

cjm

update

Una Padel reports on current work on prisoner resettlement, the results of research on the magistracy and moves to set up a think-tank in the criminal justice system.

• The resettlement of ex-prisoners seems to be attracting considerable attention from policy-makers at present. The Social Exclusion Unit, reporting directly to the Prime Minister by the Spring, has been asked to work with other government departments to cut rates of offending by ex-prisoners by boosting the rate of employment, lowering the level of homelessness and exploring the case for more effective supervision after release. The work the Unit undertakes will need to 'join up' with: the Home Office's scoping work on barriers to employment and housing faced by ex-prisoners; the Joint Thematic Review of resettlement being undertaken by HM Inspectorates of Prisons and Probation; the Review of Sentencing; the National Audit Office study of the cost-effectiveness of resettlement work; the new Home Office Custody to Work Unit; the Birt Review of Crime Reduction Policy; and the emerging findings of the Prison/

Probation Service Resettlement Pathfinders.

This level of activity, and particularly its concentration on the issues facing short-term prisoners, the majority of those released, is very welcome. Since many of the immediate problems faced by short-term prisoners on release relate to gaps in provision between agencies this approach which seeks to bring together different departments is particularly helpful. The level of discharge grant, equivalent to one week's benefits, coupled with the two week wait prisoners then face before they receive an Income Support payment from the DSS (which pays a week in arrears and a week in advance) is a case in point.

• Research reviewing the roles of lay and stipendiary magistrates (now known as District Judges (Magistrates Courts), commissioned jointly by the Home Office and Lord Chancellor's Department was published in December. It revealed that there are 30,400

lay magistrates, 96 full-time and 146 part-time stipendiaries. The lay magistracy is gender balanced and ethnically representative of the population at a national level, whereas stipendiaries are mostly male and white. While lay magistrates sit in court for an average of 41.4 half day sessions annually, stipendiaries sit in court for about four days per week. Although there is no difference in the sorts of cases lay and stipendiaries are able to hear, stipendiary magistrates tend to be allocated the more complex, prolonged and sensitive cases. Stipendiaries are likely to deal with 30% more hearings in court if allocated an identical case mix with fewer adjournments. They are more likely than lay magistrates to refuse bail and make greater use of immediate custody as a sentence. Although the direct costs (in terms of salary, expenses and training) per appearance is lower for lay magistrates, the greater efficiency of stipendiary magistrates and indirect costs of premises etc. narrows the difference. However, making greater use of stipendiaries might lead to more efficient processing of cases. Additional costs may be incurred by their greater use of custody.

The research identifies England and Wales as the only jurisdiction where such a high proportion of criminal cases, including serious cases, are tried by lay people. It concludes that while there could be changes in the nature and balance of contributions made by lay and stipendiary magistrates, eliminating or greatly diminishing the role of lay magistrates would not be widely understood or

supported. Responding to the publication of the research both the Lord Chancellor, Lord Irvine and the Home Secretary expressed their appreciation of the work of lay magistrates and their commitment to their continued involvement as a significant part of the criminal justice system.

• The Home Office is to set up a new think-tank to consider how to represent women's interests in the criminal justice system more effectively. Discussions with the Fawcett Society, a voluntary sector agency which campaigns for equality for women, are underway following the publication of 'Statistics on Women and the Criminal Justice System 2000'. They show that the women's prison population more than doubled between 1993 and 1999, compared to an increase of 43% for men.

The statistics show that 25% of women in prison are from ethnic minorities, compared to 18% of men. The majority of women in prison are mothers with dependent children (under 16) - estimates suggest this is as high as 55%, and a third have a child under five years old. One-fifth of the women in prison had experienced some time in the care of the local authority in their childhood. More than half of all women on remand reported being dependent on drugs in the year before coming into prison. A survey of released female prisoners found that only 25% were in employment when interviewed five to nine months after discharge.

Prisons and Sentencing

Lord Woolf, recently appointed Lord Chief Justice, spoke at the AGM of the Centre for Crime and Justice Studies in November 2000. This edited summary of his speech gives his perspective on recent developments in criminal justice.

I have spent the last few weeks since becoming Lord Chief Justice trying to get up to speed again with regard to the criminal justice system. For almost ten years after my report on prisons (Woolf Report, 1991) I really had very little involvement with the criminal justice system; I was engaged in another exercise in regard to civil justice and then I was Master of the Rolls. Coming back to the criminal justice system, it is very interesting to see what has been happening during the period of almost ten years when I was not involved. From the point of view of the judiciary there has been a deluge of legislation, making the task extremely complicated by comparison to what I knew previously. Legislation of course is all well intended and designed to achieve positive objectives, but it is very worrying that constant new measures are introduced without allowing time for previous changes to be absorbed. Last summer I went to a conference organised by the Judicial Studies Board (JSB), and it was extremely interesting to hear the discussions which were taking place. There was great concern about getting the processes right rather than with what the processes were designed to achieve. As an illustration of that, I have a very clear recollection of a senior judge asking in a seminar whether it's better when you're sentencing

a defendant to tell him what the sentence is and then go through the rigmarole or go through the rigmarole and then sentence him. There are so many hoops to go through. It's my belief that if we hadn't developed the JSB in the way that we have, there would be great problems in complying with many of the statutory requirements. It's

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therefore very reassuring, after seeing the effects of so much new legislation, to come here this evening and find that over the same period the Centre has quietly gone from strength to strength, performing very important roles in an effective and constructive way. We are fortunate to have the input provided by CCJS and the other organisations working in criminal justice in this country. We need carefully thought out proposals to go alongside those which are brought in from on high by the government if we're going to make real sense of our criminal justice system and achieve what it is designed to do — which is to serve the public and provide them with the security and confidence which they deserve in our

society.

Something that I have been very conscious of recently is the amount of information indicating that the public, despite all the initiatives which are taking place, do not feel reassured.

Important developments in the criminal justice system are happening, but the public do not seem to be getting the message. I'm particularly concerned because that is also reflected in disturbing surveys which suggest that the public's confidence in the judiciary is lower than it should be... far lower than it should be, in my view. It's my belief that we have at the moment a judiciary which is of higher quality, certainly better trained than ever before, yet the public do not seem to have the confidence which they should have in the system. It is an obligation on every judge, and I think we all recognise this, to do what we can to ensure that this situation is altered, because

society depends upon respect for the rule of law, and if you don't have respect for the judiciary, it is extremely difficult to have respect for the rule of law.

I wonder whether the fact that the system is difficult to understand isn't part of the problem, and that public confidence will improve if we get a system which is more comprehensible and understandable. I certainly hope that the report which Lord Justice Auld produces leads to progress on this front. I'm sure Lord Justice Auld will take advantage of this opportunity when he comes to make his recommendations to look holistically at the criminal justice system and provide a framework for the future which

will provide better value to the public.

Of course one of the things that has been happening while I was diverted into other fields is the increase in the prison population, and everyone here will be aware of the figures, but they deserve repetition. When I was finishing my report on prisons, if my recollection is correct, the prison population was 43,000, and expected to decrease. And what is the prison population today? It's been up to 67,000; it's been dropping recently, which I hope is a permanent sign, but it's certainly well over 50 per cent above what it was ten years ago.

When one considers the size of the prison population, I personally consider that our Prison Service has done remarkably well. They've managed to absorb this huge increase in numbers. Of course this has demanded a huge amount of energy, but they have absorbed that number. And the other achievement is that they have tackled what was a considerable public worry, and that was the lack of security within the prison service. The figures for escapes are now within a different range from what they were. Now, in those circumstances it doesn't seem it is fair for me or anyone else to criticise the prison service if they have not been able to take forward some of the recommendations in my report, because they had to cope with the situation that existed.

But notwithstanding these problems, it is amazing how good things, little pockets of excellency, have manifested themselves throughout the period that I've been referring to. I have the privilege of being president of an organisation called The Butler Trust which gives awards for excellence in prisons. The number of nominations for awards is continually rising, and the quality of the things that individual members of staff and governors and prison officers are achieving within the prison service over the period is very impressive indeed. The problem is developing the

initiatives so that they don't only exist temporarily while one particular effective governor or officer is at a prison, but so that they disperse throughout the system. The sad situation is that prisoners, the majority of whom come out of prison after a relatively short time, go back into the community where four out of five face unemployment, half face homelessness, and the rate of reoffending is depressingly high. Alas, this position is the case not only with regard to establishments that aren't appearing to perform as well as they should, they're also depressingly high with regard to establishments that are performing well. It is really sad to see that the achievements made through training or treatment are often not carried forward into the community after release. And these are the problems that I hope we can now look towards tackling.

I stress the fact however that there are institutions which are working well. On Friday I had the privilege of spending some time in a young offenders' institution called Swinfen Hall in Lichfield. We all know the stories that have come out about certain young offenders' institutions, but if anybody wants to see what can be achieved by a young offenders' institution which is well led and which has got a staff which identifies its objectives and is in the process of fulfilling them, I would encourage them to visit that institution. It was pleasing to know that every offender who is sent there may ask their family to come and visit the institution and be shown around it, to get the families involved where their youngsters are serving their sentence. The letters from families as to the positive effect of that just need to be seen to realise what can and should be done at all institutions. Then there is the way they involve the better-educated young offenders there in helping to train and help those who've got educational problems. It's good for the 'tutor' and it's good for the 'pupil' and it works well. I thought this was

a live and thriving institution. Yet those who are working there are worried about the young people they return to the community, because the danger of things going wrong and there being nobody on hand to help that young offender are very considerable indeed. But at least it seems to me this was

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one institution where I saw good news. There happens to be a Chief Inspectors' inquiry going on into that institution at the moment; and I was able to speak to the member of the Chief Inspectors' team who was there, and he was speaking in exactly the same terms that I have been speaking to you; so it's not just the opinion of a judge on a half-day visit. This was, and I'm sure the report in due course will confirm it, an institution which shows what can be done — not with particularly good facilities — but with an atmosphere that is encouraging and uplifting. Talking to the young offenders I felt that they have confidence in themselves and confidence in what they will one day be able to achieve.

There are other things which promise light at the end of the tunnel. You probably have seen that there has just been a circular put out by the Social Exclusion Unit, which is gathering information to make

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a report to the Prime Minister about the sort of problems that I am particularly worried about: what is made available to those who are returning to the community, whether it's after a short sentence or a long sentence. It seems to me that they have got the right approach, because they're consulting widely, and they are looking to the voluntary sector

to help them on what is a very important task.

We've been talking during the AGM about the Youth Justice Board, a development I think will generate improvements. My only worry is that if there are not sufficient resources, the resources from the group of 'older' young men

will be drawn away to those younger ones within the main concern of the board. The difficulty with an initiative of this sort is that it traps resources, and there are other equally important things that then go short; but one's got to do what one can with the material which is available.

I also feel that there is a very exciting thing happening in the criminal justice field with regard to restorative justice. On Saturday I happened to be at a conference where the Chief Constable of Thames Valley, Charles Pollard, was talking enthusiastically on the subject of restorative justice. Having heard him, it does seem to me that restorative justice can work and give us the opportunity for a new and more constructive approach. We really have to try where we can to find better ways of dealing with young offenders than we have in the past, because too many of our young offenders do indeed become our old offenders.

They start off on an escalator which they don't know how get off; and we've got to find methods to help them off that escalator.

Now, I started off by talking about the courts, and I'll just finish about the courts, because I think we are going to have a huge new opportunity as the result of the Human Rights Act to improve the legislative and

legal framework in which we operate in this country within the criminal justice system. There have now been a few cases where quite clearly the practitioners who work in these fields are taking sensible points, arguing them in a constructive way and in fact producing beneficial effects upon our law.

I am against automatic sentences. I don't think that automatic sentences achieve what I would regard as justice in certain cases; but the overlay of the Human Rights Act means that the rough edges on legislation can at least be rubbed off. I think in many cases this is not defeating the object of Parliament. It's always been my view that Parliament is intending to achieve just results and not unjust results; and if they pass legislation designed to deal with people who are risks to the public, that legislation is not really intended to result in a sentence being passed automatically on an individual who is not a risk to the public, or certainly not a risk to the extent which would justify a life sentence.

If we can identify those situations where there is a significant risk then we can take the appropriate steps to protect the public. That should influence the whole of our sentencing approach. In that regard it is right that I should just mention the Sentencing Advisory Panel. I believe that is another very constructive development, and that the guidelines they are producing will be very useful to the courts and help the courts to achieve what they should in the future.

In summary, the impression I get from the very short period I've been doing this job is that one of the most healthy things that is happening within the criminal justice system is the emphasis on finding out first of all what really does work and what really achieves what the public wants; and secondly, trying to identify those situations where there is a significant risk.

Does Medway Secure Training Centre work?

In October the Home Office published the results of a two year evaluation of Medway Secure Training Centre in Kent, undertaken by the Policy Research Bureau. One of the authors of the report, Dr Ann Hagell, describes some of the main findings.

Medway Secure Training Centre was opened in April 1998, in Kent. It was intended to be the first of five such centres, to tackle the most persistent young offenders aged 12-14. Children had to have proved that they were not suitable for further community sentences in order to warrant a custodial disposal, and, in an innovative development, the second half of the sentence was to be provided in the community by youth justice workers. PRB went into Medway as it opened, and tracked the fortunes of the staff and the first 102 trainees over a period of two years.

Medway stood out for several reasons. It represented the end of a 200 year old tradition of providing 'new' types of custody for young offenders. It also represented a significant shift in youth justice policy, appearing on the cusp as we turned the century and moved into the Youth Justice Board era. It no longer exists, in fact, in the form that we saw it, as the STO has been replaced by a new disposal, the Detention and Training Order. It also stood out because of the way in which it was funded and run - by a private company (Rebound EBD, a subsidiary of Group 4). Making the

purchaser-provider relationship work in a media storm was not easy for the staff. Finally, it stood out because of the challenges of only being half of the disposal. It was not just what happened in Medway that was going to be important, it was how Medway communicated with the second half of the experience. As we shall see, this is where there were possibly the most problems.

There were four main groups of findings from our study. We looked at what the young people were like; the problems of implementation and management; the challenges of transfer from custody to community; and finally the outcomes for the trainees. In this article, we present a very brief overview of these in turn.

The young people presented no particular surprises. We concluded that the Centre had received, during its first year, pretty much the types of persistent young offenders it had been (rightly or wrongly) designed for - very much like most young offenders, but more so. They had, on average, over 20 convictions each on their criminal records, consisting largely of the usual range of mostly theft, car crime and burglary. For the majority, Medway came within two years of their first conviction. They were mostly young men, with an average age of fourteen and a half years. Their backgrounds reflected a classic picture of the lives of persistent young offenders - characterised by need, chaos and disruption. Two thirds (69 per cent) had been looked after by the local authority at some point in their lives and 46 per cent had been excluded from schools. On average, the trainees received sentences of between nine and ten months, of which half was served in custody. The actual period spent at Medway (after deductions for time on remand) ranged from 5 days to 50 weeks.

Getting Medway up and running proved to be a serious challenge for the staff, and some components of the intervention were put into operation and implemented more easily than

others. There was some considerable success in providing education. Medway was contracted to provide 25 hours a week, and also added another 15 hours of more general social education provided outside school hours. Many trainees liked the education components, and OFSTED were impressed when they visited at the end of the first year. However, it was more difficult to set up attempts to work with individual trainees to reduce their offending and address their antisocial behaviour. At the time we left Medway this programme was still in its very earliest stages. In general, the trainees were well cared for, but a series of management problems and a 'fire-fighting' approach meant that implementation of the regime at the Centre took a considerable time to settle down.

The main problems with the STO really related to the transfer from custody to community. We concluded that even before leaving Medway, there was still a lot of work to be done with trainees to prepare for a fully integrated custody-community disposal. We then encountered a series of dramatic and depressing stories of breakdown in inter-agency cooperation after release. Most trainees (three quarters) went back to their families, but for those who needed accommodation there were often damaging periods in transitory arrangements. Nearly one third of trainees did not have any education arranged for them when they left the Centre. For those who did, much of it was part-time, or arranged after some delay.

The accumulated effects of difficult and demanding young people, lack of full implementation at Medway, poor interagency communication, and problems in providing activities for the trainees resulted in very disappointing reoffending rates. Even before the end of their supervision periods, 67 per cent of trainees had reoffended. Half of these had done so within four weeks of leaving the Centre. A fifth were on their way back to custody to serve the remainder of

their sentence locked up. Another group of approximately a quarter had received a new custodial sentence.

Yet many of the trainees had left Medway in rather positive frame of mind. Were there lessons for good practice to be learned? We concluded that the key elements were good inter-agency cooperation, good general information flow, early arrangement of post-release provision, and a clear programme for the whole intervention spanning both components. But also, importantly, we need to be realistic about what can be achieved with these types of young people. Previous research shows that on average, reoffending is only going to be reduced by about 12 per cent with these types of groups. We need to expect small improvements, not dramatic ones. These young people represented the most challenging group who present to youth justice, and on balance poor outcomes were only to be expected. However, much work needs to be done to improve the general delivery of mixed custody-community sentences if the new Detention and Training Order is to work.

Dr Ann Hagell is a Director of the Policy Research Bureau.



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