

# editorial

## mental health & the criminal justice system

The current New Labour administration has now published its consultation document outlining a range of options to tackle the personality disordered offender. The context and purpose of the consultation document is highlighted clearly in its Executive Summary (see page 4). 'The challenge to public safety presented by the minority of people with severe personality disorder - who because of their disorder pose a serious risk of offending - has been acknowledged by successive administrations. Dealing with this problem brings together criminal justice and health and social policy and raises complex and sensitive ethical questions. The paper sets out the Government's policy objectives for tackling these issues. It describes the range of services and legislative options that we are considering.'

The Government's consultation documents outlines proposals for change designed to achieve the objective of providing better protection for the public from dangerous severely personality disordered people. Specifically, the document identifies two ways of achieving this, 'first, ensuring that dangerous severely personality disordered people are kept in detention for as long as they pose a high risk. Second, managing them in a way that provides better opportunities to deal with the consequences of their disorder' (Home Office/Department of Health 1999:5). The strategies proposed are based upon the results of extensive informal discussions which have taken place over the past two years with various representatives of the criminal justice system, health and social services and the voluntary sector.

The paper presents two options for consultation and comment. In the words of the paper, 'both rely on the development of new, more rigorous, procedures for assessing risk associated with presence of severe personality disorder. Under either option a specific aim would be to ensure that the arrangements for detention and management focus on reducing such risks'. The first option would introduce changes to the present framework of criminal justice and mental health law, and would improve arrangements within the prison and health services. Basically, it would mean that those personality disordered people who are deemed to pose a threat to the population would not be released from prison and/or hospital for as long as they continued to pose that risk to the general population. Those convicted of a criminal offence would be detained in prison; anyone else would be detained within a health service facility. While services would be managed separately, there could be some attempt to co-ordinate services more effectively.

The second option would introduce a new legal framework to

provide powers for the indeterminate detention of dangerous severely disordered people in both criminal and civil proceedings. Those detained under these new orders would be managed in new facilities, separate from the prison and health services while the location for detention would be based on the risk that such people represent and their therapeutic needs, rather than whether they had been convicted of an offence. Alongside such legislative changes, the second option would be accompanied by initiatives to develop a better trained and supervised workforce; better communication and close working arrangements across criminal justice, health and social services; national standards for managing services, and new monitoring arrangements.

It is because of the publication of this consultation document that we have devoted an issue of *Criminal Justice Matters* to the severe personality disordered offender. Gathering most of the papers presented at the Centre for Crime and Justice Studies' annual conference held in September 1999 together with a number of specially commissioned pieces, the purpose of this issue is to review and reflect upon the proposed changes, and in doing so, to provide a constructive contribution to the consultation exercise. As a consequence, this edition is twice its normal size and its format is also somewhat different. We normally restrict the length of each paper, but this time we have decided that the importance of the debate demands greater flexibility. Therefore, the plenary speakers' papers have been reproduced in full. (The observant reference-checker will note that the usual limits have also been lifted). The workshop presentations (denoted by their 'boxed' format) are intended to illustrate the extent and importance of work presently being carried out in the community and within institutions. Inevitably, there is some repetition of general themes within the papers; we feel that these add strength to the debate because of their very persistence.

The issue opens with a contribution from **Paul Boateng MP** who explains why the Government has proposed new legislation. While acknowledging that the problems posed by people with severe personality disorders raise 'questions of human rights, of ethics, of clinical practice and of definitions', he emphasises that the public has a right to be protected - and that those with such disorders also have a concomitant right to treatment. Speakers such as **William Bingley** and **Graeme Sandell** critically examine the proposals, while **Jill Peay**, in a commissioned response, identifies four 'matters of concern' regarding the two proposed options, thus highlighting the very complex issues surrounding the severe personality disordered offender. **Pamela Taylor** provides extensive background to the issues facing clinicians, a theme continued by **Adrian Grounds**, who examines the difficulties inherent in supporting the personality disordered living in the community. One of those with large responsibilities for the care of the disordered in the community is **Eithne Wallis** and she turns the debate on its head by arguing that the personality disordered are 'entirely a false category, a conceptual rag bag created by armchair psychiatry'. Institutional perspectives are provided by **Tim Newell** and **John Hodges**, while **Michael Lewis** assesses some of the dilemmas confronting the police when dealing with high-profile offenders.

This brief focus on some of the many contributors would not be complete without mention of the last paper, written by **Paul and Audrey Edwards**. They write of the death of their son Christopher. An informed, public discussion of the many questions addressed in this special issue of *Criminal Justice Matters* might conceivably lessen the possibility of others having to experience the tragedy they faced.

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