

## Letters

**Dear Sir**

I found Professor Morgan's article "Thoughts about Control" (May issue) genuinely interesting. But Professor Morgan missed something vital in relation to control in his assessment of The Wolds. This was probably because he fell into the trap of stereotyping prisoners "The inhabitants behave as they would at home in Sheffield or Hull. They doss, hang around, duck and dive".

Prisoners are mostly people like us and when considering conditions in prison, we should look at it as if we were the

prisoners. People often worry about their personal safety in prison. They want staff to be in charge so that they can be safe. Everything else comes after that. Only then can we begin the work of getting prisoners to participate in a responsible way and to develop a positive purpose.

My criticism of The Wolds and I experienced opening a similar sized remand prison about the same time, was that staff manning and deployment represented, in my view, an inadequate provision to reassure prisoners that staff were in charge. In other words it was ripe for the exploitation of

prisoners by prisoners. The Wolds has much to commend it and prisoners no doubt appreciate these things but a criminal dominated sub-culture however orderly, is wrong.

As David Wilson argues in his article "Confronting Crime in Prisons" (same issue P.S.J.) we need to attack crime inside prison as well as outside. It can be done but only if prisoners feel safe and trust a prison's staff.

Your faithfully

**David Waplington**  
**Governor**

**HMYOI Lancaster Farms**

## Seminars

# PRODUCTION OF INMATES TO COURT SHARING THE PROBLEM

REPORT OF A ONE DAY SEMINAR

HOSTED BY MR JOHN ALLDRIDGE, GOVERNOR, HMP/YOI STOKE HEATH  
ON BEHALF OF MR DAI CURTIS, AREA MANAGER, MERCIA

5 MAY 1994

*Tom Law,*  
*Senior Probation Officer*

*Barry Pierce,*  
*Principal Officer*

Serious problems are apparent in the production of inmates to Magistrates Court in particular. These were highlighted in Pre Trial Issues recommendation paper - WGPTI April 1993 and steps are being taken by the various criminal justice agencies to address these difficulties.

On 5 May 1994 HMP/YOI Stoke Heath hosted a one day seminar. The aim was to provide a forum for sharing and understanding the respective problems encountered by the relevant agencies and achieving greater co-operation in seeking effective solutions. Dai Curtis, the Area Manager for Mercia Region, chaired the event. Speakers included Judge Elisabeth Fisher, Midlands and Oxford Circuit; Jim

Shaw, Crown Prosecution Service, Shropshire; Ms Margaret Headon, Clerk to the Justices, Cirencester; Superintendent Ron Morris, West Mercia Police; and John Alldridge, Governor HMP/YOI Stoke Heath. Agencies represented included the judiciary, magistrates, clerks to the justices, Group 4, several prisons, the police, the probation service and the legal profession. Below is a synopsis of the day's event, together with observations and recommendations.

Dai Curtis opened the day with a welcome to the participants. He began by commenting that many Governors had not initially been aware of the existence of Pre Trial Issues Report and had been surprised at some of the undertakings given by the

Prison Service. The day, he suggested, was an opportunity to explore the difficulties of the component agencies operating within the criminal justice system and to seek ways of improving their working relationships. There was recognition that there was not always clarity in relation to our component functions, which was an inhibitor to effective service delivery.

### **CROWN COURTS**

The first speaker was *Judge Elisabeth Fisher*. She has been a full-time judge since 1989 and is a member of the Criminal Justice Consultative Council. This group was established, following the prison disturbances in 1990. In his report on those disturbances, Lord Woolf had identified a lack of structure for consultation, communication, co-operation and co-ordination between the relevant strands of the criminal justice system. Lord Woolf therefore recommended the creation of an integrated liaison structure whose function was to bridge that gap. Different agencies are represented to facilitate a full and frank exchange of ideas. It was against this background that Judge Fisher was interested in the topic of the day's agenda.

Insofar as the Crown Courts were concerned, Judge Fisher felt that there were remarkably *few* problems and that the operation was extremely efficient, given the obvious logistic difficulties in producing large numbers of prisoners to diverse geographical locations. She also commented that assistance and information provided to the courts, with regard to time spent in custody, was valuable to the sentencing process. Judge Fisher took this opportunity to congratulate the Prison Service on its efforts in the area of race relations. She was aware of developments because of her chairmanship of the sub group on race and criminal justice. She was also impressed by the partnership with the Prison Reform Trust in producing the Prisoners Information Pack, which she suggested should now be made available in various languages.

Judge Fisher concluded by expressing the hope that her preliminary offering would help to set the scene for the day's proceedings.

### **CROWN PROSECUTION SERVICE**

*Jim Shaw*, the Manager of the

Crown Prosecution Service in Mercia region, then provided a perspective on behalf of his agency. In doing so he emphasised the differing perspectives of the different players in the system. To illustrate his point, Jim presented a hypothetical scenario. It began with a Senior Prison Officer, at an establishment in Yorkshire, examining the following day's rota. There were three productions, to three reasonably local courts and sufficient staff to service those courts. It is then discovered that there is another production required at Market Drayton Court in Shropshire. The prisoner is in custody for vehicle offences and rape. The Senior Officer is consequently faced with a resourcing dilemma. If he complies with the Production Order it will create a staffing shortage in the prison, together with all the associated risks. He, therefore, decides that he will not produce the prisoner to Market Drayton because, apart from all the other factors, it will effectively tie up staff for a whole day, given the distance. From his perspective, it is a positive solution. Meanwhile, at Market Drayton Magistrates Court, three lay magistrates, who have perhaps given up a day's work, are in attendance. So too are a Crown Prosecutor, the victim, a representative from Victim Support, and the defence solicitor. From their perspective it is a disaster. A burden relieved for the Prison Service is a problem created for the other players.

Insofar as the CPS are concerned, there is a significant problem with the non-production of prisoners to Magistrates Courts. It was acknowledged that the prisons do remarkably well in the Crown Courts, which have more authority and fewer prisoners need to be produced to fewer courts. However, even in these venerable institutions there are occasional and costly hiccups. An example was given of an episode which involved a prison 'forgetting' to produce a prisoner for a murder trial. A morning was lost, and this represented a huge, non-productive cost to the taxpayer. In other cases, where prisons refuse to produce prisoners, there is, financial cost apart, a cost in terms of additional trauma for witnesses and victims and great inconvenience to other agencies.

Jim Shaw went on to examine why prisoners *need* to be produced at court. He pointed out that without them the courts technically cannot remand in custody, determine mode of trial, proceed with a trial, commence committal proceedings or impose

sentence. *Justice delayed is often justice denied.* It can involve trauma for victims and the passing of time contributes to fading memory thus perhaps reducing the prospects of conviction and causing injustice. This, in turn, can bring bad publicity. In this era of privatisation, that brings its own associated risks for all the agencies.

If problems arise, CPS may have to consider discontinuing a case. For example, is it worth pursuing a conviction for theft with a life sentence prisoner? Is a continuation in the public interest? The answer would inevitably depend upon your perspective. A victim's view might be different from that of a prison, which in turn might be different from that of the CPS or the police. Finally, faced with these difficulties, Jim Shaw began to explore whether there was a way forward. He concluded that inter-agency co-operation provided the only means of achieving a solution to this perennial problem. The different agencies had increasingly functioned as separate entities rather than pulling together. He also offered the view that the relocation of prisoners nearer to home would assist the process of production. Some areas, such as Oxfordshire and Berkshire have a production rota. This obviously needs close co-operation and liaison to make it work, but evidence suggests that it can result in terrific improvements in the level of productions. The basis for such agreements includes such elements as early appearances to enable escorting staff to return promptly to their agency.

### **MAGISTRATES COURTS**

On this positive note, Jim Shaw handed over to *Ms Margaret Headen*, the Clerk to the Justices in Cirencester. Ms Headen described this subject as her 'bette noir' and proceeded to provide an amusing step by step guide relating to the issue of Production Orders and the acquisition of prisoners. She pointed out that there was not necessarily a correlation between the two. There were several interim stages which involved phone calls, threats, negotiation and the application of other social and communication skills. Ms Headen commented that she can handle the 'no can do' but found it very difficult to cope with the 'we will see what we can do'. She likened the Crown Courts to the 'Harrods of the System' while Magistrates Courts represented all the rest. A dual system is in

operation. Prisons display flexibility in their dealings with Crown Courts in a way that they do not for Magistrates Courts. There are examples of Production Orders being ignored in the latter, while verbal requests from the former are adhered to to enable cases to proceed.

Ms Headen argued that the problems caused by non-production often resulted in *justice denied*. The pursuit of economy, efficiency and effectiveness in order to operate within cash limits, often contributed to the relegation of justice in the process. In the current climate, actually reminding ourselves of the 'J' word was about as welcome as breaking wind. Nevertheless justice for both victims and defendants was inevitably denied by delay.

Ms Headen went on to argue, forcibly, that *delay is everyones problem* - it is not just a domain of the Prison Service. It can cause everything to grind to a halt. The longer the delay, the more ineffective is the system of justice. Some have an investment in prolonging the proceedings. It is, for instance, a strategy sometimes employed by prisoners in order to sustain the privileges associated with their remand status. Delay, the audience were reminded, can create budgetary problems for courts now that we have entered the era of formula funding. The process can become a vicious circle, with less money equating with a less efficient service, which means courts perform less well and so receive less money.

Ms Headen then sought to move from a pessimistic view of the system to a more optimistic and realistic panorama which could, while being mindful of financial constraints, provide a way forward. Legislative changes currently in the pipeline may, she suggested, provide some respite. She posed the hypothesis that if everyone pulled in the same direction, there might be further legislative change to accommodate a transfer of jurisdiction without the defendant present. Ms Headen questioned, also, whether it was always necessary to produce prisoners to hear bail applications. Attention was then switched to locations with a reminder that courts can, in theory, convene on Prison Service property. Instead of bringing prisoners to court, would taking court to the prisoner provide a solution? On a similar theme, Ms Headen suggested that extending the use of video lines between courts and defendants in prison might provide another option. Although the initial outlay would inevitably be expensive, such a

system may ultimately save money. Finally, Ms Headen made a plea for inter-agency pressure instead of just co-operation. The problem is serious and simply reacting to the negatives is no longer enough.

### **THE POLICE**

The police perspective was articulated by Superintendent **Roger Morris**, the Head of the Criminal Justice Department at West Mercia constabulary headquarters. He began by outlining the structure of the force, which was created in 1967 by amalgamating Herefordshire, Worcestershire, Worcester City and Shropshire. He reminded the participants that CPS had taken over the function of prosecution from the police. The police now simply hold on behalf of the Prison Service, prisoners awaiting production in court and produce them from the cells. Although there is no particular problem in that area, Mr Morris did question whether the police should actually be holding sentenced prisoners. He went on to explore some of the more general issues relating to 'caretaking' prisoners, being mindful of both financial constraints and scarce manpower resources.

Mr Morris then moved on to the specific problems of production. He concurred with the view of previous speakers, in saying that problems were not apparent in the Crown Court. However, the picture in the Magistrates was very different. The number of operational Magistrates Courts, in the West Mercia Region, in 1970 was 37. There was at that time no problem. During the last 25 years that number has fallen significantly, with only 18 Magistrates Courts currently servicing the Crown Courts. This number is to reduce further in the future. However, there is now a major problem. The police tend to become involved when victims complain about delays. All the police can do is pass on those complaints to CPS.

Remand prisoners are frequently produced late, causing frustration for prisoners and court staff. This can result in the late listing of remand cases and contribute to assaults on police and court staff, escape attempts and an increase in police overtime to facilitate the return of inmates to prison. Solicitors can visit their clients in prison, but many do not. In consequence, late productions can result in queues of solicitors which in turn can lead to further requests for adjournments because

there is insufficient time for interview. This in turn further exacerbates the problem. In relation to convicted prisoners, similar problems pertain. They are not always produced and in consequence cases are sometimes discontinued by the CPS. Justice is therefore denied to the victim and society in general.

There is also an inclination to locate convicted productions at the local police station for the day. This creates difficulties when there are insufficient police resources to cope. The police also object on the basis that the care and custody of convicted prisoners is a Prison Service responsibility. As such the police feel that they could legitimately request that the prison escort remain with him. The officers might then stay with the prisoner or alternatively return to the prison. This then creates the dilemma as to whether it is fair to make the request in the first place.

Mr Morris finally moved on to offer some thoughts on the future. He will be making recommendations which, he hopes, will help create a more efficient service in terms of handling prisoners. This may involve centralising police custody suites and reducing their numbers from 19 to 9. It is, of course, conceivable that the responsibility may be taken away from both services and given to one of the privatised escort agencies.

In relation to remands, there has been a convention that the police will facilitate production at court because the warrant states that prisoners are to be delivered to the Magistrates at 10.00 am. There is uncertainty about who is actually responsible thereafter. If a private escort agency take over, they would have to assume full responsibility, because that element of police costs would go elsewhere. On that basis, should the police levy a charge for handling and transporting prisoners? If so, who should pay - the courts, CPS or the Prison Service? Mr Morris, however, questioned whether this would be a profitable route to take in terms of relationships between the criminal justice agencies. The introduction of 'accountancy' into justice brings with it residual and associated problems relating to who does what, perhaps irrevocably damaging long nurtured relationships and relegating notions of justice to a secondary position. He supported the view, advocated by previous speakers, that extending video links would offer a sensible way forward. This would help reduce the expensive and

nonsensical daily excursions involving large numbers of prisoners and prison officers to courts all over the country.

Mr Morris suggested that Magistrates Courts might perhaps think about appointing their own security staff to look after prisoners once they have been delivered to the court. As a parting shot, Mr Morris made a plea on behalf of victims of crime who are often the forgotten players in the criminal justice process and who can be most affected by delay or discontinuation.

### **THE ACCUSED**

Finally *John Alldridge*, the Governor of Stoke Heath provided a perspective on behalf of the 'accused'. He immediately offered the defence that his institution rarely produce directly to court - they go via HMP Hindley! Mr Alldridge recognised that perspectives in relation to the problem, will obviously be different, depending upon the agency to which one belongs. However, he did acknowledge that there was now a significant problem which did not exist in the past. In the Prison Service there is understanding of why the difficulties persist, and it can be summed up in one word, "overtime". In the past, warrants were never challenged, and a service was maintained, sometimes perhaps inappropriately, at enormous cost to the taxpayer. Today, we live in different economic climate, characterised by cash limits and budgetary controls. Prisons can no longer be entirely demand led and dependant on overtime to sustain effectiveness. We therefore have to seek different solutions. Effectiveness in one sphere of service activity will inevitably create ineffectiveness and perhaps produce risks in other spheres. Thus servicing a court with productions may result in whole wings, consisting of perhaps 60 prisoners, being locked behind their doors for the day, or alternatively association being supervised by 2 members of staff, with all the inherent risks. The disappearance of overtime, with the introduction of fresh start, resulted in an increasing number of challenges to productions. The pendulum has now swung so far that productions to the Magistrates Courts are now routinely challenged on a daily basis. Interestingly, this does not happen with the Crown Courts. Mr Alldridge ventured to suggest that this was because the Prison Service have a responsibility for the Crown Court cells and perhaps because it is believed that there is a

special relationship. If Magistrates become involved in issues related to manning at court, their dependence might be put into question. Mr Alldridge queried whether the Magistrates Courts should be the responsibility of the police or the Prison Service, or a third force employed by the court. Whatever, there is a cost to be borne. Someone has to pay and make the decisions as to who should be produced. Mr Alldridge went on to comment that not only do the Prison Service not always have effective co-operation and communication with other agencies, they do not always cooperate with each other because of budgetary constraints. We all tend to take care of our own. This can produce some positives, because we enter the world of cost benefit analysis and begin to use our collective imaginations.

In moving on to explore solutions to the perennial problem of productions, Mr Alldridge concurred with previous speakers in questioning the need to always produce prisoners for the more routine appearances. He felt this issue could be addressed by legislative or rule changes. The venue is important and there is no reason, in principle, why courts cannot be convened in the confines of local prisons in particular. There are also prisons, such as Durham, which have a direct line to a courthouse. There are ostensibly, simple solutions which we appear to ignore. Instead we have one local prison serving numerous Magistrates Courts covering a wide geographical spread. It is also evident that the Prison Service estate is not utilised fully to relocate prisoners, on a temporary basis, to resolve a short term problem of production.

Mr Alldridge supported the views expressed in relation to technology. He believed it had a place both in terms of helping to illuminate the problems and in providing solutions. If courts cannot be heard in prisons, the two could at least be linked with cameras.

In concluding his presentation, Mr Alldridge commented that this sort of event can only serve to set wheels in motion and enable us all to see things from the perspective of other agencies. It represented a first step on the road to reciprocity and co-operation.

### **INFORMATION TECHNOLOGY**

The chair, Dai Curtis, thanked the speakers and observed that we need to work towards integrated systems, both with other

agencies and within our own. He suggested that we begin with micro initiatives, at a local level, as well as seeking macro solutions. Mr Curtis then invited questions from the floor. This prompted some lively and entertaining jousts between the speakers and sections of the assembly, all of which served to further illuminate the types of problems encountered by the different agencies. Questions ranged from issues concerning the transfer of jurisdiction of multi-production cases, through short notice productions, to the logistical nightmare of trying to service small rural courts all over North Wales, from HMP Liverpool. Instances where individual prisoners had been criminally active over a wide geographical area, resulting in productions in several different courts, were highlighted. However, the response from the panel of speakers pointed to legislative limitations on the transfer of jurisdiction and it was evident that such cases often created problems for Magistrates and victims. The problems created by short notice productions, in terms of the enormous resource problems for prisons and a deterioration in the quality of life for prisoners, was graphically articulated from the floor. Speakers pointed to the networking of computer systems as potentially providing a solution. It was acknowledged that bureaucracy sometimes gets in the way, but occasionally it can simply be due to the fact that courts are unaware that a defendant is in custody, the individual having been placed there by another court. In relation to servicing small rural courts, the solutions appeared to lay, insofar as the speakers were concerned, with the use of video lines or production centres. The latter has apparently produced improvements in the South Wales area.

### **RECOMMENDATIONS**

During the afternoon session, the participants broke into small groups, each containing representatives of the various agencies and undertook a task based on a hypothetical scenario. This basically involved jointly examining the implications, for all the component agencies, of a failed production. There was a general consensus that all agencies were affected by problems with productions, which caused delay, inconvenience, discontinuations, additional costs, antagonisms, extra work, reductions in budgets because targets were not being met and bad publicity. For the victim, delay

created additional anxiety and trepidation and the participants constantly returned to the theme that **JUSTICE DELAYED IS JUSTICE DENIED**. In terms of possible solutions, many of those previously mentioned, during the course of the day, were restated by the groups. In particular, video links, a networked computer system, improved liaison and communication, taking courts into the prisons and special remand days at specified courts were popular themes. Others were also suggested by the groups.

They included:-

- i) A joint major review of procedures.
- ii) Common procedures instead of local practices.
- iii) Common penalties for *anyone* who misuses the system.
- iv) Developing the notion of community prisons, so that prisoners not located huge distances from their home area.
- v) Extending the court escort service.
- vi) Staff Magistrates Courts with Police or Prison Officers.
- vii) Prioritisation of cases according to the seriousness of the offence.
- viii) Allow prisons to claim costs if prisoners are produced for no productive reason.
- ix) More money for overtime.
- x) Monthly remands with no more than three remands.
- xi) Review, and perhaps discontinue in some or all cases, the counting of remand time towards sentence (to focus on those who abuse the system).
- xii) Greater use of bail, in particular when time limits are reached through unnecessary delay.
- xiii) Visits by Magistrates to prisons so they can fully comprehend the resource problems experienced by prisons.
- xiv) Establish personal, face to face contacts between the agencies. This is an effective way of reducing the problems because it fosters co-operation and reciprocity.
- xv) And last but not least - encourage victims to make a fuss when delays occur. Bad publicity focuses the mind.

### **JUSTICE DELAYED IS JUSTICE DENIED**

Dai Curtis closed the proceedings with expressions of thanks to all who participated in the event. The prevailing view was that it had been an illuminating and worthwhile day which had achieved its objective. A number of themes had reoccurred repeatedly during the proceedings, in terms of cause, effect and solution. However, perhaps the most significant incentive for continuing to vigorously pursue effective joint solutions is the moral impetus to ensure that victims of crime do not also become victims of the failings of the criminal justice system. As Margaret Headon and other speakers so persuasively reminded us, "justice delayed is justice denied" ■