

# Reducing Prison Numbers: does marketing hold the key?

Gerard Hastings, Martine Stead and Lynne MacFadyean argue the benefits of using a marketing approach to 'sell' a less punitive attitude toward criminal justice.

Successful business, from the Coca Cola Corporation down to the corner shop, is built on 'marketing' – a raft of principles and techniques for influencing people's knowledge, attitudes and behaviour. However, marketing has other applications. Many of the world's most serious health problems – heart disease, lung cancer, HIV – are principally caused by people's behaviour, and damaging social phenomena like racism and road traffic deaths also, at root, require behaviour change, of organisations and policy makers as well as of individuals. Fifty years ago, Weibe (1951/52) raised the question "can you sell brotherhood like soap?". From this the discipline of 'social marketing' developed (Fine 1981) and has been used to tackle social problems as diverse as obesity, health inequalities, and drug use (Andreasen 1995, Hastings *et al* 1998, Home Office 1998).

This paper takes the thinking a stage further, and uses social marketing to address the problem of the UK's excessive prison numbers. The article draws on our research for the Rethinking Crime and Punishment initiative, funded by the Esmée Fairbairn Foundation. It first of all examines the basic tenets of marketing, then argues that marketing can help in two ways: by demarketing prison (encouraging society to relinquish its deep-seated attachment to prison); and by marketing non-custodial alternatives (increase society's interest in, and acceptance of, alternative ways of dealing with offenders).

At the core of marketing are the three tenets of consumer orientation, strategic thinking and mutually beneficial exchange.

## Consumer orientation

Marketers must understand and empathise with the experiences, beliefs, behaviour and, above all, needs of their consumers if they are to win them over. Public opinion surveys provide valuable insights into what the public know about crime and sentencing; they also measure which segments of the public hold particular views. However, a truly consumer oriented approach involves 'getting inside the skin' of the target group to understand their deep-seated feelings, anxieties and motivations. This demands more ethnographic research techniques. We conducted 12 focus groups to explore people's

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concerns, priorities and hopes in depth about sentencing and to discover what they really need from a criminal justice system. We used a range of creative questioning techniques to probe beyond surface responses, including newspaper articles, attitude statements and phrases to describe different types and purposes of sentencing. The groups were quota sampled by age, gender and newspaper readership, and conducted in six locations across the UK.

## Strategic thinking

Marketers recognise that integrated, long-term solutions are needed. Public attitudes are only one of many factors sustaining the high prison population; influencing the attitudes and behaviour of the Home Secretary, for example, is also likely to be productive. This project, therefore, examined the perceptions, behaviours and needs of all the stakeholders in the criminal justice system. In addition to the focus groups, 41 in-depth interviews were conducted with sentencers, criminal justice campaigners, the police, journalists, and experts in social change.

## Mutually beneficial exchange

The concept of beneficial exchange between two or more parties is central to marketing. Exchange is easily understood as a transaction of goods for money, but this is really only a marker for a deeper exchange of understanding. Goods only have value because they satisfy a need: for example, Black and Decker don't sell drills, they sell holes and unless they understand this will be vulnerable to competition that produces a better way of making holes. Similarly, behaviour and social change campaigners fail if they expect people to give up something dear and deep-rooted – a long-held political belief for example, or smoking – with no return, or in return for benefits which mean nothing to them.

Therefore, criminal justice campaigners who want stakeholders, from the public to the Home Secretary, to reduce their attachment to prison must be able to offer something valuable in return. A crucial objective of this research was to define these benefits, and build a comprehensive strategy for marketing alternatives to prison. It also reversed this thinking and looked at each of the stakeholders' reservations about prison and used these to suggest ways of demarketing its excessive use.

## Social marketing in practice

This was a complex and extensive exercise. The table shown here presents a summary of the strategic analysis for a small selection of the many stakeholder groups. Each stakeholder's perceptions about the issue of prison numbers were explored, as were potential levers for bringing about change. This paper will not attempt to cover all this ground but will focus on the general public to show how a marketing perspective can help identify

<b>Stakeholder analysis (selected stakeholder groups)</b>			
<b>Stakeholder group</b>	<b>Needs</b>	<b>Benefit from reduced prison numbers/increased community sentences</b>	<b>Potential contribution</b>
Government	Confidence to champion 'softer' approach.	Solution to prisons crisis. Extra resources for health, schools. De-escalation of law & order debate.	Direct role through legislation. Setting media and public agendas.
Sentencers	Effective sentencing 'products'.	Rewarding feedback on sentencing decisions.	Direct role through sentencing.
Prisons	To function effectively.	Ability to intervene properly with offenders who need to be in prison.	Lend toughness and credibility to argument.
Probation	Consolidate improving public image.	Expansion of valuable and rewarding work	Deliver effective and convincing non-custodial sentencing products.
Police	Maintain public image	Opportunity to strengthen community role.	Frontline salesforce for non-custodial sentences.
Victims groups	Stronger role for victims in CJS.	Opportunity for non-custodial sentences to involve victims.	Powerful unlikely allies.
Media	Commercial success. Good stories.	None unless there are good stories.	Threat and opportunity (agenda-setting, crusading journalism).
Faith groups	Socially relevant moral lead.	Consistency with principles.	Lend gravitas, position community sentences as moral response.
DATs	Effective drugs policies.	Less criminalisation of drug users, more treatment.	Multi-agency lobbying force.

ways forward.

The research revealed that the public were indeed, in many ways, contrary and punitive. Detailed probing, however, revealed that what motivated them really was the need for safety rather than vengeance. They were saddened by the feeling that society and their own local neighbourhoods were trapped in a seemingly irreversible decline into anti-social behaviour. They talked about the empty ritual of reporting a crime to the police 'for an insurance number'. While demanding that more criminals be taken off our streets' into tougher, harder jails, they also believed that prison did little to deter the career criminal, and readily agreed that prison 'made bad people worse'. Recognising the contradictions in their own views but unable to see a way to resolve them, the overwhelming feeling was of frustration.

What 'exchange', then, could be offered to the public in return for relinquishing their (already ambivalent) support for prison? Abstract 'benefits' of a lower prison population meant little to people. Indeed, the high prison population was ironically reassuring in that it symbolised that something was being done about crime. Humanitarian benefits also failed to compel, as most offenders were perceived to have forfeited their rights to humanitarian treatment. The public were shocked by the annual cost of one prison place – 'that's more than I earn in a year' – but this shock did not translate into a demand for less use of prison, rather for prison costs to be cut by other means: fewer televisions, fewer offender services. Further probing revealed that people did not want the state to scrimp on punishment costs – they wanted the state to spend what was necessary to keep their streets safe and free from anti-social behaviour. The benefit – the exchange – which

the public sought was not fewer or more people in prison, but to feel safer. Thus, the demarketing strategy needs to convert existing ambivalence about prison into dissonance, while the marketing strategy needs to demonstrate that non-custodial sentences are better at reducing crime.

It is important that marketing objectives are clear and realistic. Persuading the public to relinquish support for prison per se is probably an unwinnable goal, whereas persuading them to relinquish support for prison in some circumstances, for some offenders, holds out a stronger prospect of success. This requires an incremental approach, beginning with the proposal that prison should not be used for the specific offender groups which stakeholders find more palatable. Interestingly, the public were ahead of many policymakers on the issue of drugs and offending, with even the unlikeliest groups (eg. elderly Daily Mail readers) spontaneously arguing that drug-using offenders required treatment rather than imprisonment. The elderly, mothers of young children, women convicted of minor property crimes or fine defaulting, the mentally ill and young first time offenders were also identified as possible 'wedge' groups for whom community alternatives were more acceptable than imprisonment. Mass media can be used to create moral outrage about prison sentences: '83 year old grandmother in jail for not paying poll tax' is a better story than 'prison population set to rise further'.

The demarketing strategy will not work alone. We cannot persuade people to stop 'buying' prison unless the alternative product is better. Non-custodial sentences need to be not only robust and demonstrably effective (so more outcome studies must be conducted and publicised) but also emotionally convincing. The focus groups revealed that there were in fact many features

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'bail bandits' on the one hand, yet on the other want to see a reduction in the prison population.

So who are these magistrates, the 30,000 men and women willing to make such fine judgements for no reward and scant public acknowledgement? Once upon a time being a JP carried a certain social cachet and had what H. G. Wells called 'the aura of a minor knighthood'. No longer. People apply to become magistrates for a variety of reasons, but seldom vanity. 'It is an important job, which someone has to do,' they tend to say. Some respond to an advertisement in the press or on local radio.

Many are former jurors, like myself, inspired by their experience to make a more regular contribution to lay justice. It used to be the case that employers and trade unions routinely put up candidates, but that is less true today when notions of civic duty are not so ingrained and the pressures of work are more demanding. Even so, the bench as a whole is a great deal more representative of the community at large than it once was.

Successive Lord Chancellors, notably the present one, have striven to democratise and de-gentrify the magistracy. Today, the ranks of JPs include people from almost every kind of background, occupation and ethnic minority, while the gender divide is close to fifty-fifty – which is a great deal more than can be said of the nation's judges. The selection process is pretty rigorous. Local boards known as advisory committees conduct the interviews. They turn down about three-quarters of those who apply, sometimes because they are unsuitable, more often, perhaps, in the interests of obtaining a socially balanced bench. Those who are chosen must undergo a certain amount of basic training, which will be regularly topped up throughout their magisterial careers. But the aim is very far from turning them into professionals. Magistrates who sit too often are as frowned upon as those who sit too seldom. The idea is to prevent them becoming case-hardened, a condition which might tell against innocent defendants. In fact the average work-load is just over forty half-day sittings a year.

In writing a book about the magistracy based on my own experiences in north London and visits to other parts of the country, I have come to the view that the system works pretty well. JPs strike me on the whole as conscientious, thoughtful folk, whose fair-mindedness may be judged from the fact that only a very small proportion of their decisions, around 4 per cent, are taken to appeal. They are also cheap. In 1999, the expense of 30,000 magistrates was just two-thirds the cost of fewer than a hundred district judges. True, a bench of three laymen is more cumbersome than one consisting of a single professional judge. And critics have a point when they claim that despite the national guidelines, there are sometimes worrying variations in sentencing between different parts of the country.

Nevertheless, in my opinion such imperfections are easily outweighed by the merit of involving ordinary, independent-minded people at the very heart of the judicial process. As Lord Bingham, the Senior Law Lord, put it, the lay magistracy is 'a democratic jewel beyond price'. What it needs is polishing up, so that society can see itself reflected there with greater confidence and clarity.

*Trevor Grove's new book, 'The Magistrate's Tale', is published by Bloomsbury (£14.99), as is his earlier 'The Jurymen's Tale' (£7.99)*

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*even though they are like nasty people, I would still like to try and help them as much as possible...so that he would like become more better and then when he's done that, he might learn a lesson and then he might erm, that person might start to become like us and try and help other people.*

Sally struggles valiantly to articulate a difficult thought about what it would be to deal with an offender with whom you had, or might develop, a relationship. Her conclusion could hardly be more different from those occasions when the conversation becomes dominated by the thrill of violent rejection.

## Lessons

In a short paper, using only a couple of examples, we can merely scratch the surface of what is a rich, varied and contradictory body of material. The polarities evident in the children's talk, we suggest, are indicative of some endemic tensions in the realm of punishment and its uses in political culture. Considering these through the prism of conversation helps us to observe them close-up and in the process of formation. The abiding tension between rejection and reconciliation sits deep within our language and the 'vocabularies of penal motive' (Melossi, 1993) that it contains. The discourse of rejection is 'marked' by signals of distancing, generalising and anonymising. The will towards reconciliation, conversely, uses markers of affiliation and identification. The tension recalls one suggested long ago by David Hume and taken up more recently by the feminist philosopher Annette Baier (1994) between justice as "a cold, jealous virtue" and sympathy as the capacity of one's psyche to "reverberate to another's fate".

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## References:

- Baier, A. (1994) *Moral Prejudices*, Harvard University Press.  
Conley, J. and O'Barr, W. (1998) *Just Words: Law, Language and Power*, University of Chicago Press.  
Garland, D. (1990) *Punishment and Modern Society*, Oxford University Press.  
Melossi, D. (1993) 'Gazette of morality and social whip', *Social and Legal Studies* 2(2): 259-79.  
Smith, M., Sparks, R., and Girling, E. (2000) 'Educating sensibilities: the image of 'the lesson' in children's talk about punishment', *Punishment & Society*, 2(4): 395-415.  
Sparks, R., Girling, E. and Smith, M. (2001) 'Children talking about justice and punishment', *International Journal of Children's Rights*, 8: 191-209.