

WHERE NEXT FOR PENAL POLICY?

by Charles Clarke

Introduction

I want to begin with my assessment of the main concerns of the British people about criminality and justice.

First and foremost people want to feel secure in their homes and everyday lives, free from abuse, disrespect and anti-social behaviours, and respected by others as they would expect themselves to respect others; people expect Government and all of its agencies to do their very best to prevent people offending in the first place.

Second, when a crime does occur, people want to feel that the offender will be caught, that justice will be done, will be carried out effectively, fairly, and hopefully swiftly, so that we live in a society based on the rule of law where other forms of revenge or retribution are outlawed and unnecessary. In this regard, let me underline that this is a Government that will continue to be tough on crime and criminals, especially really dangerous and persistent offenders. As you know, people's concerns about the former have been addressed in the Criminal Justice Act 2003 by introducing indeterminate prison sentences for the most dangerous offenders to ensure that society is protected against people who are judged to still be of risk to the public.

And third people want to believe that when offenders leave the criminal justice system they will go back to 'the straight and narrow' and become constructive contributors to the good of society as a whole. They know that unless this is achieved the cycle of reoffending will be perpetuated, thus undermining our efforts to reduce crime.

Each of these ambitions — security, justice and preventing re-offending — can only be tackled by all parts of our society working together. This is typified, for example by the ways in which the Crime and Disorder Act is applied, the operation of the Youth Offending Teams or, in a different way, the principles of the Sure Start programme. The continuing fall in crime is a tribute to these approaches.

In the same way agencies are already working together to overhaul radically the criminal justice system, for example as we did with the Street Crime Initiative, and with our efforts to put victims first throughout the criminal justice process. We've worked to ensure that victims and witnesses are better supported, helping to encourage more of them to give evidence in court, and we've increased the funding for Victim Support from £12m in 1997 to £30m. And each area in the country now has a Witness Care Unit to provide support to witnesses. There is an enormous amount still to do but I am working closely with my colleagues the Lord Chancellor and Attorney General to take that process forward.

Focus on Preventing Re-Offending

But what I want to focus on this evening is how best to prevent reoffending. Over half of crime is committed by people who have already been through the criminal justice system and of course this Government generally already accepts the need to reduce that percentage dramatically. We need to move away from the idea that prisons can be universities of crime towards them being institutions that ensure offenders become working and productive members of society upon release.

Spending on prisons has increased by more than 25 per cent in real terms since 1997, and on probation by 39 per cent in real terms since 2001. We already spend £300 million per year on rehabilitative regimes in prisons. Thousands of prisoners are on education and skills programmes so that now more than 10 per cent of adults who gain basic skills qualifications are doing so from prison. Primary healthcare in prisons can now genuinely be compared to NHS standards. There is now drug detoxification in every local prison and drug treatment programmes in more than a hundred prisons. Over 350 specialist mental health professionals have been appointed just to work with prisoners. We are putting both education and health services in prisons firmly in the mainstream, as Learning and Skills Councils and Primary Care Trusts take up responsibility for provision.

However, my central argument this evening is that we have to do very much more. We are a government deeply committed to education and health. But the fact is that the least educated and least healthy people in the country remain those within the criminal justice system. And their poor education and health does not only damage them. It makes them more likely to re-offend and so be a greater danger to society than they need to be.

We have to make preventing re-offending the centre of the organisation of our correctional services. We have to make reducing the number of re-offenders the central focus of our policy and practice. We have to understand, and act on the fact, that cutting reoffending is essential if we are to cut crime.

For understandable reasons the media and others often focus on the number of prisoners in this country — I want to focus on the number of re-offenders and on getting that number down so as to cut crime.

Commitment, Support and Interventions

In my opinion that means that we have to move towards a form of contract between the criminal and the state where each individual in prison, on remand or on probation is required to commit to a noncriminal future, to no future re-offending. And in return the State and its agencies should commit to providing whatever support it can to stopping their re-offending; or, to use a medical analogy, to providing the right ‘treatment’ for every individual.

I emphasise the word ‘individual’. Offenders are not a homogenous group — they have very different reasons for offending and will respond to different solutions. They have individual needs and aspirations as well as varying length of sentence. For some the fact of prison, or even simply the threat of prison, will be enough to prevent any re-offending. For others prison is merely part of the reality of an institutional life in which the individual has little stake.

We have to create a package of support and interventions for each and every offender, and we have to do this in a totally methodical way. We need to make sure that for every person within our prison and probation services we have a realistic programme for their time in the system with clear goals right from the start.

Community sentencing, with the flexibility and focus which it offers, can be an important support for this approach, particularly as the authority of the Court can reinforce the commitment which offenders need to show towards such a package. I am very impressed with the substantial progress recently in both the enforcement and the quality of community sentences. I reject the populist suggestion from some areas that community sentencing is a soft option in comparison to prison. The truth is that a well-planned and properly-supervised community sentence is both tough on the offender and

far more valuable in indicating constructive futures for the individual. Moreover, such sentences allow offenders to perform reparation in a more visible way which the community is better able to shape and understand.

From the very first day that an offender enters prison or probation, there has to be a thorough and systematic assessment of the individual's needs, and of their own commitment to addressing them. On that basis a realistic programme has to be prepared which is specific for each individual case. At the core of this programme has to be the assessment of the measures which are most likely to be successful in reducing the likelihood of that individual offending again upon release.

I am of course acutely aware that there are many practical and real reasons why the approach I suggest can seem, at least, very difficult. The frequent movement of prisoners, the difficulty in achieving continuity of those who are managing offenders, and the varying availability of facilities and capacity to address education, health and other needs are all real, sometimes seemingly insuperable, obstacles.

Partnership Working

Whilst I acknowledge that the practical problems are real and require care and caution in implementation, I also believe that much of this is about common sense. It is about forming the right partnerships, developing the skills of those who work within the system, making sure that the structure of our prisons estate supports these goals and getting the right organisational structures in place to support all this. I believe that the further development of organised partnerships to deliver these measures is essential. Partnerships within and outside government have already become more important and we are getting better at working together and at recognising and harnessing the expertise of other sectors. However, there is still massive potential which we can and should draw upon so that we benefit from the knowledge and experience of a range of different organisations as we seek to intervene successfully.

Within government, we have increasingly shown the power of other departments becoming engaged in our agenda, for example in health and education. But we need even better coordinated services across the piece working to get offenders the right service in the right place, at the right time, in and out of prison, before and after sentence. For example, we are now reviewing with health colleagues how to get better diversion systems

in place for when people with mental disorders come into contact with the police or the courts, and there are other examples. And our work to ensure victims are better informed and more involved in the CJS process can also improve our effectiveness. Probation now work closely with victims and they are able to feed in important information which in turn feeds into risk assessment, better offender management and assists effectiveness. And offender managers take account of the victim statements when they prepare pre-sentence reports for the court.

The individualised support package which I have described will have a range of elements but I want to focus particularly on health, education, employment prospects, social and family links and housing.

Health

It is well-understood that very many offenders have serious health problems, of which mental health and drug or alcohol problems are the most obvious, though not the only ones. Both are significant health problems which may have a considerable impact on a person's criminal behaviour. For example, substance misuse is often the whole focus of an offender's life. The chances of preventing re-offending are almost zero unless the health issue is properly and consistently addressed. Unless it is addressed the offender will continue to be caught in a vicious circle in which they will commit crime again and again. This reinforces the need for us to continue working in partnership with the wider National Health Service to raise standards of health care for prisoners and to put more resources into exploring diversion schemes, particularly for the mentally ill, which ensure that the offender has the best chance of accessing the right treatment.' My colleague, the Secretary of State for Health and I are working closely together on these measures.

Education

In the same way, offenders are very often the product of deep early educational failure, including long periods of non-attendance at school and very low levels of educational achievement. Continued educational failure, with its associated low self-esteem, is likely to lead to continued re-offending. We therefore need to get to the position where individuals have at the very minimum the basic numeracy and literacy skills that they need to survive in a modern society but more generally educational standards at higher levels. Again, an increased commitment to education, in conjunction with the wider community provision, is the best way to proceed.

Employment

An important element of both the health and education elements of the individual offender's support package is the personal motivation which can be generated where there is some prospect of future employment and self-sufficiency. Equally, good standards of health and education are a necessity for any secure prospect of long-term employment and full membership of society. Our aim has to be that on completion of the sentence, and preferably before, every offender has the opportunity to be engaged in productive activity that benefits both themselves and wider society.

For that reason, it must be our aim wherever possible that those leaving prison have a job on release. Job Centre Plus already works in 90 prisons to give advice on jobs and benefits to prisoners in the weeks before their release. We now need to help employers better understand the role they can play in giving suitable ex-prisoners a new start in life with a proper job. I have already been struck by the range of employers — public and private, from the building industry right through to the media — who want to do more work in this area. I am impressed by the success of the Transco training and employment scheme for example. We must harness the good will and enthusiasm of a wide range of different employers to build — in practical partnership — more opportunities for offenders to develop a skill or trade that can form the basis of future long-term employment.

It is also important to sort out the vexed problem of support upon release from prison. There should never be a situation where those leaving prison might turn to crime simply to feed and house themselves in those first difficult few weeks of release. I am working closely with my colleague the Secretary of State for Work and Pensions, David Blunkett, to resolve this matter.

Social and Family Links

As we consider the practical steps intended to equip offenders with the means to avoid re-offending we also need to remember the vital role of family, friends and community. I believe that we sometimes fail to give enough emphasis to the powerful impact of supportive relationships to prisoners — to realise that offenders often care deeply about letting down those closest to them, and want to show that they can change, but somehow just never get there. An offender is much less likely to re-offend if he feels part of a family and community, from which he receives support as well as owes obligations.

For that reason, I think that we need to do our very best to ensure that offenders retain ties with family and friends, particularly whilst in prison. I feel that it should be a priority, where possible, for families to visit prisoners and that we should do more to proactively encourage the maintenance of family and friend ties in our prisons and as part of our probation support.

But we also have to think more creatively about the role that the wider community can have in rehabilitating and resettling offenders, and about how to get voluntary organisations such as faith groups to become more involved in that process of resocialising offenders back into the community.

The concept of 'community chaplaincy' is a good example of how the faith and voluntary sector can help. Community chaplaincy provides a bridge between prison and the community. It takes prisoners from the prison gate and supports them as they start their new lives, building on the links between churches and the community. There are now 10 community chaplaincies in existence and 11 more in development. Community chaplaincy is not the creation of Government. It has grown up from the grass roots, and we must nurture it. It is an initiative to which many faith groups, not just Christians, are contributing. It is an excellent example of how an alliance can work.

Housing

And of course an important element in any stable future is housing, which is difficult to find in some parts of the country in even the best of circumstances. No ex-offender can really hope to be fully rehabilitated without a home, a physical base which gives them security and stability. At present, about 1 in 4 of prisoners serving short-term custodial sentences who previously had stable accommodation lose their homes while they are in prison. The goal we must move towards is that every individual who leaves the prison gates should have planned and guaranteed accommodation, which in the vast majority of places is proper housing rather than a hostel or temporary bed.

The development of individual support packages of the type which I have described here is clearly an enormous task which will take years to achieve. However I do believe that it is the only sure way to make progress in reducing re-offending and we should start as soon as possible, building on the foundations of what has already been achieved. In my opinion, the priority in giving effect to these proposals should be those offenders who demonstrate the greatest motivation to complete such packages and those on relatively short sentences.

Each of these five areas which make up the support package for each individual can only develop through a full and vital external partnership, whether with health, with housing, whatever it may happen to be. This is obviously difficult in the secure circumstances of prison, though of course much less so for probation. I nevertheless very much believe that the way forward in tackling re-offending is to draw in resources from the wider community in order to reduce reoffending, and I believe that there exists a strong desire widely to offer support in that way. To that end the Home Office will be announcing over the coming weeks the approaches which we will suggest for building alliances, particularly with employers, with local authorities and other parts of civil society, and with the faith and voluntary sector.

Supporting Officers within Prisons and Probation

The people upon whom we all most depend in addressing the challenges which I have set out if we are to reduce the levels of reoffending are the professional staff who work in prisons and the probation service. They are deeply committed and effective and they have to take some of the toughest decisions of any public servant, in some of the toughest of circumstances.

The approach which I have set out will, I am very well aware, pose still greater challenges. The development and implementation of the types of package I propose is difficult, as is the kind of partnership working which I envisage. That is why I believe that the government must give more support to developing the skills and talent of the individuals who work within the criminal justice system and in particular within the prison and probation services. Any successful programme of change has to have at its heart those who work within it. I am absolutely committed to developing and building the skills of those who help us deliver at all levels within prison and probation, as well as across the wider criminal justice system. I am confident that both employers and trades unions will welcome the commitment to skill development which is so vital in the modern world.

The Prison Estate

The approach that I am describing this evening obviously has implications for the organisation of the prison estate, which of course has to deal with every offender. However I believe that the organisation of the prison estate should recognise much more starkly the differences between individual offenders. It should directly reflect the way in which we want offenders to be managed, with the more individualised approach I have described earlier. Of

course I recognise that any process of change will inevitably be long-term in character, and that our immediate priority has to be to deal with the pressures the system is currently under. However I do think that our long-term ambition has to be clear and I want to spend a little time discussing this.

We need to start from the existing nature of the prison population. Of the existing prison population of about 77,000, about 13,000 are remand prisoners, about 32,000 have sentences of 4 years or more, including life, about 22,000 are serving sentences of between 1 and 4 years and about 8,000 sentences of less than a year. Of those sentenced 17 per cent are serving for drugs offences and of course many other offences are drug-related. In recent years, around 91,000 prisoners have been received on remand every year, an increase of 44 per cent over the last 10 years, and 51 per cent of men and 60 per cent of women remanded in custody do not subsequently receive a custodial sentence.

Similarly a county-by-county analysis demonstrates wide variations across the country in the relationship between the number of prison places available locally and the number which are needed. In some areas there are substantial surpluses, in others substantial shortages.

For me, this brief survey points clearly to five conclusions about the way in which we organise the prison estate.

First, remand prisoners should wherever possible be held separately from sentenced prisoners, whether in separate prisons or in remand wings. They should be located close to courts, for example in good community prisons, which would help to speed up the whole court process. These prisons should deliver the services necessary to reduce unnecessary remands to custody — for example, bail information schemes — which would help the criminal justice system work more effectively. The different needs of those on remand should be given special attention, since they are often very vulnerable, particularly if they are women. The partnership with health and other agencies to which I referred above is of particular importance for remand prisoners. And of course, in reforming the criminal justice system to bring more offenders to justice, we must do all we can to reduce the length of time for which individuals are remanded in custody.

Second, we should aim to provide good local community prisons which allow individuals to maintain family and community ties and have the ability to provide excellent support and interventions in the way I have described

above. I see these prisons becoming far more engaged with their local communities, and better at building relationships with a wide variety of other organisations of the type which I described earlier. I attribute particular importance to very strong local prison leadership and to the desirability of such prisons becoming a vital part of the civic fabric of every locality.

Third, our priority must be to locate remand prisoners and those on sentences of less than 4 years (about 48 per cent of all sentenced prisoners) in such local community or remand prisons, and to target those on lower sentences with the individualised support packages which I have described earlier.

Fourth, for the most dangerous and very long term prisoners, our priority must be to provide a very secure environment. This can be provided by a relatively small number of institutions with staff with particular skills.

Finally, particular attention needs to be given to prisoners with particular characteristics such as women or young people, or particular problems such as substance abuse or mental health.

Some of the approach which I describe is already part of our practice but I believe that more work is needed to establish this approach across the prison estate. Accordingly I have commissioned an internal review of our strategy for developing and investing in the prison estate and I will be publishing the outcome later this year.

Our central strategy must be to take all possible steps to encourage prisons to become colleges for constructive citizenship rather than recruiting sergeants for crime.

Organisational Change

I have tried this evening to set out the main themes which I believe should inspire our approach to reducing re-offending.

To summarise:-

- we need to put the reduction of re-offending at the core of our strategy;
- we need to create a constructive package of support and interventions for each and every offender, and implement it well;
- we need to work in close partnership with a wide range of other statutory, voluntary and community organisations;
- we need to support the skills and professionalism of our staff;
- we need to invest in and develop our prison estate to reflect this approach.

In one sense it is straightforward to set out these ambitions. The tough challenge is to make such changes happen. I believe that the introduction of the National Offender Management Service (NOMS) is central to this ambition. We have already set the key goals for NOMS to reduce re-offending by 5 per cent by 2008, and 10 per cent by 2010.

I am absolutely clear that the kind of individualised response which I have described cannot exist without one person being responsible for each offender throughout their time in prison and on probation — the end-to-end offender manager. This role will embed partnership between the prison and probation services and the wider community, and that will be helped by new technology which will better assess risk and manage offenders through one single database wherever they are in the system.

The introduction of NOMS is also seeking to maximise the rehabilitative outcomes for every offender in a way that is far more consistent across the country. While some prison and probation areas have responded magnificently to these challenges and have improved, there are others which have not achieved as much as necessary. This is the reason why I am personally committed to the creation of a vibrant mixed economy with NOMS. I believe that, particularly within the voluntary and community sector, there is a large untapped resource which is keen to help us achieve the reductions in reoffending that I have described. A strong structure of commissioning and contestability in prisons and probation will create a wider range of appropriate interventions and raise the quality of offender management services across the country.

This is of course not easy to achieve, particularly when the historic cultures of the nationally managed prison services and the locally managed probation services are so very different. It is however essential and I believe we can drive improvement through seeking the best possible providers for interventions and offender management in each area. In many areas the public sector's skill and expertise will deliver the continuous improvement we need. In other areas, competition is needed to stimulate this improvement. For example voluntary organisations with significant experience and history of success often already provide drug treatment interventions.

In short I see no reason of principle or practicality why offender management should not be provided by the private or voluntary sector. And a very important part of the development of commissioning and contestability will

be the ability to specify and contract for cross-cutting services, straddling the current silos of prison and probation, and making a reality of the end-to-end management of offenders.

Clearly the development of such a structure will inevitably require further organisational change within NOMS. At present Probation Boards have a free-standing — and exclusive — statutory duty to provide probation services in their geographical areas. In future it will be those who commission who will have the responsibility for defining what services are necessary and ensuring that they are provided. Probation Boards will change into providers of whatever services are commissioned from them — this may be offender management or the delivery of interventions to reduce re-offending or a combination of the two. As time goes on, there will be no guarantee that they continue to be commissioned to deliver services in their area if another provider can do it better — just as there is no guarantee that the public sector Prison Service will continue to run a particular prison or group of prisons. I plan to publish shortly a consultation paper which will set out these proposals on the development of the Probation Service in more detail.

I intend to develop this kind of approach over time across the whole of the offender management system, though of course, on the prison side, the result of the current process with the Isle of Sheppey prisons will inform my decisions on the best way forward.

Of course I recognise that there will always be some prisons where we need to exercise great central control. However, I believe many could operate far more independently than at present. Through the commissioning process we should be able to be far more demanding about how we expect local prisons to be led, to perform, and to develop. As these ‘community’ prisons become embedded, we should be able to move to a situation where we can rely on the Regional Offender Manager to identify what is needed locally and use the contracting process to achieve that.

In achieving the step-change which I believe is needed in the reduction of re-offending I know that the Government has no monopoly of expertise on the best way of getting there. I want a range of suppliers — energetic, innovative, effective — from both the statutory and nonstatutory sectors. A key role for the commissioners at the centre of the organisation is to ensure that there are no artificial barriers to new players entering the market and that there is a level playing field for competition.

But I do want to emphasise one point. The whole motivation behind this change is to drive up performance to further reduce re-offending. It is not about cost-cutting and standards-slashing. At this time of change I know that there has been a good deal of anxiety and concern but I want to emphasise my great respect for the professional staff who are already doing a very difficult job extremely well. The proposals we are making are not about changing the staff, but about changing the organisation and management of the service to achieve ambitions which I know are very widely shared.

Sentencing Policy

I want to conclude with a final word on sentencing policy.

It should be obvious that the legal processes we have in place affect our ability to rehabilitate individuals as effectively as we can. For example, if a significant portion of sentence is served pre-trial, we are currently unable to achieve much real rehabilitation during that period. As I have said, this suggests that we need to minimise the time spent on remand. But it also means that we should ensure that we remand people only where there is a danger to the public or a significant risk of the offender absconding. In the latter case for most offenders the risk can be managed by making tagging a condition of bail.

We of course are looking to make many changes through our reform of the criminal justice system but the injunctions to sentencers which I offer are:

- be rigorous in using your powers to sentence in a way which protects society against dangerous and violent criminals including making good use of indeterminate sentences for the most dangerous offenders;
- be rigorous in upholding the authority of the Court when it comes to enforcing penalties including fines, to forcing offenders to give respect to the Court and its procedures and to ensuring that justice is rapidly dispatched;
- be flexible and positive in using community sentences, which can be far tougher than prison, to help prevent re-offending;
- make full use of fines — effective penalties which hit offenders in the pocket where it hurts; and which are increasingly being more enforced;
- when giving a custodial sentence, take full account of the new guidelines issued by the Sentencing Guidelines Council, to whom I pay credit. They are there to deliver consistency and effectiveness in sentencing;

- make full use of the custody minus, custody plus and intermittent custody arrangements when they are fully in place since they will reinforce the flexibility which can best reduce re-offending.

Conclusion

It is always dangerous for a politician to tread in any way on the toes of the judiciary, as I have already discovered.

However I firmly believe that by working in partnership, the Government and all its agencies, and the Judiciary and all its agencies, can work together to ensure that those who are really dangerous to our society are properly dealt with to minimise, and hopefully remove, the danger they offer to us all while those who offer less risk but have got caught up in their own cycle of despair can be assisted to find ways through to end their offending and to make a constructive contribution to our society.

I believe that should be the aim of all of us.

Home Secretary's speech to the Prison Reform Trust 19 September 2005.

CUTTING PRISON NUMBERS (*The Guardian Editorial*)

One speech does not make a policy but last night's by the Home Secretary — his first on penal policy — is the most promising for a decade. It marks a welcome and long-overdue rebalancing of the criminal justice system, which hopefully will end the hard-line and counter-productive era introduced by Michael Howard in 1993. A prison population that took four decades to increase by 11,000 between 1951 and 1991, climbed by 25,000 in the following decade, despite the largest and most sustained fall in crime for more than a century.

Egged on by populist rhetoric and the tougher laws of Michael Howard and his first two Labour successors — Jack Straw and David Blunkett — the courts became twice as punitive as they once were. We have finished up jailing more people than some of the most repressive foreign regimes such as Burma, Saudi Arabia and China.

Charles Clarke looked at the research and saw that thousands of the 77,000 inside should not be there. They are the victims of other public service failings: one quarter having been taken into care as children, half have no qualifications from school, three-quarters have at least two mental disorders.

Boldly he wants to align penal policy in line with the government's social goals of widening access to education and health. He wants to see more community programmes for nonviolent offenders as well as a network of community prisons to house those that require a jail sentence. These ideas go back to the groundbreaking Woolf Report, which was endorsed by Kenneth Baker, the Conservative Home Secretary who received it, but was afterwards torn up by Mr. Howard. A prisoner who remains close to family and friends is six times less likely to reoffend on release. Currently, thousands are more than 100 miles from home. The average family travels for as much as five hours to visit a father — or mother — in prison. In these circumstances it is no wonder that so many split up.

Can Mr. Clarke achieve it? In the present state of overcrowding in cells it will be extremely difficult, but he believes he can re-configure the prison estate to make it more community minded. It will obviously not please the tabloids but it would be much more effective. Once in place, community prisons should be able drastically to reduce reoffending, thereby helping to create a virtuous circle of falling prison numbers along with more literate and numerate inmates being released. The vision is certainly right. All we need now is the commitment.

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