

Executive Summary

Since entering government Labour has attempted to transform the criminal justice system through a wide ranging reform programme. The prison and probation services have been a central part of this ambitious agenda. Labour has not only wanted to make prison work but, more broadly, has sought to make what it calls the 'correctional services' work more effectively. A National Offender Management Service has been established with substantial sums invested to reduce re-offending. Indeed, spending has increased faster than in the NHS. But it has happened at a time when both prisons *and* probation have become overburdened by the growth in the number of offenders. There are now more than 325,000 people under correctional control, the equivalent of one in every 132 adults, a third more than when Labour came to power in 1997.

The government claims the extra money has been well spent. There is no doubt that major changes have taken place, but success has been far less clear cut than ministers claim. Prison regimes have, in many respects, improved and probation programmes now operate to more professional standards. Yet despite the record increase in funding, the number of offenders who go on to re-offend remains stubbornly high. If more is to be achieved with less in the period of spending restraint that lies ahead, there needs to be a fundamental rethink of the role of both prison and probation in dealing with offending behaviour.

Custody needs to be reserved for those offenders who pose a genuine risk to the public. There is now compelling evidence that, for specific groups of offenders, community based interventions will have a much greater impact at much lower cost. Alternative sanctions can cost nearly four times less than custody.

Probation too needs to be reserved for those who merit it. Caseloads have been overburdened with offenders who should be given day fines, as proposed in a review of correctional services commissioned by the prime minister in 2003. Probation officers need to move away from their role as 'offender managers', becoming motivators for change instead. And probation needs to reconnect with the local communities of the offenders it is seeking to rehabilitate. Improving the way probation staff relate to offenders and their communities will ensure that

Rethinking prison and probation: how to cut both reoffending and costs

September 2009

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those who are diverted from custody into the community are subject to an evidence based approach that is more cost effective and proven to deliver better results.

Finally, budgetary and other decision-making powers need to be devolved to Local Criminal Justice Boards. This would require them to consider the costs and benefits of different sentencing options, forcing them to consider, for example, whether money for a prison place might be better spent on a community based programme or on schemes designed to prevent crime in the first place. There would be a greater incentive to think more carefully about the role of custody, to use it more sparingly, and to give greater consideration to the efficient and effective use of resources.

The current economic recession and the resulting period of spending

restraint that lies ahead provide a real opportunity to rethink how resources might best be deployed. In the United States, many state governments have already concluded that locking up large numbers of offenders makes no financial sense. A series of reforms, based on good quality research, could in the long run save money and lead to improved outcomes in England and Wales. The reforms do not require substantial new investment but instead depend on targeting sentences more effectively, developing new models of working with offenders and devolving budgets and decision-making powers.

Ultimately, however, politicians must recognise that there is no 'silver bullet'. The prison and probation services can make a difference to re-offending but they are not in a position to achieve major, sustained reductions in the re-offending rate. That requires coordinated action across government to address the social and economic factors that foster criminal behaviour.

Introduction

The scale and ambition of Labour's criminal justice reforms are without precedent. Since 1997, more than sixty pieces of crime related legislation have been passed by parliament. In the decade prior to 1997 parliament considered less than half that number. At the same time at least five wide ranging plans for the criminal justice system have been published. Each one has set out a raft of new initiatives supported by substantial amounts of public money. By 2005, the United Kingdom was spending a greater proportion of national income on law and order than any other country in the OECD.¹

The prison and probation services have been at the heart of Labour's attempts to transform criminal justice, and have been subject to extensive restructuring. New offender 'pathways' and 'journeys' have been created to make a reality of the concept of 'offender management'. Extensive performance measures have been developed and a degree of competition introduced. Both services have been subject to seemingly endless reform. This has been particularly the case for the Probation Service which was initially brought together under a national directorate, then conjoined with

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the Prison Service to form the National Offender Management Service (NOMS) and most recently reconfigured into independent probation trusts under the direction of NOMS.

Given the frantic pace of reform what has been achieved? Are the prison and probation services achieving their main objective of reducing re-offending by effectively punishing and rehabilitating offenders? Have the extra resources been well spent? And if not, what needs to change if both agencies are to achieve 'more with less' as they will now have to do?

This independent, non-partisan analysis seeks to answer those questions drawing on government research, statistics and policy documents and the growing criminological evidence base.

The cost of making corrections work

Labour has worked hard to 'make prison work'. Since its 1997 election manifesto declared, "We will...seek to ensure that prison regimes are constructive and require inmates to face up to their offending behaviour"² there has been a concerted push to transform jails into places of rehabilitation rather than simply punishment – an approach the government describes as "punishment and reform".³ Extra resources have been made available to expand education, training and skills programmes, drug treatment services, mental health provision, offender behaviour courses and resettlement programmes. The Justice Minister, Jack Straw, boasts that "spending on offender learning has tripled to £165 million per year" and that there has been a "thirteen fold increase in investment in drug treatment".⁴

1 Prime Minister's Strategy Union, 'Strategic priorities for the UK: the policy review', 2006.

2 Labour Party, 'Labour party election manifesto: new Labour because Britain deserves better', 1997.

3 Ministry of Justice, 'Punishment and reform: our approach to managing offenders', 2008.

4 J Straw, 'Punishment and reform', speech at Royal Society of Arts, 2 October 2008.

Spending on the probation service has increased by 70 per cent in real terms since 1997. Spending on prisons has increased by 37 per cent.

There is no doubt that substantial additional funds have been spent on improving prison regimes, a fact acknowledged by the independent Chief Inspector of Prisons, Anne Owers.⁵ The investment has been driven by the belief that, by delivering social and educational services, prisons can change offender's lives and reduce re-offending.

Labour has not only wanted to make prisons work but has also sought to more broadly make what it has called 'correctional services' work more effectively. Thus, three years after creating a National Probation Directorate in 2001, it merged prisons and probation to create the National Offender Management Service (NOMS). The then Home Secretary, David Blunkett, declared the moment 'a once in a generation opportunity to reduce crime'.⁶

Ministers hoped that through the creation of the NOMS they would achieve three key structural reforms and improve outcomes. First, the NOMS was supposed to break down silos, joining up the prison and probation services so that offenders would be seamlessly managed between custody and the community. Second, the agency was to deliver the new concept of offender management to ensure prison and probation staff effectively manage an offender's sentence by acting as the key co-ordinators for their social interventions. And third, it was intended to introduce a quasi-market structure by creating a purchaser provider split with NOMS acting as a commissioning agency.

Substantial sums have been spent creating NOMS to enable prison and probation officers to provide wide ranging social interventions. Most of this increased investment in prisons and probation occurred in the five years from 2001.⁷ As the Minister for Justice, Jack Straw, pointed out in a recent speech, investment

"in prisons since 1997 amounts to a 37 per cent real terms increase, and over the past five years in particular the rate of increase has been greater than that of the NHS".⁸

Perhaps surprisingly, of all the criminal justice agencies, it was the Probation Service that got the largest increase in spending, receiving a 70 per cent real terms increase since 1997.⁹ Between 2000/01 and 2002/03 probation spending rose from £0.4 billion to £0.9 billion. It was during this period that the National Probation Service for England and Wales was established, comprising 42 local probation boards and the National Probation Directorate. This restructuring inevitably absorbed a considerable amount of the extra funding.

Crowded out

The extra investment has been made at a time of unprecedented growth in the number of people being punished either in prison or on probation. There are currently around 83,000 people in jail, just over a third more than when Labour came to power in 1997.¹⁰ The rise has been driven by an increase in both the number and the length of custodial sentences for less serious property offences and other cases too trivial to be sent to the Crown Court. Overall sentence lengths for some serious offences have also increased.¹¹

With far less notice, over the same period, the number of people being supervised by probation serving either community sentences or on parole has also increased by a third rising to 243,434 at the end of December 2008.¹² This is largely due to a rise in the number of low level offenders given a community sentence who previously would have been fined or discharged, as well as to the growth in the number of offenders supervised on release from custody.¹³

5 HM Inspectorate of Prisons, 'HM Chief Inspector of Prisons Annual Report', 2005-2006.

6 Home Office, 'Reducing crime, changing lives', 2004.

7 Prime Minister's Strategy Unit, 'Policy review: crime, justice and social cohesion', 2006.

8 J Straw, 'Punishment and reform', speech at Royal Society of Arts, 2 October 2008.

9 E Solomon et al, 'Ten years of criminal justice under Labour: an independent audit', Centre for Crime and Justice Studies, 2007.

10 Prison Reform Trust, 'Bromley Briefings Prison Factfile', 2008.

11 C Hedderman, 'Buliding on sand: why expanding the prison estate is not the way to secure the future', Centre for Crime and Justice Studies, 2008.

12 Ministry of Justice, 'Probation statistics quarterly brief', 2008.

13 Changes brought in under the Criminal Justice Act 2003 mean that offenders are now spending longer periods on licence after release from custody. E Solomon and A Silvestri, 'Community sentences digest', Centre for Crime and Justice Studies, 2003.

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Overall, there are now more than 325,000 people under correctional control, the equivalent of one in every 132 adults in England and Wales. Both prisons and probation have become overcrowded with offenders. While prison overcrowding is a widely recognised problem, probation overcrowding is less well known and rarely, if ever, acknowledged in public or political debates. But as Rod Morgan graphically stated when he was chief inspector of probation, there has been a serious “silting up” of probation caseloads placing staff under tremendous pressure. The ratio of offenders to qualified probation officers has risen from 31:1 to 40:1, with staff supervising caseloads which are, on average, much larger than those dealt with by youth offending teams.¹⁴

Inevitably a good proportion of the extra expenditure has been absorbed dealing with this rise in offender numbers. Between 2001 and 2006 there was a 35 per cent increase in the number of probation staff,¹⁵ although most of this rise is due to recruitment of less costly support staff rather than qualified probation officers. At the same time the government has had to provide nearly 25,000 more prison places, constructing them at a faster rate than ever before.¹⁶ The majority of these, however, have been quick build, pre-fabricated blocs within current establishments, which are far less expensive than new prisons.

What has Labour delivered?

Not surprisingly the government claims the money has been well spent. The Ministry of Justice points to a record number of prisoners completing educational, behavioural or skills courses and argues that “great progress” has been made tackling substance misuse in custody.¹⁷ Based on results from random drug testing it says drug misuse has fallen by nearly two-thirds since 1997 and that more prisoners than ever before are completing treatment programmes. According to the Ministry there has also been good progress in delivering mental health treatment with more prisoners “identified and transferred to appropriate institutions more swiftly”.¹⁸

The record numbers entering educational or treatment programmes cannot be disputed. There has undoubtedly been an improvement in the rehabilitation opportunities for prisoners. What matters, however, is the quality of the interventions and their impact. Research has found that despite the drug testing and treatment regime, substance misuse inside jail is still widespread.¹⁹ Concerns have also been raised by researchers about the impact of cognitive behavioural programmes that have failed to reduce the likelihood of re-offending.²⁰ Perhaps most damning, the policy of putting record numbers of prisoners through basics skills programmes in the hope that it would improve their chances of turning away from a life of crime was exposed by the House of Commons Education and Skills Committee as being based “little more than on a hunch”.²¹

There are also questions to be raised about the government’s claim that the extra money for probation has made a difference. According to the Ministry of Justice more offenders are completing their community sentences than ever before and the number of unpaid work hours undertaken by offenders has increased by 26 per cent since 2002.²²

14 M Oldfield and R Grimshaw, ‘Probation resources, staffing and workload’, Centre for Crime and Justice Studies, 2001-2008.

15 Written Answers, Hansard, House of Commons, 10 June 2009.

16 J Straw, Hansard, House of Commons, 27 April 2009.

17 Ministry of Justice, ‘Punishment and reform: our approach to managing offenders’, 2008.

18 Ministry of Justice, ‘Punishment and reform: our approach to managing offenders’, 2008.

19 C Penfold et al, ‘Tackling prison drug markets: an exploratory qualitative study’, Home Office, 2005.

20 L Falshaw et al, ‘Searching for ‘what works’: an evaluation of cognitive skills programmes’, Home Office, 2003.

21 House of Commons Education and Skills Committee, ‘Prison education, seventh report of 2004-05’, Stationery Office, 2005.

22 E Solomon and A Silvestri, ‘Community sentences digest’, Centre for Crime and Justice Studies, 2008.

In addition, 90 per cent of offenders who fail to comply with the conditions of their community sentence are now sent back to court compared to 44 per cent in 1999.²³ But these achievements mask a number of shortcomings highlighted in a recent analysis by the National Audit Office (NAO). It found that offenders were not completing all the requirements of their community sentences, that there were long waiting lists for some interventions and that in some parts of the country many interventions were not available. Of most concern was the NAO's conclusion that the targets used to measure performance were flawed as they 'do not focus sufficiently on outcomes'.²⁴

High profile cases of offenders committing serious further offences while under probation supervision have also undermined the government's claims of improved outcomes. Most recent is the case of Daniel Sonnex who was convicted for his part in the horrific killing of two French students in south-east London in 2008. At the time of the murder, Sonnex, who had only recently been released from custody, was being supervised by a probation officer who had qualified less than a year earlier and who was simultaneously supervising 127 cases. Despite having committed further offences upon release, Sonnex was not recalled to prison. What is more, he had been wrongly classified as being at only medium risk of re-offending, which meant he was not subject to the more intensive level of monitoring applied to high risk offenders. An official investigation found that the probation office in Lewisham was close to meltdown. Just three years earlier an official inquiry into the murder of the Chelsea financier, John Monckton, found that there had been numerous similar failings by probation staff.

Re-offending

The ultimate test set by the government to determine the success or failure of the prison and probation services is their impact on re-offending rates. Since 1997 numerous targets, including Public Service Agreements (PSA) with the Treasury, have been set. Most have been modified, dropped or missed with assessments in official policy documents being notably

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ambiguous about progress.²⁵ For example, the target to reduce re-offending by 5 per cent between 2000 and 2004 was not achieved. Instead of acknowledging this, the government stated there had been a 'reduction of over 2 per cent ...and more if we take into account the changes in characteristics of offenders'.²⁶

The complexity of the re-offending calculations has on occasion created difficulties for the government. In 2001 and again in 2004 it had to publish corrections to earlier reports claiming success in hitting targets after it became clear that it had significantly overstated progress. Initially, the government claimed it had achieved a dramatic 22.5 per cent reduction in re-offending rates for young offenders against a target of 5 per cent. This was corrected to 7.7 per cent and then corrected once again to the final figure of 2.4 per cent.²⁷

The government continues to work towards the key PSA to reduce overall re-offending. The latest target is a 10 per cent reduction between 2005 and 2011. But in recognition of the challenges it has faced in reducing overall re-offending, the Ministry of Justice has recently started also to measure both the frequency and severity of re-offending.²⁸ These objectives are more realistic and

23 J Straw, 'Probation and community justice', speech at University of Portsmouth, 2009.

24 National Audit Office, 'The supervision of community orders in England and Wales', 2008.

25 For a more detailed analysis of the government's record on re-offending see E Solomon et al, 'Ten years of criminal justice under Labour: an independent audit', Center for Crime and Justice Studies, 2007.

26 Ministry of Justice, 'Penal policy - a background paper', 2007.

27 Home Office, 'One year juvenile conviction rates: first quarter of 2001 cohort', 2001: Home Office, 'Juvenile reconviction: results from the 2001 and 2002 cohort', 2004.

28 Ministry of justice, 'Re-offending adults: new measures of re-offending 2000-2005', 2008.

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criminologists have been urging the government to adopt them for some time. So far there has been progress: the frequency of adult re-offending declined by 23 per cent between 2000 and 2006.²⁹ However, in his eagerness to demonstrate success, the Justice Minister, Jack Straw, presented this in a potentially misleading way. Speaking in parliament at the end of April, Mr Straw suggested fewer offenders were re-offending, when in fact offenders were simply re-offending less *often*.³⁰ Despite this, the decision to focus on the frequency and severity of re-offending should be welcomed.

Politicians from all parties would be wise to recognise the enormous challenge the government has set for itself by aiming to reduce overall re-offending by 10 per cent. Many factors determine whether or not an offender is likely to desist from criminal behaviour and the reality, established through decades of criminological research, is that there is no simple cause and effect. Re-offending targets therefore need to be more realistic so that prison and probation staff can work towards achievable goals.

Achieving more with less

That Labour has invested substantial sums in both prisons and probation is not disputed. However, considering the scale of this investment, and the expansion in intervention programmes it made possible, results have been disappointing. There has not been a step change in outcomes with many offenders continuing to return to a life of crime. If more is to be achieved with less in the period of public sector austerity now pending, there needs to be a fundamental rethink of the role of

both prison and probation in dealing with offending behaviour.

The most obvious way to make the financial savings that have been set out by the Treasury over the next comprehensive spending review period is to make less use of prison. Custody is enormously expensive not only because the annual average cost of keeping someone in prison is £37,500 but also because of the social costs incurred.³¹ When the impact on families and the wider society is taken into consideration, research shows that the average annual cost of imprisonment for an individual rises by almost a third to nearly £50,000.³² Relying less on prison will therefore deliver substantial savings. But this raises an obvious question: who should the courts stop sending to prison and how should they be dealt with instead?

There is now a strong, compelling body of evidence suggesting that alternative community based interventions, when targeted at the right offenders, will have a greater impact than imprisonment at much reduced cost. Through systematic cost benefit reviews, the Washington State Institute for Public Policy in the US and the Matrix Knowledge Group in the UK both found that there are substantial benefits for three specific groups of offenders:³³

- First, the research shows that diverting non-violent offenders with drug problems from prison into intensive residential-based group counselling and therapy can result in substantial savings for the taxpayer. Based on evidence that offenders who receive the treatment are 43 per cent less likely to commit further crime after release than comparable offenders receiving prison sentences, the Matrix research estimated savings of at least £60,000 for an individual case.

29 Ministry of Justice, 'Punishment and reform: our approach to managing offenders', 2008.

30 In a ministerial statement to parliament by Jack Straw on 27th April 2009 he said there had been "a 23 per cent per cent fall in adult reoffending between 2000 and 2006" failing to state clearly that it was a reduction in the frequency of re-offending: J Straw, House of Commons, Hansard, 27 April 2009.

31 P Carter, 'Securing the future: proposals for the efficient and sustainable use of custody in England and Wales', Ministry of Justice, 2007.

32 R Smith et al, 'Poverty and disadvantage among prisoners' families', Centre for Crime and Justice Studies, 2007.

33 Matrix Knowledge Group, 'The economic case for and against prison', 2008; Make Justice Work and Matrix, 'Are short-term prison sentences an efficient and effective use of public resources', 2009; Washington State Institute for Public Policy and Matrix, 'Evidence Based Public Policy Options to Reduce Future Prison Construction, Criminal Justice Costs and Crime Rates', Olympia, 2006.

- Second, the Matrix research shows that there are similar benefits when punishing offenders in the community who do not have specific substance misuse problems but have committed non-violent offences, such as burglary or shoplifting. Placing them on probation orders that include a combination of electronic curfew requirements and effective cognitive behavioural programmes can save £43,000 per case. The evidence for using effective engagement to achieve improved outcomes for this group of offenders has been accepted in a number of states in America where attempts are being made to reform community corrections departments. The US government's National Institute of Corrections explicitly recommends that placing non-violent offenders on evidence based probation programmes will save money and reduce recidivism.³⁴
- Finally, there is unambiguous evidence that using community based therapeutic models and interventions to work with children and young adult offenders who commit repeat offences or low-level violent offences, such as minor assaults, are far more effective than custody. In the United States, Functional Family Therapy, Multisystemic Therapy and Multidimensional Treatment Foster Care have been shown to reduce re-offending by between 30 and 70 per cent at substantial savings to the taxpayer. The programmes use teams of highly trained therapists working with small caseloads to change the behaviour of children and young people and support their families.

There is clearly a strong economic argument for an alternative approach. When the Audit Commission recently conducted a detailed cost-benefit analysis based on a young adult who had been in court on several occasions, served two intensive community sentences and spent two six month periods in custody by the age of 16, it calculated that strategies based on providing family support, the

³⁴ Crime and Justice Institute, 'Implementing evidence-based policy and practice in community corrections, National Institute of Corrections, 2009.

Every £1 spent on social support for children entering the criminal justice system who have committed either non-violent offences or offences including low level violence, could save at least £3 in the future.

input of an educational psychologist, mentoring, anger management and counselling would have cost nearly four times less – £42,000 compared to £154,000.³⁵ The analysis was based solely on the costs incurred to statutory agencies and did not factor in the wider costs of the youngster's involvement in crime and the impact on his family and others. The commission's work suggests that every £1 spent on social support for children entering the criminal justice system who have committed either non-violent offences or offences including low level violence, could save at least £3 in the future.

There is an additional group of prisoners, growing at a rapid rate, that also needs to be moved out of custody to deliver further cost savings. In the last decade there has been a dramatic increase in the number of offenders sent to prison for breaching a community sentence. It now accounts for more than half of 'other offences', the largest category of all offences for those sent to prison each year.³⁶ Instead of adopting such a punitive response to what are often technical violations, such as failing to attend a programme appointment or keeping a curfew, a range of graduated sanctions should be developed so that custody is used only when further crimes are committed.

Many states in America have taken this approach, establishing a grid of proportionate graduated sanctions. The grid classifies breaches as minor, moderate

³⁵ Audit Commission, 'Youth justice 2004 - a review of the reformed youth justice system', 2004.

³⁶ The Ministry of Justices states that the rise in the number of offenders in custody for breaching their community sentence is one of the key factors in the overall increase between 1997 and 2007 in the number of people sent to prison each year. Ministry of Justice, 'Offender management caseload statistics 2007', 2008.

Punishments have become substantially more severe, with community penalties displacing financial penalties and custody displacing community penalties.

or serious and presents sanctions for each type of violation. For example, more serious breaches result in an increase in the intensity of probation supervision. Staff cannot recommend custody without first using the recommended alternative sanctions as set out in the grid. Some states have adopted a more swift and simple approach of prohibiting the use of custody for technical violations. Custody can only be used if an offender commits a new criminal offence. The policy need not necessarily be inflexible. It could include an override procedure that allows technical violators to be detained in exceptional circumstances, for example where they pose a significant risk of harm or have proved repeatedly unwilling to comply with any terms of community supervision.

Reforming probation

Although it has received the greatest proportionate increase in funding, probation has not been able to achieve a commensurate improvement in outcomes. This is partly due to the fact that caseloads have become over populated with low level offenders who previously would have been given a fine. 'Uptariffing' by the courts, which means that punishments have become substantially more severe, with community penalties displacing financial penalties and custody displacing community penalties, has become a clear trend in recent years. The government acknowledges that 'sentencers have increased the use of community punishments, but only for those who would previously have got fines'.³⁷ Consequently probation officers have had to deal with far higher than average caseloads of offenders, many of whom should arguably have been given a less severe sentence. This has prevented them from working effectively with those offenders who genuinely pose a risk to the public.

The solution is to reserve probation for those offenders who really merit it. This would require rebuilding fines as a credible punishment so that they replace community sentences for low risk offenders. A review of correctional services commissioned by the Prime Minister in 2003 recommended the introduction of day fines, which are used successfully in most of mainland Europe.³⁸ In parts of Germany, for example, they account for 80 per cent of criminal sentences. The fine is set as a number of days and is then multiplied by an amount based on the offender's ability to pay. Payment can be made through welfare benefit deductions if need be. Those who fail to pay would face either an unpaid work requirement of a community sentence or a prison sentence based on the number of unpaid days.

It is critical that the corrosive workload pressures in probation are addressed. Rather than continuing to recruit more staff at great cost, it would make far greater sense to reduce caseloads so staff can focus on more serious offenders. This would also help to minimise the risk of the type of errors highlighted in the recent Sonnex case being repeated. However, probation officers need also to move from being 'offender managers' to becoming motivators for change – a shift that requires them to adopt a new model of proactive community supervision such as that developed in Maryland, USA.

The model is premised on the notion that an effective motivational relationship between a probation officer and an offender is critical to ensuring compliance and behavioural change. Probation staff work with offenders to identify realistic and pertinent behavioural goals, and to implement strategies to achieve those goals. Offenders tailor the supervision period to their own personal needs and goals while also satisfying the public safety purposes of supervision. Probation staff take on the role of a behavioural manager helping offenders learn about their own behaviour; understand the links between their behaviour and their involvement with the criminal justice system; and craft responses to their behaviour. It is a move away from traditional accountability mechanisms to shared decision-making models where the offender weighs and selects methods to ameliorate negative outcomes.

37 Prime Minister's Strategy Unit, 'Policy review: crime, justice and cohesion', 2006.

38 P. Carter, 'Managing offenders, reducing crime: a new approach', Prime Minister's Strategy Unit, 2003.

The results have been impressive. An evaluation found a 42 per cent reduction in re-arrests and a reduction in technical violations for offenders who were supervised under the model.³⁹ It also found that staff changed the way they perceived their role, as they began more actively to help offenders change their behaviour and improve their prospects. The model clearly demonstrates that probation officers need not choose between being on the side of the law, as an enforcer of a court order, and being on the side of the offender, as their helper. Both can be achieved through effective proactive supervision.

As well as changing the way probation staff relate to offenders, it is important also to change the way they relate to the community. This can be done by, for example, establishing local centres, particularly in high crime neighbourhoods. In recent years structural reforms have led to the probation service retreating from the very communities it is seeking to rehabilitate. Staff have been moved into remote offices where they spend more time behind desks than out in the community with the offenders they are supposed to be reforming. For example, research looking at the experiences of two high-crime communities in Sheffield found that probation did not have an active presence in either area.⁴⁰

A key factor has been the decline in recent years in the number of home visits by probation staff. New national standards published in 2005, which set out minimum contact time between probation staff and offenders, actually recommended fewer home visits apart from in high risk cases. At the same time there has also been a greater reliance on 'what works' programmes that have led to the development of prescribed offending behaviour programmes and risk based assessment tools, both of which lend themselves to a more mechanised, office based approach. Finally, more stringent health and safety guidance has also imposed greater controls on home visits.

There is clearly an urgent need for the probation service to re-connect with local communities. Offenders

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gain greater confidence if they are satisfied that supervisors understand their predicament, know their home environment and can empathise with them. Office-based staff who do not visit the deprived areas from which offenders are disproportionately drawn will find it much harder to inspire confidence and build the effective relationships that are the key to the successful pro-active community supervision model. What is more, if probation staff are located in local centres, they are also able to link more effectively with local support agencies, something that should hasten the resolution of offenders' wider needs such as health, housing or financial support.

Overall, clearing probation caseloads of low risk offenders and improving the way probation staff relate to offenders and their communities will result in a far more efficient and effective use of resources. It will ensure that those offenders who should be diverted from custody into the community will be subject to an evidence based approach that is more cost-effective and proven to deliver better results.

Devolving budgets and decision-making

At present, the National Offender Management Service located in central government, primarily busies itself with prison and probation management and resourcing. Yet it is local communities that experience the day to day reality of re-offending and it is from and to these communities that offenders come and go. Since it is local councils that have to deal with the financial and social costs of re-offending, it would make for far better decision-making and more efficient resourcing if power was devolved from the centre to the Local Criminal Justice Boards (LCJBs).

The 42 LCJBs are co-terminus with police forces and probation areas but they

39 F Taxman, 'No illusions; offender and organizational change in Maryland's proactive community supervision efforts', *Criminology and Public Policy*, Volume 7(2), 2008.

40 A Bottoms, 'The community dimension of community penalties', *Howard Journal*, Volume 47(2), 2008.

By bringing the different budgets together at the local level, greater consideration would likely be given to the appropriate role of prison in the wider effort to reduce crime.

currently act as little more than liaison bodies that work to ensure the delivery of centrally prescribed targets. The boards need to be greatly strengthened so that they have their own criminal justice budgets and the power to decide how those budgets are allocated. Since the cost of different sentencing options would directly affect the funds available for tackling crime and delivering justice, the boards would have an incentive to use resources as efficiently as possible to deliver the most effective outcomes.

Poor financial planning and budgetary problems are common in the execution of sentences. For example, the cost of providing effective treatment programmes for offenders with substance misuse problems falls to the NHS or to local authorities, both of which often subordinate such programmes to other spending priorities. When, as a consequence, a treatment place is not available for an offender, courts are left with no alternative but prison, even though it costs more and is likely to be less effective. Furthermore, it is not possible under the present system for money to be diverted from sentencing to measures which might reduce crime – so-called ‘justice reinvestment’ – even where this makes financial sense.

Devolving resources so that the costs of the agencies involved in sentencing are brought within a single budget would force each LCJB to consider whether money for a prison place might be better spent on a community based penal or crime prevention programme. The cost of incarcerating ever more people would have a direct impact on wider budgets with real financial consequences for other criminal justice agencies. By bringing the different budgets together at the local level, greater consideration would likely be given to the appropriate role of prison in the wider effort to reduce crime.

Responding to social failure

A disproportionately high number of those under correctional control are drawn from disadvantaged backgrounds. According to the government’s social exclusion unit, prisoners have very few qualifications, are often unemployed, and suffer high levels of drug abuse and mental illness.⁴¹ Many have been excluded from school, been in care and experienced childhood abuse. The high levels of social exclusion are similar for offenders on community sentences, although this is often not recognised in the same way as it is for prisoners.⁴²

There are clearly broader questions about why so many disadvantaged people end up under correctional control. By the time they enter prison or begin probation many will have experienced years of social dislocation and been rejected by mainstream services. It is prison or probation staff that are handed the near impossible task of picking up the pieces of these individuals’ chaotic and dysfunctional lives.

The logical policy response, and the one that would be most cost efficient in the long run, would be to attempt to address the myriad social and economic failings that propel the mentally ill and drug addicted into custody or onto probation. Rather than simply relying on the correctional services to address re-offending, a co-ordinated, genuinely cross-departmental strategy should be put in place. This would require buy-in from a number of Whitehall ministries and a commitment from the prime minister to make it happen.

Despite Labour’s best efforts to introduce such a strategy, attempts have been hampered by political bickering between ministers more interested in defending their domains than in making politically uncomfortable compromises to help vilified offenders. In future there needs to be a recognition that placing ever more people under correctional control is a costly social failure that can best be addressed through effective co-ordinated action beyond the Ministry of Justice.

41 Social Exclusion Unit, ‘Reducing re-offending by ex-prisoners’, 2002.

42 E Solomon and A Silvestri, ‘Community sentences digest’, Centre for Crime and Justice Studies, 2008.

Conclusion

Labour's reform programme for the correctional services has been wide ranging and, at times, unrelenting. Significant extra investment has been coupled with major structural change, yet the results have been mixed. Prison regimes have, in many respects, improved, and probation programmes now operate to more professional standards. But the number of offenders who go on to re-offend remains stubbornly high.

Had the government targeted resources in a way that gave greater weight to the evidence about what works for whom and in what circumstances, the outcomes would probably have been better. There certainly would have been substantial savings from relying less on prison, an institution that a Conservative Home Secretary once candidly observed is likely to make 'bad people worse'.⁴³

The recession, and the tightening of departmental budgets it has prompted, provides an opportunity to reassess the way resources are used. In the United States, many states have already concluded that locking up large numbers of offenders makes no financial sense. In Colorado, Kansas, Michigan and New Jersey prisons are being closed and policies implemented to monitor and rehabilitate low risk offenders within the community. A national commission is being proposed by senior Senators from across the political spectrum to review the country's over reliance on custody.

This paper has highlighted reforms, based on good quality research, that if implemented in England and Wales could, in the long run, save money and lead to improved outcomes. They do not require substantial new investment but instead depend on targeting sentences more effectively, developing new models of working with offenders and devolving budgets and decision-making. Critically their success depends as much on the quality of implementation as on the details of policy design. Too often in the world of prisons and probation too little attention has been given to programme fidelity, resulting in implementation failure.

We need to be honest about what can be achieved by the prison and probation services.

While they can make a difference to re-offending they are not in a position to achieve major and sustained reductions.

Politicians must also recognise that there is no silver bullet. Although the evidence base has improved, reducing re-offending remains an imprecise process. Offending behaviour is a consequence of complex human actions shaped by multiple, competing factors. It will never be cured in the same way as a headache or a liver infection. Even the best interventions delivered by the highest quality staff in the most conducive environment will not always work. Therefore, realistic, achievable targets that focus on the frequency and severity of re-offending, rather than the overall rate, are needed.

Most importantly, there needs to be an honest and open conversation with the public about what can be achieved by the prison and probation services. While they can make a difference to re-offending they are not in a position to achieve major and sustained reductions. To do that would require far broader changes to the social and economic factors that drive offending behaviour. Reducing re-offending is therefore not simply the business of the Ministry of Justice; it is also about housing, neighbourhood renewal, substance misuse provision, mental health, education, training and employment. In seeking to make better use of the criminal justice budget, the government and opposition parties should not lose sight of this fact.

About the author

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⁴³ Home Office, 'Crime, justice and protecting the public', 1990.

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