however much prison staff try to inject a positive purpose into the regime... prison is a society which requires virtually no sense of personal responsibility from prisoners' (paras 2.6-7).

Or, as the White Paper emphasised elsewhere: 'Imprisonment can be an expensive way of making bad people worse'. In other words, prison doesn't normally work. If we are to minimise the tendency of imprisonment to damage through infantilization, if we are to maximise the scope for self-responsibility consistent with the maintenance of order and security, then only those controls should remain which are strictly necessary. And that should not merely be a matter of opinion, but demonstration.

There is no need, I hope, to say too much about security/control (preferably disorder) risk. There is some overlap. But they are separate issues. It may be helpful here to draw a parallel with suicide

1. Home Office(1991)Custody, Care and Justice:The Way Ahead for the Prison Service in England and Wales, Cm 1647, London: HMSO.
2. Morgan R. (1 992) ' Following Woolf : the Prospects for Prisons Policy', Journal of Law and Society, 231 -250.
3. Scottish Prison Service (1990) Opportunity and Responsibility, Edinburgh: Scottish Prison Service.
4. Scarman Report (1981) The Brixton Disorders 10-12 April 1981, London: MSO.

prevention. In the same way that there is imperfect agreement between prison staff about which prisoners present a control problem (prisoners who act up in one environment do not in others) so we are not very good at predicting who will commit suicide. We over-predict both individual suicide and outburst, and are poor at anticipating both. It is more sensible, therefore, to concentrate our attentions on the *contexts* and *environments* that generate suicide and trouble. Both Tumim on suicide (1990), and Woolf on disorder (1991), was absolutely right to stress that the starting point for any preventive analysis is the general quality of life and justice for the mainstream population. It is sometimes necessary to focus on individuals and apply preventive, occasionally segregative, controls on them. But it is seldom a solution. If the mainstream scene is 'trouble-ogenic' then persons removed will soon be replaced by others.

Prisons in Context.

We need to say a word about trouble in prisons generally. Prison communities are more prone to disorder than most communities. Nevertheless most prison systems are not racked by perennial disorder as ours is. Nor, let it be noted, are most prisons in England and Wales disorderly. Few are. The problem is that for over two decades now we have been building a *culture of disorder,* common to prisoners and staff (including management), whereby the solution to dispute, tension and conflict is seen not as negotiation but having a go. This culture will not easily be reversed.

One reason why it will be difficult to turn round is that prisons do not operate in a vacuum. The culture of disorder is partly imported. Many prisoners bring with them from the streets a contempt for authority. The injustices and cleavages in our society are growing. It follows that the problems faced by prison officers on landings are similar to those faced by police officers on the streets. Second, prison disorders may be sparked by events beyond the walls, an aspect of globalisation which is characteristic of post-modern society. It was almost certainly not a coincidence that the riot at Strangeways in April 1990 occurred on the day following the riots in Trafalgar Square and Manchester against the poll-tax. Further, these phenomena are not well understood by employing the nursery language and facile analysis of 'copy-cat'. What happens in prisons needs to be comprehended in terms of general social movements. If one has latent feelings of injustice they can be heightened by the news that others are doing something about the injustices under which they labour. And if one is powerless, with little control over one's destiny, then initial participation in a challenge to authority — I stress 'initial', because most prisoners want to exit from a serious disturbance almost as soon as it has started — may be to restore what David Matza called 'the mood of humanism'. 'Making things happen' is a wonderful release in an environment where nothing much does happen and if one is going out to a future which holds few prospects. Taking to the roof may be the penal equivalent of joy-riding. It may end in disaster — it usually does — but it is temporarily exhilarating in a life without hope of fulfilment.

Third, many of the injustices most deeply felt by prisoners stem not from the prison authorities but from other agencies within the criminal justice system. The most ignoble duty of the Prison Service is keeping the lid on miscarriages of justice. Mr Howard's immediate rejection of the recommendation of the Committee on the *Penalty for Homicide* headed by Lord Lane that a life sentence no longer be the mandatory sentence for murder, and his failure to include in the Criminal Justice and Public Order Bill provision for a new review body to deal with appeals against conviction as recommended by the Royal Commission on Criminal Justice, will not go unnoticed by prisoners. It is a recipe for trouble.

Thinking Again About Woolf

The Wolds probably provides the clearest operational example of some of the tensions built into the Woolf formula. The Wolds contract provides for much that Lord Woolf and Stephen Tumim might be expected to applaud: prisoners can spend most of the day out of their cells, there are generous visiting arrangements, continuous access to telephones, good provision for education classes, excellent sports facilities, plentiful outside exercise and so on. Further,

the accommodation units are small and physically discrete, six units each with 50 places. And the prisoners, most of them untried and therefore subject to the presumption of innocence, are treated as responsible adults in that they can freely choose whether or not to use the facilities available to them. However, it is clear from his recent report on the Wolds that the Chief Inspector is disturbed by the outcome of the contract between the Home Office and Group 4 which is based largely on the formula to which he set his signature in the Woolf Report. Stephen Tumim found the Wolds daily routine too inactive. And I can confirm from a recent visit that few prisoners choose to get up for breakfast or to leave their cells in the mornings, the available art, computer and literacy classes are massively under-subscribed, for much of the day the well-equipped gymnasium attracts only a small group of iron-pumpers, and on the admittedly cold, windy and inhospitable day that I visited, there were as many officers on the outdoor yard as there were prisoners.

None of this is surprising. Many pre-trial prisoners are likely to have been unemployed and most will previously have been living in marginal socio-economic circumstances. That is why they have repeatedly got into trouble and been denied bail. When they have their liberty many, no doubt, spend their time dossing, hanging around, ducking and diving. There is no reason to expect that, given the choice, they will behave any differently in prison. Indeed, it would be astonishing were the Wolds to exhibit the combined characteristics of a health farm and the Open University. And it doesn't. The inhabitants behave as they would at home in Sheffield or Hull. They doss, hang around, duck and dive. Which means that drugs circulate (though probably no more than in state-run prisons) as they do on the street.

The consequence is that there are inevitably a few problems of disorder. Some prisoners exploit the space they are given and need formally to be punished in the segregation unit, or, following warnings, have to be subjected to the more restrictive regime that Group 4 has now devised in one of the living units. But there is not a major problem of disorder, only one of symbolic politics. It is apparently one thing to doss around out of sight in a Northern industrial wasteland, quite another if you are the guest of Her Majesty, even if one is untried: being allowed to lie in bed until midday is not 'austere'. Yet the Wolds was never provided with workshops, there was no expectation that prisoners should work (it was not part of the contract and has not been provided for in most local prisons for almost two decades) and, given that Wolds prisoners are untried, there is no power to compel them to be more energetic.

The Wolds is orderly. Prisoners and staff show a good deal of respect towards each other. But it lacks demonstrable control, control less as a means to an end, more as an end in itself. I do not say that the balance at the Wolds, or anywhere else where more open-ended regimes have been developed, is ideal. It may be the case that there will be less ducking and diving, and thus greater order, if prisoners have less time on their hands. In which case there may be need to develop contracts with prisoners so that if they want access to certain facilities, they must make some effort. But it is doubtful whether a pre-trial prisoner should be required to get up in the morning unless there is a real incentive, and the incentive should not be that he will be locked up for most of the day if he does not. The real issue here is between visible and invisible lives. Does Mr Howard propose that life on bail should also be austere? It mostly is, though if austerity means the possibility of a job and decent earnings, would that it were so. The same in prison.

Trouble ahead.

It is difficult to be sanguine about the future. Messrs Clarke and Howard have done their best to ferment trouble. They have falsely talked up the benefits of custody and ensured that the Prison Service will now be faced with a rapidly rising prison population difficult to cope with. There will be backward steps from most of the Woolf agenda. Police cells, or equally unsuitable sites, will be brought back into use. Overcrowding will increase. Regimes will be restricted. The development of community prisons will be put back. Sensible allocation policies will be undermined or abandoned. The events at Wymott last September were a straw in the wind.

It needs to be recalled that this was the third serious incident at Wymott, the largest of our Cat C prisons, built and staffed for short sentence non-violent prisoners capable of living orderly lives with minimal supervision. The disturbance in April 1986 followed a decision to overcrowd the prison in response to an overall increase in the prison population. The consequence was a relaxation in the allocation criteria and the use of 'more hasty and less thorough induction procedures'[5]. The incident in September 1986 was preceded by 'a large number of receptions... from London and the South East'[6]. Last September the same factor was present. Wymott normally takes 40 receptions per week. In the three weeks before the riot the prison received no fewer than 249, a surge caused by 'an increase in custodial sentences in the North West' — Mr Howard's carceral chickens coming home to roost — combined with Home Office 'pressure not to resort to the use of police cells'[7]. The prison was required to take prisoners for which it was never designed and for which the staffing was quite inadequate. A high proportion of the prisoners had drug-related offences and brought with them the violent gang culture associated with that trade in Metropolitan areas. Trading in drugs within the prison was commonplace and during the period June to August no fewer than 17 assaults were referred to the police. The staff were intimidated and reluctant to enter prisoner living areas. Eventually the prison blew. As a result 1.7 per cent of all the available accommodation in the prison system was lost and 745 Wymott prisoners were dispersed to 23 other prisons. It will be surprising if there are not knock-on consequences.

Order in prison is a delicate balance. All prison staff know that. Politicians apparently do not. Prison staff will have to teach them. Order, not control, and certainly not symbolic control under the euphemism of austerity, is the objective. And it will best be secured by controlling the prison population. That is the one point at which control *should* be the watchword, yet it is here that there is greatest reluctance to use the word ■

5. Her Majesty's Chief Inspector of Prisons (1993) The Disturbance at HM Prison Wymott on 6 September 1993, Cm 2371, London: HMSO, para 2.18.
6. Ibid., para 2.25.
7. Ibid., para 3.41.