

# Safer Society

THE JOURNAL OF CRIME REDUCTION AND COMMUNITY SAFETY No. 21 SUMMER 2004

## Who gets Carter? NOMS: the debate

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# NOMS – unfinished business

The National Offender Management Service has just been born, officially replacing the prison and probation services on 1 June. This offspring of the Carter report and the Home Office's *Reducing Crime – Changing Lives* has prompted much speculation in criminal justice circles, not least because much about it is still unformed and undefined.

In the short period between conception and birth, the debate about NOMS has polarised. Some welcome its aims of providing integrated offender management and reducing reoffending; others oppose the introduction of contestability, or competition, into correctional services. What is not up for debate is the massive impact it will have on the criminal justice system, and we make no apology for devoting an entire issue of *Safer Society* to the subject. We present the arguments for and against the new service, as well as placing NOMS in the wider context of the Government's reform agenda, and drawing lessons from previous criminal justice initiatives and the experience of other countries.

In our interview, Eithne Wallis, Director of the NOMS Change Programme, argues that an integrated service is necessary to prevent offenders from 'falling down the cracks' between prison and probation. She also stresses that the new service's aim of limiting prison numbers is dependent on its ability to persuade sentencers that community penalties will be rigorously enforced. Like Patrick Carter and the Home Office, she is adamant that NOMS will encourage innovation, and that it will create a 'level playing field' that will not favour public, private or voluntary providers, but will allow them to compete on an equal footing.

Richard Garside, Director of the Crime and Society Foundation, is not convinced. There can be no such thing as a level playing field, he argues, because private contractors have the choice of opting out of the game and playing somewhere else, whereas public and voluntary sector operators, whose sole role is running prisons or providing resettlement support, do not. He also cautions that the innovations encouraged by contestability are most likely to involve cost-cutting at the expense of quality, such as finding creative ways around contract language intended to uphold standards.

On behalf of the business community, John Williams of the CBI contends that private sector involvement in correctional services has already resulted in higher quality, lower cost provision: in other words, better value for money. Not only that, he says, the benefits of competition have extended far beyond private prisons because it has forced the public sector to raise its game. But Stephen Nathan and Enver Solomon beg to differ, citing evidence that the private sector's record in prisons is mixed, and that wages have been driven down to turn a profit.

Some critics of NOMS warn against jettisoning the values of the old regime in the rush to establish contestability. Alison Liebling of Cambridge's Institute of Criminology warns that robust management strategies can seriously affect the ethos of the service, corroding cohesive values such as trust and respect. Napo's Judy McKnight, meanwhile, argues that it is illogical to talk about 'integration' under NOMS when the compulsion to compete for contracts will destroy collaboration between services, pitting probation staff against prison staff, and those in the public sector against those in private and voluntary organisations.

Yet advocates of NOMS point out that the existing system has serious deficiencies, especially the lack of co-ordination between agencies dealing with offenders. Some initiatives have already sought to remedy this problem. Walter Boyle examines the work of a Criminal Justice Intervention Team, based in Ealing, London, which provides multi-agency support for persistent drug offenders. And David Smith of Lancaster University looks at developments in the youth justice field, and suggests that the success of youth offending teams can be attributed to their close links with community-based health and education services.

*Safer Society* is especially interested in the commitment under NOMS to cap prison numbers and reduce reoffending. But will the joining of the prison and probation service in a single integrated service achieve this aim? The short answer: not necessarily. Andrew Coyle of the International Centre for Prison Studies examined correctional services in other countries and found no evidence that one or other arrangement for the delivery of criminal justice has any direct effect on reoffending or crime rates. He ascribes Finland and Canada's success in reducing prison numbers to strong political will and reforms in sentencing practice rather than to their integrated correctional services. Meanwhile, New Zealand, which also has an integrated service, had seen a sharp rise in prison numbers.

This is an important lesson, and one that must be heeded by politicians and sentencers alike. In Britain, tougher sentences and a failure to reform sentencing practice have done most to thwart efforts to reduce the numbers in custody and provide resettlement help to offenders. Successful resettlement strategies will be the theme of our next issue. Without the rebalancing of sentencing that the Carter Report called for and *Reducing Crime – Changing Lives* promised, the success of NOMS would be in jeopardy.

**David Walker** Editor

A policy briefing, *NOMS: will it work?* is available from Nacro publications priced £5.00 + p&p. Contact Cynthia Sutherland on 020 7840 6427 or email [publications@nacro.org.uk](mailto:publications@nacro.org.uk)

# NOMS no public sector megalith

**Eithne Wallis**, Director of the National Offender Management Service Change Programme, talked with *Safer Society* editor David Walker just prior to the NOMS launch in June about the challenges and opportunities presented by the new service

**You have had a long career in probation. What motivates you?**

I have been in the probation service for 25 years, eight and a half of those as a probation officer in Greater Manchester. I also led the change team that established the National Probation Service (NPS), and was then its first Director General, responsible for delivery.

I'm motivated by a passionate personal commitment to a better quality of life in our communities. Offenders and their crimes damage communities in various ways, so I want to work for a system that identifies, properly punishes, and works positively to change offenders. If you want to achieve a safer society, with fewer victims, then you want offenders to stop. But important though it is, punishment alone will not make them do this. You need to tackle the reasons for their offending behaviour in order to bring about change and effect their rehabilitation.

**The NPS has only been in existence since 2001. What is the case for the merger of prisons and probation in NOMS now?**

Probation can only ever be part of the story; prisons and resettlement programmes also have a part to play in reducing reoffending. The Correctional Services Review led by Patrick Carter recognised that while both services had taken big steps forward, they couldn't go further without integration.

People leaving prison are falling down the gaps between services. Only a proportion of a prison sentence is served in custody, the rest is served in the community. The Prison Service's responsibility is for those in custody; the probation service's is for those on licence in the community. No one has

responsibility for the whole sentence or the offender throughout. At present, offenders sentenced to less than 12 months in prison receive no supervision at all once they are released – that is not continuity of service. You can't achieve the potential without an integrated process where both sides of the sentence are better managed.

Another important point is that sentencers need to have confidence that offenders are being held to account, and that sentences are being enforced, even if it means the recall of the offender's licence and their return to prison. At the same time we should be actively working with offenders, providing basic skills, education, drug treatment programmes or treatment programmes for sex offenders. NOMS needs to deliver both punishment and rehabilitation.

**Carter's Correctional Services Review sets targets for reducing reoffending and limiting the rise of the prison population, in particular by reducing the reliance on short prison sentences. Against this background, what do you see as the challenges for NOMS?**

Today there are some 280,000 offenders serving custodial or community sentences. On the basis of the report, NOMS is expecting to deal with 300,000 to 320,000 offenders in three to four years time. The biggest challenge is how to build and implement a service that can cover all of those offenders both in custody and the community.

We are already well ahead in that task, with the prison and probation services developing better ways of working together on offender management. We need to test these proposals before they are rolled out nationally, and have decided to launch the first pathfinder in the North West – hopefully in June 2004.



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This region was chosen because the prison and probation services are already well linked, and work in partnership with the police, voluntary sector and many other key players.

Two more pathfinders will be established this year. The aim is to test and improve these systems and have them operational by early 2006 – the target date for the implementation of Custody Plus, the new sentence introduced in the *Criminal Justice Act 2003* [which will involve offenders spending a short period in custody followed by supervision in the community, rather than receiving short custodial sentences without any post release supervision, as is the case at present]. It is crucial that the new structures are in place in time for that to happen.

But the greater challenge is to first build the generic community order as a means of keeping less serious offenders out of custody in the first instance. The very short custodial sentence is generally the least effective way of dealing with these offenders with the highest overall reconviction rates.

Integrated offender management will require innovative services to grip the offender better whilst delivering rehabilitative interventions such as accommodation, education and a range of treatments. This will require more service provision. The Correctional Services Review has recommended a commissioning-provider model. We have to transform a service based on a virtual monopoly of public sector provision into a service with no dogma as to who provides the service. The decision about who provides should be based only on evidence of who can deliver best, whether separately or in partnership with others.

We also have to recognise that at present we have the Prison Service and the NPS, and we have to convince

the staff of both to move positively into the new organisation. Agency status can be removed from the Prison Service without primary legislation, but it will be required in the case of the NPS as the present employers are the probation boards. We need to deal with the worries that these changes are causing staff and ensure that the new arrangements are settled as soon as possible. We don't want to cause unnecessary disruption to staff, and the services they currently provide.

**The Carter report states that re-balancing sentencing is key to the success of NOMS. How can NOMS convince the courts that its approach, including more community sentences, is working?**

The relationship with sentencers is crucial. They are our customers and they decide who gets what sentence. Sentencing by the courts has become harsher in recent years, with increasing numbers of first time offenders going up the tariff – becoming short-term prisoners instead of being placed on community supervision orders. The courts have to have confidence that the sentences they impose are being delivered in both custody and the community. NOMS must uphold the sentence of the court as the public expects us to do, and offer community provision of a sort that convinces sentencers that it adequately provides for the offence and rehabilitates the offender.

Sentencers need to be well informed about what we are doing with offenders. The target is for NOMS to reduce reoffending by 10%. If the investment in NOMS doesn't shift that target – then reconsider. The new Sentencing Guidelines Council, led by the Lord Chief Justice and his judicial colleagues, will help. Its work in setting new sentencing guidelines aims to strike a

*The Correctional Services Review identifies the potential to reduce reoffending, but the relationship with sentencing will be crucial. We have two very overloaded services at present, and it is difficult to create contestability if the demand is still about funding more prison places. For NOMS to succeed, it needs sufficient funding, trust between providers and offender managers, and a good relationship with sentencers leading to better use of supervised community penalties*

new balance between sentencing decisions and the ability of the adult correctional services to meet those decisions. NOMS needs a good relationship with this body; Martin Narey, as the Chief Executive of NOMS, attends its discussions as an observer.

### **What will NOMS delivering end-to-end management of offenders mean in practice?**

It will be based on individual offender assessment using OASys. Offenders can be very different in terms of the range of crimes they have committed, the risk they pose, and the likelihood of reconviction, so the degree of punishment will differ. Offenders also have a different morbidity profile to the rest of the population: there is a higher likelihood of suicide, self-harm, and accidental overdose. They also have many needs for support such as basic skills training, and we must take into account factors such as race, ethnicity and gender.

The assessment will create a profile of each offender. It will start at the pre-sentence stage with a court report produced by the offender manager who will make proposals on sentence, in collaboration with colleagues as necessary. Whether the sentence is one of community supervision or custody, they will devise the sentence plan for the whole sentence. It will be their job to ensure that the different elements of punishment and rehabilitation are made available, both motivating and enforcing so that the offender is held to task and completes the sentence. They will work with a range of suppliers to get services and provision for the offender in place.

Whereas probation officers have responsibility for dealing with offenders in the community, offender managers will also have the authority and responsibility to reach into custody to get the correct provision for the offender whilst they are there. For example, they will get the offender started on a detox programme, and make the links with housing, education and employment services so that the offender can access services quickly upon their release. Greater service provision will be needed to meet these requirements. Some of it will come through partnerships and joint ventures, whether in

accommodation, health, or public protection, as in the case of MAPPAs [Multi-Agency Public Protection Arrangements].

There is also a role for innovative proposals, for example regarding women offenders. There has been a disproportionate rise in their numbers, and NOMS must ensure that the prison places are available for them. But if we look at their profiles we might conclude that it would be better to rehabilitate them within the community. Along with other agencies with an interest, such as the local authorities that care for offenders' children, we might work to find an alternative that may be acceptable to sentencers. We are also piloting new technology to track and manage offenders – the UK is already the second biggest user of electronic monitoring in the world.

### **Why is regionalisation such a central theme of NOMS?**

Decentralisation is at the heart of NOMS. We are trying to establish it as a service at the opposite end of the spectrum to a public sector megalith – not the best way to provide services. Decentralisation offers a better opportunity for entrepreneurial ideas to be tested in the English regions and Wales and to get better planning for provision which matches the offender profiles in each region. Regions must be big enough, in terms of mass and flexibility, to do something worthwhile. Over a long period of time the national prison estate could be clustered more around a geographical area.

Regional priorities vary and the new regional structure will be more responsive to these needs. Local contracts will be made by the Regional Offender Manager (ROM) with money allocated to them by the National Offender Manager. Most money will go to ROMs but some provision may be retained nationally, for the secure estate for instance. Or perhaps with women prisoners, where provision is small – for example, there is no women's prison in Wales – there might be a national agreement first.

To make offender management work, we intend to move away from a national distribution of prisoners.



Photos: Frank Manning, Manning Photographers

We need to stop sending offenders away from their home area and moving them around the country. In the North West, we aim to get up to 70% of prisoners from the region serving their sentences there, possibly starting with young adult prisoners. We are also looking at reciprocal arrangements between regions. There are, of course, reasons why some offenders should not be resettled in their own community – they may have committed grave offences there, or it is in the interests of the victim. For these offenders, part of their sentence plan or a condition of the licence under which they are released from custody could be resettlement in another area.

**The implication of the Carter report is that private companies will operate in prisons and the voluntary sector in the community. How do you see the role of the voluntary sector developing under NOMS?**

I hope that the voluntary sector will become strategic partners. I envisage that ROMs will want to involve the voluntary sector to help problem solve at a strategic level rather than just supply a specification to compete for a contract. I expect ROMs to identify a problem and go to the voluntary sector, as well as others, to ask for potential solutions.

Voluntary sector providers have the opportunity to do more of what they are doing already and to unleash their creative spirit. They tend to be very local and offer flexibility and the ability to deliver services to offenders where they actually are. Work with offenders has to be where they live, offend and pose a risk.

To achieve that, NOMS has to make it possible for the voluntary sector to operate on a level playing field. We are putting effort into understanding the environment they operate in: their business processes, cashflow and financial arrangements. And we are trying to find ways to make funding available to take into account overheads and set-up costs through seed funding or capacity building. For example, we are funding a worker to do this at the Partnership for Reducing Offending – a partnership between Clinks and the Alliance for Reducing Offending. We don't want to move from a public sector

monopoly to a system with only three or four big providers, we want a real mixed economy, and aim to design contract and management models to allow this to happen.

The voluntary sector will also have to make changes and shape up to respond to the needs of NOMS. Contestability is not privatisation, but nor is it an artificially managed market designed to give the voluntary sector a disproportionate share. As I said, it is a mixed economy that is all about innovative effective services and reliable providers delivering them. The level and nature of the services required will depend upon the region – for example, the requirements of Dyfed-Powys are very different from those of inner city London.

**What is the timetable for implementation?**

We are close to the selection of the National Offender Manager [Christine Knott was subsequently appointed], and recruitment of ROMs is underway, with interviews in June. The aim is to have all 10 selected as soon as possible; they may be phased in with the pathfinders. They will help to lead the services through the transition to NOMS in the coming year. More market testing will take place in prisons next year. As far as contestability for community-based contracts is concerned, it is unlikely that this will take place before the end of 2005 or start of 2006. As I have said, we have to build more community capacity by 2006 to cope with the demands of Custody Plus.

The Correctional Services Review identifies the potential to reduce reoffending, but the relationship with sentencing will be crucial. We have two very overloaded services at present, and it is difficult to create contestability if the demand is still about funding more prison places. For NOMS to succeed, it needs sufficient funding, trust between providers and offender managers, and a good relationship with sentencers leading to better use of supervised community penalties. As well as a lively and informed debate on the proper use of custody and community sentences in the coming period, we need goodwill on all sides. ■

# NOMS – an overview

*Reducing Crime – Changing Lives* sets out the Government's proposals for transforming offender management. It was published on 6 January 2004 alongside Patrick Carter's *Correctional Services Review, Managing Offenders, Reducing Crime – A New Approach*. The recommendations in these documents have wide-ranging implications for the criminal justice system

## Carter's findings

Carter's review suggests that the management of offenders should punish offenders, protect the public, and reduce reoffending. It also finds that:

- The increase in the number of offenders sentenced to custody and community penalties in recent years is due to the increased severity of sentences, inconsistency in sentencing practice and the reduction in the use of fines rather than any increase in crime.
- Sentences are often poorly targeted and ineffective, particularly short prison sentences.
- Rehabilitation has a significant role to play in the reduction of reoffending.

The review also stresses that a system based in contestability, or competition open to the public, private and voluntary sectors, will provide more cost effective prison and probation services.

## The Government's proposals

The Home Office proposals, which accept the substance of Carter's recommendations, can be grouped under: sentencing, the judiciary, offender management and contestability.

### Sentencing

Proposals on sentencing, which make constant reference to the *Criminal Justice Act 2003*, emphasise the following:

- Offenders paying back to the community, with conditional cautions linked to financial reparations and community work.
- Fines turned into a credible punishment by improved penalty enforcement.
- More demanding community sentences graded on the basis of risk assessment.
- Intensive supervision and monitoring for highest risk offenders, and community penalties for low risk and first time offenders, as an alternative to prison.
- More extensive use of electronic monitoring.
- Progression up the sentencing scale for repeat offenders.

### The judiciary

The Government proposes greater emphasis on judicial self-governance, ensuring compliance with guidelines. The Sentencing Guidelines Council, set up by the *Criminal Justice Act 2003* to produce guidelines previously set by the Court of Appeal and Magistrates' Association, will ensure consistent sentencing that takes into account cost effective use of prison and probation, and will initially consider the new generic community orders as a diversion from custody.

The Home Office, meanwhile, will develop ways to provide comparative sentencing information to eliminate sentencing drift and unjustified variations in sentencing. It will also share information on cost effectiveness with the Sentencing Guidelines Council, and the Sentencing Advisory Panel that advises it.

Judges and magistrates (supported by offender managers) will be expected to sentence in order to reduce reoffending.

## Managing offenders

The Government proposals for the future management of offenders are far-reaching. NOMS replaces the existing prison and probation services from 1 June 2004. (The old services will no longer be responsible for the management of offenders, but solely for the provision of contracted services.) NOMS aims to provide end-to-end management of offenders with two objectives: to punish and to reduce reoffending.

### Contestability

The Government aims to create a market in correctional services. It has stated that it does not matter whether the public, private or voluntary sector provides these services as long as they are cost effective. At the heart of NOMS is the premise that this market depends on a purchaser-provider split – in other words, the separation of the supervision of offenders from the provision of services in prisons and the community.

## The structure of NOMS

The Government has already appointed the Director of the NOMS Change Programme, Eithne Wallis, who is overseeing the transition, and the Chief Executive, Martin Narey, who is accountable to ministers for reducing reoffending, ensuring contestability, overseeing public sector providers and developing policy.

NOMS has also appointed Christine Knott as National Offender Manager, who will report to the Chief Executive and be responsible for reducing reoffending, overseeing the budget for offender services and managing regional offender managers. It is also recruiting ten regional offender managers, based in each of the nine English regions and Wales, who will be responsible for the management of offenders and the promotion of contestability in their region.

Public providers will report to the Chief Executive. They will not have agency status but will become an integral part of NOMS. The Youth Justice Board will continue to be responsible to the Home Secretary.

### Effects

Carter and the Home Office propose that if recommendations to reduce prison numbers and reoffending are carried out, the prison population may rise to 80,000 (instead of the previously projected 93,000) by 2009; and the numbers of those under community supervision may rise to 240,000 (instead of 300,000). This is dependent upon a change in sentencing practice initiated by the Sentencing Guidelines Council and the judiciary, however. The Government accepts the recommendation that old and unsuitable prison stock be replaced with large new prisons.

### Timetable

The regional structure should be established within two years, and running a system based on contestability within five years.

# Who delivers, and why it matters

**Richard Garside**, Director of the Crime and Society Foundation, argues that resettlement services or custodial provision should not be bought and sold like soap powder

Back in January, Tony Blair told a *Guardian*-organised summit on public services that if the Government ceased in its reforms of the public sector 'we cease to have a purpose in Government'. The challenge, he continued, was to break up the 'old monolithic public service bureaucracies'.

Public services in the past, he argued, allowed professionals and their managers to define 'not just the way services were delivered but also the standards to which they were delivered'. In the future, he explained, improved public services would come about through bespoke services to the public who would be able to choose between a range of services in a competitive public service marketplace. The question, Blair said, is how to drive up standards across the board: 'The answer is partly money, partly accountability, partly the spread of best practice, partly Government initiative. But it is also the knowledge that the consumer can go elsewhere.'

Thus, the government as cradle-to-grave provider of public services gives way to a model in which government departments as 'purchasers' procure services from a range of 'providers' from the public, private and voluntary sector through a marketplace based on free competition, or 'contestability'.

## NOMS and public service reform

This model of public service provision is part of the background of the Home Office decision to merge the prisons and probation services into the rather unlovely-sounding NOMS, or National Offender Management Service. The Government is committed to the introduction of market forces across the public services and sees no reason why the so-called 'correctional services' should be exempt. Following an earlier survey of the correctional services by the Home Office, rejected by Downing Street because it was not considered radical enough, millionaire businessman Patrick Carter – who made his fortune from founding and selling on the private healthcare provider Westminster Healthcare – was commissioned to conduct a review. When it was finally delivered in December 2003 the Government moved quickly, publishing it and its own proposals for NOMS in January.

Under the new NOMS structure, regional offender managers, responsible to a national offender manager, will purchase 'correctional services' from 'providers', based on the principle of contestability. Initially the prison and probation services will continue to provide the lion's share of this work. But over time this is likely to change as private and voluntary sector providers start winning contracts. The Minister for Correctional Services Paul Goggins told the House of Commons on March 17 that it would take five years from the establishment of NOMS on 1 June this year for the new system to be 'fully operational'.

## The criminal justice context

It is important to understand that there is another, correctional services-specific driver to the creation of NOMS: prisons and probation are caught in a pincer. On one side, the prison population is rising at an unsustainable rate and probation caseloads are in danger of 'silting up', to use former Chief Inspector of Probation Rod Morgan's phrase. On the other, the investments made in programmes to tackle reoffending – drug treatment, education, offender behaviour programmes – show little clear evidence of having made an impact. As *The Times* reported last November, Home Office research has suggested that cognitive behavioural programmes had had no discernible impact on the likelihood of inmates being reconvicted on leaving prison.

This dual problem of an overloaded prisons and probation service deemed to be underperforming in its key function of reducing crime was examined in some detail by Patrick Carter in his report. He proposed greater clarity in sentencing, arguing that custody should be reserved for serious, dangerous and persistent offenders, while community sentences and fines should be used to punish lower risk offenders and less serious offences. He also recommended the establishment of NOMS to tackle the 'silos' of prison and probation and ensure a more joined-up management of offenders. The NOMS framework, he also argued, would ensure better value for money for the taxpayer by ensuring competition (or contestability) over the delivery of services by the

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public, private and voluntary sectors.

In Carter's review, therefore, the problem – identified as poorly targeted sentencing leading to prison overcrowding and poor performance of the prison and probation staff – suggests to him a solution based around the Government's preferred model for the delivery of public services. NOMS as purchaser will procure correctional services from a range of public, private and voluntary sector providers who will compete with each other.

### Making sense of NOMS

Progressive opinion has had a difficult time trying to decide what to make of Carter's report and the NOMS structure it has inspired. Unsurprisingly most have chosen to interpret it against the backdrop of the practical problems of prisons and probation overload rather than against the seemingly abstract debate about internal markets, purchaser-provider splits and contestability.

Many have greeted with approval the renewed commitment to capping prison numbers and investing in community sentences. The *Guardian's* Home Affairs Editor Alan Travis, writing shortly after the publication of Carter's report, concluded that it marked 'the final Whitehall burial of Michael Howard's 1990s "prison works" orthodoxy and clears the way for a massive expansion in community penalties in Britain'. Carter, he said, 'appears to have delivered the goods'.

Rebalancing the correctional system away from prison will clearly be welcomed by many, although it is worth reminding ourselves that under NOMS, prison numbers are still expected to rise. There is an argument that pooling the prison and probation budgets into one purchasing body will inject greater flexibility into the system and make it easier to redeploy resources currently spent on custody towards probation. But in practice, spending decisions made by NOMS will be constrained by the sentencing decisions of the courts. It is difficult to see how a reorganisation of the prisons and probation bureaucracy will affect this.

Meanwhile, the very flexibility that will be imported into the system with the putative intention of improving the operation of prisons and probation risks undermining the very public service principles on which both services are founded. Think ahead a few years. Regional offender managers will be under instruction to purchase the correctional services that are most cost-effective. What will there be to stop a cost-conscious regional offender manager in, say, London purchasing custodial places for offenders under his management in the North West because the prison places there are cheaper than at Holloway or Wandsworth? There may be good public service reasons



why prisoners should be held close to home. But what if these conflict with financial considerations?

Under the NOMS framework, it is also possible that probation services in a whole region could be 'won' by the private sector. When I quizzed Eithne Wallis, the Director of the NOMS Change Programme, about this possibility at a recent meeting, she said that she did not foresee this happening. But nor did she rule it out. Given the Government's commitment to free competition, it seems unlikely that there will be an express provision preventing such a development.

In practice, and because of the economies of scale involved, private providers will generally be much more keen to bid for large blocks of work rather than for one-off or small scale contracts. Accommodating this requirement may indeed be one of the main drivers for the 'rationalisation' of the 40-plus probation areas – themselves helpfully coterminous with current police boundaries – into the nine government regions in England and one region for the whole of Wales. Certainly such large regions make little sense for a probation service keen to maintain and develop close ties with the local community.

Reports earlier this year claimed that Martin Narey, the NOMS Chief Executive, was considering market testing a cluster of prisons rather than a single prison to help the private sector reduce its overheads. As Narey told the *Guardian*, 'It is difficult for the private sector to manage the overheads when they have a small number of operations while it is relatively easy for the public sector prisons to manage overheads because they can spread them over a large organisation.' The same report also revealed that Narey visited the United States to encourage American private prison contractors not currently operating in England and Wales to bid to run prisons.

It would be ironic if a major boost to privatised provision in corrections came as a result of Labour Government policy. But this is precisely what is likely to happen under NOMS as prison and probation

*There is an argument that pooling the prison and probation budgets into one purchasing body will inject greater flexibility into the system and make it easier to redeploy resources currently spent on custody towards probation. But in practice spending decisions made by NOMS will be constrained by the sentencing decisions of the courts*

services are reorganised to make them more private sector-friendly. The official reason for this is that a 'level playing field', which favours neither public, private nor voluntary providers, but rather allows them all to compete equally with each other in a free and open marketplace, must operate.

Level playing fields might sound fine in theory. In practice they can work to the detriment of both public and voluntary sector organisations. In orthodox economic terms a playing field is only level if all possible participants have equal chances of success and none has an unfair competitive advantage. On this basis the Prison Service currently has an unfair advantage because its 'monopoly' market position allows it to spread its cost overheads in a way the private sector cannot. The proposal to allow bids for prison clusters is an attempt to remedy this. Likewise, the voluntary sector could be said to have an unfair advantage because of the more favourable tax environment in which charities operate. (This has already been an issue in the health service, with some private health providers complaining that Nuffield Hospitals is using its charitable status to undercut them.)

But in a key sense, level playing fields favour private contractors because they can always decide not to participate, whereas voluntary and public sector operators do not have the same option. If Group 4 Securicor or Reliance fail to win a bid, they have very diversified, often international, operations to fall back upon. The newly merged Group 4 Securicor operates in more than 108 countries, and has more than a third of a million staff. Its turnover of £3.8 billion is more than the total planned NOMS budget. If, on the other hand, the Prison Service loses bids, or organisations like Nacro and SOVA fail to win contracts, the implications are far more serious. Running prisons or providing resettlement support is, after all, what they are all about. Unlike businesses, they do not have the alternative of providing private security services or, for that matter, building factories to produce widgets.

The idea that a level playing field can be constructed for such different organisations to operate upon is pure fantasy. And it is one of the main reasons why the Government's assumption that providing resettlement services or custodial provision is rather like selling soap powder or running a hotel is simply wrong. Nonetheless, the notion that the discipline of the marketplace will squeeze out cost inefficiencies and reward innovation and effectiveness in public services is at the heart of the concept of contestability.

What kind of 'efficiency' and 'effectiveness' might we expect? These are tricky concepts in the context of public services. Double a probation officer's caseload and he/she will become twice as efficient, but almost certainly less effective. Private prisons tend to achieve efficiency gains over their public sector equivalents through the simple expedient of paying their staff less. Starting salaries in a private prison can be one third less than in a public prison. The implications for creating and maintaining a well-motivated, well-qualified and effective staff complement are obvious.

'Efficiency' gains can also be made, for instance, by replacing small prisons with large ones holding 1,500 inmates or more. In a little-known report Patrick Carter wrote for the Prison Service a few years ago he suggested doing precisely that. Reports in *The Times* last October suggested that the Home Office was considering such an approach. While 'super jails' might benefit from the same kind of economies of scale that the supermarket achieves over the corner shop, they may be less able to offer the individualised care and support packages than any modern prison should offer to its inmates.

Contestability encourages such 'innovations' because it gives providers financial incentives to find imaginative ways to cut costs. And while tender documents and contracts can be drafted with the intention of ensuring quality, there will be a strong motivation on the part of providers to find creative ways around contract language. A few years back, a contractual requirement for the new Kidderminster court building was that it should provide facilities for visitors to get hot and cold food. The public sector commissioners had a cafeteria in mind. What they got from the private contractor was vending machines in the foyer selling soup and sandwiches.

There are all sorts of legitimate concerns about the current operations of both the prisons and probation services, and those working in partnership with them. Clarifying their role in the future and ensuring the best quality of care and support for offenders is as important now as it ever has been. But importing the logic of the marketplace into these services offers the wrong solution to the wrong problem. Such a competitive environment might make sense in the high street. But it is no way to run vital public services. ■

## 80% of drugs treatment scheme offenders reconvicted

Eight out of 10 offenders handed one of the Government's Drug Treatment and Testing Orders (DTTOs) by the courts are reconvicted within two years, the National Audit Office (NAO) reports.

The findings, published in *The Drug Treatment and Testing Order: Early Lessons*, indicate that only 28% of the punishments terminated last year were completed in full by the offender. But auditors concluded that DTTOs can be 'a successful community sentence for some drug misusing offenders' who might otherwise have been jailed, and can help some addicts 'reduce the level and frequency of their drug misuse'.

The Government introduced DTTOs in 1998. The orders require offenders to have two drug tests a week and initially complete between 12 and 20 hours of contact a week with probation workers and counsellors. By December 2003, more than 18,400 orders had been imposed, and ministers had allocated nearly £54 million to the project across England and Wales in 2003/04.

The NAO reported that completion rates varied considerably across the country from 71% in Dorset to just 8% in Kent. The DTTOs cost between £5,200 and £7,600 an order, or between £25 and £37 a day (compared with the £100 a day it costs to keep someone in prison). The report found that the reconviction rate was lower for those who had completed their DTTOs, standing at 53%.

Sir John Bourn, Head of the National Audit Office, said: 'The order can help

some offenders turn their lives around and reduce their use of drugs.

However, the high drop-out rate and evidence from pilots of the order of a high rate of reconviction need to be addressed. The Home Office should now shift its emphasis from achieving commences towards improving the effectiveness of the order in delivering positive outcomes.'

Edward Leigh MP, Chairman of the Commons' Public Accounts Committee, argued that the real issue was the 'dreadfully low' number of offenders completing the courses. 'Much more needs to be done to ensure offenders comply with the terms of the order,' he said.

Paul Cavadino, Chief Executive of Nacro, said:

'Although the results seem disappointing, Drug Treatment and Testing Orders still have the potential to reduce the reconviction rates of many drug dependent offenders. These are often prolific offenders who carry out repeated low-level thefts to feed their drug addiction. Prison rarely breaks this habit and most prisoners with drug problems rapidly return to drug use and crime on release. It is vital to continue work on improving the effectiveness of Drug Treatment and Testing Orders. They remain the best hope for helping these offenders turn their lives away from crime and drug misuse.'

*The Drug Treatment and Testing Order: Early Lessons* is online at [www.nao.org.uk/publications/nao\\_reports/03-04/0304366.pdf](http://www.nao.org.uk/publications/nao_reports/03-04/0304366.pdf)

## Young people in reports

Two reports giving a detailed insight into the experience of young people held in Prison Service custody were published on 20 April.

*Juveniles in Custody* is published by HM Chief Inspector of Prisons (HMIP) in conjunction with the Youth Justice Board. It offers an insight into the perceptions of 15 to 18-year-olds in every Prison Service establishment, summarising their responses to confidential surveys carried out by HMIP.


*Girls in Prison* is based upon research carried out by Ofsted in conjunction with the Prisons Inspectorate. It examines the education and training of girls in prison and beyond, following some individual girls and young women from custody to release in the community.

*Juveniles in Custody* found that:

- Just over a third of young people had felt unsafe at some time, including all of the small number of 15-year-old girls.
- Girls in the smallest units were most negative about their experience.
- 16% of boys and 12% of girls were held on remand, sometimes for long periods; of the remanded boys, 13% had spent more than six months on remand.
- Young people are still held too far from home; only 30% of boys and 23% of girls said it was easy for their parents to visit.
- 83% of boys had been excluded from school and 43% of girls had been in care or foster homes.
- One in six boys and girls reported having an alcohol problem on arrival in prison, and 40% admitted to a drug problem.
- 72% of boys and 91% of girls were involved in education.
- 91% of girls and 89% of boys wanted to stop offending; they believed that finding a job was the thing most likely to prevent reoffending.
- 32% of boys and 44% of girls felt that they had done something in custody that would help find a job, but nearly a third of those about to be released still needed help with resettlement.

There were some significant differences between establishments:

- 99% of girls in one establishment said they had daily access to showers, compared to only 20% in another.



*Although the results seem disappointing, Drug Treatment and Testing Orders still have the potential to reduce the reconviction rates of many drug dependent offenders*

## custody – new

- The proportion of boys in education varied from 100% to 46%
- In some young offender institutions, 70% of boys said they had association five times a week, while in others, only 3% or 9% said that this was the case

*Juveniles in Custody* is online at [www.hmprisonservice.gov.uk/assets/documents/10000212JuvenilesinCustody.pdf](http://www.hmprisonservice.gov.uk/assets/documents/10000212JuvenilesinCustody.pdf)

The main findings of *Girls in Prison* were the following:

- The majority of young women interviewed had poor educational histories with low levels of attainment.
- All but a small minority of the surveyed group had exceptionally low levels of self-esteem (around half had experienced severe depression during sentence, of whom a significant number had a history of self-harm).
- Attendance at education during custody was highly valued by the majority of those interviewed.
- The community aspect of the Detention and Training Order did not provide sufficient structure or support to cope with personal problems or help them to progress to further education, training or employment.
- The quality of careers information, advice and guidance was extremely variable and too often inadequate.
- The availability of suitable programmes and support structures for young women on licence was inconsistent from one youth offending team area to another.

The report recommends:

- Improved sentencing arrangements to ensure that the focus on education and training is maintained and sustained in the community
- Improvements to the quality of induction, assessment and target setting.
- Better sentence review and planning meetings.
- Improvements to the co-ordination and frequency of support and guidance pre and post-release.
- Intensive guidance and support services immediately on release.
- Improvements to the quality of teaching, resources and accommodation.

*Girls in Prison* is online at [www.hmprisonservice.gov.uk/assets/documents/10000211GirlsinPrison.pdf](http://www.hmprisonservice.gov.uk/assets/documents/10000211GirlsinPrison.pdf)

## Public inquiry into the death of Joseph Scholes

The Coroner at the inquest into the death of 16-year-old Joseph Scholes announced that he would be writing to the Home Secretary to request a public inquiry into the issues that had arisen during the hearing. This is an unprecedented move following a death in custody inquest.

At Shrewsbury Magistrates' Court, the jury, after being presented with two weeks of evidence, on 30 April returned a verdict of 'accidental death in part contributed to because the risk was not properly recognised and appropriate precautions were not taken to prevent it'.

Joseph Scholes died in HMYOI Stoke Heath on 24 March 2002, when he was found hanging from a sheet attached to the bars of his cell window. His death occurred just after he turned 16, and just nine days into a two-year sentence for street robbery.

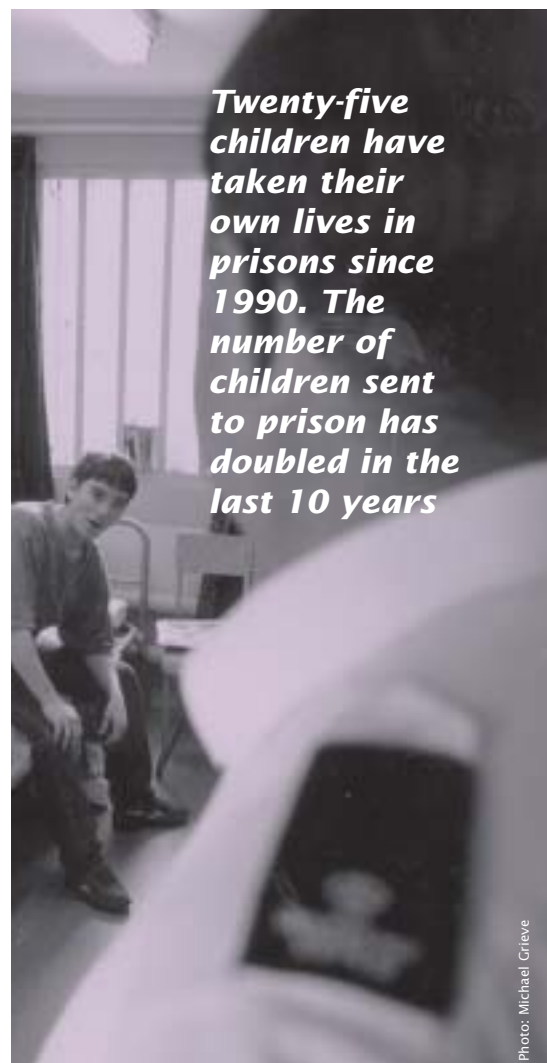
The jury heard that Joseph had a troubled background and was being looked after by Trafford Social Services Department in one of their children's homes. Senior staff at the home described him as a 'well mannered and polite' boy who presented no major management problems. A youth justice professional said that he was 'the most vulnerable young person that I have ever met ... more of a victim than an offender'. He went on to say that Joseph was 'a bright lad in considerable mental pain who, although struggling with his life, was making real efforts to improve himself'.

Despite this, and despite acknowledgement that Joseph's role in a robbery involving the theft of mobile phones from other children was peripheral, he was sentenced to the maximum available custodial penalty under a Detention and Training Order, which can be used to imprison children as young as 12 years old.

Investigations into the death conducted by the Prison Service, an expert on behalf of social services, and a consultant adolescent psychiatrist instructed by the

Coroner, were unanimous in the opinion that the prison accommodation was completely unsuitable for Joseph. This view had also been reached by a specialist child and adolescent psychiatrist who had been treating Joseph in the community, the social work staff who had looked after him in Trafford, his parents, the youth offending team who had been dealing with his case, and the crown court judge who had passed sentence.

But although such concerns were passed to the Youth Justice Board for England and Wales, the agency responsible for placing children in penal settings, they were unable or unwilling to find an alternative to a Prison Service placement. Joseph was thus placed at Stoke Heath, the



***Twenty-five children have taken their own lives in prisons since 1990. The number of children sent to prison has doubled in the last 10 years***

young offender institution based at Market Drayton.

The medical officer at Stoke Heath who gave evidence at the inquest described Joseph Scholes as being 'deeply traumatised'. He confirmed that 'the standard of care provided through Stoke Heath is less than that provided to patients receiving care through the National Health system'.

He also said: 'If I can be totally frank, the prison hospital at Stoke Heath was totally and utterly inappropriate.' He was so concerned about the standard of health care available that in 2000 he wrote personally to the then Prisons Minister, Paul Boateng MP, the then HM Chief Inspector of Prisons, Sir David Ramsbotham and the then head of the Prison Service, Martin Narey, to highlight the problem.

After the verdict, Joseph's mother Yvonne Scholes said:

'My family and I believe that had Joseph been placed in a local authority home as requested by Trafford Youth Offending Team he would still be alive today, and my surviving children and I would not be suffering the enormous anguish we feel about the manner in which Joseph's life ended.'

Deborah Coles, the Co-director of Inquest, commented:

'All the statutory agencies charged with the protection of a deeply distressed and vulnerable child failed him. The Government must as a matter of urgency set up a comprehensive public inquiry to address the key issues regarding sentencing, allocation and the treatment of children in the criminal justice system.'

Paul Cavadino, Chief Executive of Nacro, said:

'Joseph should not have been given a custodial sentence. We now need a public inquiry to examine the wider lessons of this tragic case and the profound flaws in this country's system for dealing with children in trouble. The inquiry should question our use of penal establishments for disturbed and vulnerable juveniles.'

Twenty-five children have taken their own lives in prisons since 1990. The number of children sent to prison has doubled in the last 10 years.

## Breaches lead to a rise in youth custody

Rod Morgan, the new Chair of the Youth Justice Board (YJB), has expressed his concerns about the rise in the juvenile prison population. Speaking to the annual Nacro youth crime conference in April, he said that over the past 18 months the YJB had enjoyed moderate success in reducing the detention of children and thought it was 'bucking the trend'.

But although the board expected the usual seasonal fluctuation after Christmas, the figure did not flatten out in March and was continuing to rise. 'We aim to have 90% occupancy rate in our secure places and 10% spare capacity,' he told delegates, 'but today the capacity is 99.5% full.'

Provisional information attributed the rise to an increase in the number of remand prisoners, which has gone up steeply, and to children detained for breaching orders, including anti-social behaviour orders.

Morgan warned that when the numbers rose, the pressures were greater and the risks increased. The YJB wanted to give youth offending team managers more money to create and develop alternatives to custody, but this could only be achieved if the prison population was reduced. 'We need to persuade sentencers that there are credible, humane alternatives to custody. If numbers rise, we will face further problems.'

## Home Secretary to fund specialist juvenile units

David Blunkett, the Home Secretary, has announced that £16 million of new money has been allocated to the Youth Justice Board to set up specialist units for female prisoners aged under 18. This means that juveniles who are currently held in women's prisons can be moved to discrete units by the beginning of 2006. This money is on top of £3.5 million already set aside for HMP

Downview, a new unit for girls aged under 18, which will assume responsibility for those imprisoned at HMP Holloway over the next 12 months.

There are currently 86 juvenile girls in Prison Service accommodation. The new units will ensure that they are held separately with their own facilities. Staff will be specifically trained to look after young prisoners.

Speaking at HMP Holloway, David Blunkett said:

'Moving juveniles to specialist units is a really positive step for the young inmates and the Prison Service as a whole. The staff at Holloway do a very good job in difficult circumstances with people under 18, but these prisoners have a particular vulnerability and should be cared for by specialist staff, with facilities that address their unique education, health and social needs.'

## New prisons website launched

A new Prison Service website designed to provide information about prisons to the families of prisoners and help boost staff recruitment is now online. The site includes sections on corporate information, Prison Service orders, press releases, information on individual establishments, and news and advice for prisoners' families and friends.

The prison information section provides an overview of how prisons are run and managed. This section also contains details of every establishment run by the Prison Service.

The advice and support section has been designed to answer many of the questions that friends or relatives of prisoners may have about life inside prison as well as practical advice on keeping in touch with prisoners.

The careers and jobs section incorporates a modern recruitment tool, encouraging more people to consider a career in the Prison Service. Research suggests that over a third of all Prison Service website visitors are interested in career information and the new site will

carry a database of all jobs normally advertised within the press as well as an email alert service.

The 'locate a prison' service allows people to quickly find a prison by using drop down menus and a regional map. Information for each prison can be found, including visiting times and employment opportunities.

The virtual tour section allows people to select different areas of the prison such as the visitors centre or recreation area, find out what happens there, and see what the inside of a typical prison looks like.

[www.hmprisonservice.gov.uk](http://www.hmprisonservice.gov.uk)

## Youth Justice Board appoints new chief executive

Ellie Roy had been appointed as the new Chief Executive of the Youth Justice Board, and will take up the position on 1 July 2004. Originally a social worker, she later became the Chief Probation Officer for Northamptonshire Probation Service, and then the Crime Reduction Director for London. In 2003, she moved to the Home Office to become Director of Crime Reduction.

Commenting on her appointment, the Chair of the Youth Justice Board, Rod Morgan, said: 'I am delighted to announce the appointment of Ellie Roy as the new Chief Executive of the YJB. She takes over from the founding Chief Executive, Mark Perfect, who having served for six years has now decided to move on. Ellie Roy has a strong track record in the field, having been the first Crime Reduction Director for London where she led the development of youth crime prevention strategy for the capital.'

Ellie Roy said: 'I am looking forward to working with Rod Morgan and colleagues at the YJB. My experience in probation, prisons, social services and, most recently, at the Home Office equip me to continue the groundbreaking work already achieved by the YJB. I will be building on the solid foundations in place to continue to promote the importance of preventing and reducing youth crime.'

## HMP Durham 'unfit to hold women'

A highly critical report by HM Chief Inspector of Prisons Anne Owers published on 27 May has prompted the Prison Service to announce the closure of the last female high security prison unit in the country.

In her report on an unannounced inspection conducted between 5 and 9 January 2004, Ms Owers said: 'Durham is a constricted and forbidding physical environment with little space for association or activity, and a particularly dispiriting and bleak exercise yard. This is scarcely likely to enhance the mental state of women who are feeling depressed and anxious, and who can spend many years in this environment. We believe that women in Durham can and should be accommodated in other women's prisons.'

Ms Ower's report also highlighted cases of intimidation by Durham prison staff that 'amounted to bullying'. There have been six

suicides in 18 months among its female inmate population of just over a hundred. The report recognised the work of staff working with some very damaged women, but found weaknesses in key procedures such as induction and suicide prevention.

The female centre is part of HMP Durham and has a capacity of up to 124. It holds women serving more than four years; around 40% are serving life sentences. The unit also holds Category A prisoners. These prisoners will be transferred to two new female prisons at Bronzefield and Peterborough early next year.

Durham will lose its high security status and be re-rolled as a community prison. Prison Service Deputy Director General Peter Atherton said: 'The decision to re-role Durham wasn't taken lightly and we intend to manage the transition very carefully over the coming months.'

## Home Secretary opens employment centre

On 7 May, David Blunkett, the Home Secretary, opened Nacro's refurbished education and employment centre in Sheffield.

The centre offers a variety of projects aimed at 14 to 24-year-olds, including: entry to employment (e2e) (a vocational training and work placement programme), the Bridge project (a programme aimed at teenagers who have been excluded or are truanting from school), and the Progress 2 Work link-up scheme (a resettlement advice and guidance project for ex-offenders).

Home Secretary David Blunkett said:

'This Government is committed to cutting crime and preventing reoffending. We are determined that offenders should be punished. But it is essential that we also break the patterns of crime that lead to repeated reoffending. Nacro is one of our key partners in this important task, and is carrying out some sterling work on resettling prisoners and working with young people and families.'

Paul Cavadino, Chief Executive of Nacro, said:

'This new centre provides us with larger and much improved premises to deliver our education and training programmes in Sheffield. We are delighted the Government acknowledges the importance of Nacro's work in this area.'



*Left: Rt Hon David Blunkett MP, Home Secretary. Right: Paul Goggins MP, Minister for Correctional Services and Reducing Reoffending*

Photo: Mark Harvey, ID8, Sheffield

# Does youth justice lead the way?

**David Smith**, Professor of Criminology at Lancaster University, suggests that developments in the youth justice field may show NOMS the way forward

There is no sign of any reduction in the hyperactivity that has marked New Labour's policies in the field of criminal justice. The ink had scarcely dried on the *Criminal Justice Act 2003*, with its radical restructuring of community penalties, when the Government published the Carter report and its own response. This latter showed that it accepted the main thrust of the report, and in particular agreed with the proposal to merge the prison and probation services in a new National Offender Management Service (NOMS). This will come into being in the summer of this year, an ambitious timetable that has provoked criticism from parliamentarians and the probation officers' union, Napo.

A prison-probation merger into some form of correctional service is not an idea that has come out of the blue. It was explored, for example, in a Home Office review back in 1998. Yet the criticisms emanating from Napo and its supporters have focused on the speed of the introduction of NOMS rather than the substance of the proposal. Thus Harry Fletcher, Assistant General Secretary at Napo, argues that there has been insufficient parliamentary scrutiny, that a 'business case' for the merger has not been made, and that it is unclear how staff will be affected. He also points out that the probation service was radically reorganised just three years ago, in April 2001. It is easy to sympathise with these arguments, and especially with the feeling that the probation service has been subjected to more demands for change than can possibly be good for it. But the possible merits of NOMS have tended to be forgotten amid the welter of complaints about the speed of its implementation.

In many respects the tone and content of the Carter report are pretty much what one would expect, given New Labour's previous interventions in criminal justice. In the name of greater efficiency and standardisation, it calls for better inter-agency co-operation and greater uniformity in sentencing (while noting regional disparities in the use of custody, it does not provide a means of deciding who has got it right, however). It wants 'tough, credible and effective sentences that are properly enforced', and proclaims a need for 'demanding community sentences for medium risk offenders', in contrast with the present situation, in

which 'many community sentences are ineffective'. It wants greater 'contestability' – in other words, competition – in the provision not only of custodial penalties (the emergence of a private sector in prisons being seen as a major factor in driving up standards in the public sector) but also of community penalties. It is not surprising, then, that Napo should react with weary familiarity. This is what the probation service has been hearing for at least a decade.

But there are other aspects of the Carter report that, while hardly novel, are perhaps more surprising from this quarter. For one thing, Carter is sceptical about the view that much greater public protection can be achieved through a substantial further increase in the prison population. For another, he places particular emphasis on better-focused community punishments, and the revival of fines for minor offences (perhaps taking on board Rod Morgan's criticisms, when he was Chief Inspector of Probation, of the 'down-tariffing' of community penalties). He is also interested in the possibility of introducing a greater measure of diversion from prosecution into the adult system. Here, he makes comparative reference to advances in the youth justice field, and in particular, to the achievements of the Youth Justice Board (YJB).

Youth justice practice has influenced adult criminal justice policy before now. In the 1980s, the probation service was exhorted to follow the example of juvenile justice practitioners and toughen up its supervision of offenders (Blagg and Smith). Once again, youth justice may be seen to show the way, as the Carter report indicates. Thus, Carter points out that while judges and magistrates are not generally given feedback on the outcomes of the sentences they pass, the YJB has 'led the way in the provision of information to sentencers'. The YJB is also praised for having a clear public objective – namely, responsibility for preventing offending by children and young people, in contrast with the adult system where no agency finally owns that responsibility. The work of youth offending teams (Yots) in developing diversion through final warnings with interventions is presented as a model for diversion in the adult system (through the conditional cautions included in the *Criminal Justice Act 2003*) with stress on reparation by offenders to persons affected

by their crime. As a consequence of these perceived successes, Carter proposes – and the Home Secretary has accepted – that the YJB should remain independent of NOMS, although its funding will come via the NOMS Chief Executive.

The YJB itself has never been shy about proclaiming its achievements; indeed, a notable feature of recent debates about youth justice has been the gap between its claims of success, and the almost universally sceptical (or worse) perception among academic commentators of it and the changes it has brokered. In the field of law and order almost all the news tends to be bad: even governments cautiously argue that much remains to be done despite improvements. The YJB's optimism is in marked contrast to the usual gloom, and in 2004 it received authoritative support from the National Audit Office (NAO) and the Audit Commission.

The NAO report concentrates on the YJB's work in developing intensive community programmes and in commissioning custodial provision. Regarding its community work, the Intensive Supervision and Surveillance Programme was seen as particularly promising, and the development of Asset was said to have improved the quality of initial assessments of need. Yet the report also recommends a number of improvements in the YJB's work with custodial establishments, where it argues for better forecasting of need and clearer and more consistent expectations of what rehabilitative programmes will be provided. The NAO recommendations are consistent with Carter's stress on closer links and better communication between community-based and custodial services.

The Audit Commission report is still more positive. Its findings – compared with those of its more critical 1996 report, *Misspent Youth* – will doubtless gladden New Labour hearts. Eight years on from the earlier report, young people who offend are more likely to receive some kind of intervention, the time from arrest to sentence has on average been halved, magistrates are more likely to be satisfied with the service they receive from Yots, and a higher proportion of young offenders are making amends for their misdeeds. Proposals for further improvement included more diversion, a reduced use of custodial remands, and an increased use of Intensive Supervision and Surveillance Programmes as a means of achieving the YJB's aim of reducing the youth custodial population.

It is impossible to say at this stage how far the YJB can or should provide a model for the work of NOMS, as the Carter report intermittently suggests. The YJB's agenda includes closer working relationships between community-based and custodial staff. But the inter-agency links that are perhaps the most visible achievements of the Yots are not with the providers of custodial regimes but with the community-based workers in health and education who respond to the

needs of young people who offend. The Audit Commission report recommends further development of this work as well as renewed efforts to reduce the custodial population; the NAO report also stresses the need to reintegrate young offenders into mainstream provision and full participation in social and economic life. The YJB itself has been critical of much of the available custodial provision available and is committed to reducing reliance on it. There is an anti-custodial theme – if often muted – in the YJB's approach, and in the advice given to it by the NAO and the Audit Commission, which is absent from Carter's agenda.

If we assume that a reduced prison population is not a likely aspiration for a Home Secretary in the near future, what elements of youth justice practice might usefully be heeded by NOMS? The revival of diversion from prosecution as an explicit aim is one; closer liaison between courts and 'offender managers', as Carter puts it, is another. A serious effort to develop restorative approaches might be a third. The YJB is not the unqualified success that its own propaganda suggests, not the repressive disaster portrayed in much critical commentary. But there is enough substance in the development of youth justice since 1998 for NOMS to learn from, just as the probation service learned from youth justice in the 1980s.

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# Lessons from abroad

**Professor Andrew Coyle**, Director of the International Centre for Prison Studies at King's College London, looks at the successes and failures of integrated offender management in Finland, Canada and New Zealand

The Prison Service in its present form in England and Wales was set up by legislation passed in 1877. The relevant legislation for the probation service was enacted in 1907. The services are part of a continuum that makes up the criminal justice system. Their main task is to serve the courts by implementing the sentences they pass.

As we move towards legislation that will abolish these two venerable organisations and give birth to a new one, the new National Offender Management Service (NOMS), which will serve the same function, it is worth taking account of experience in jurisdictions in other countries.

The International Centre for Prison Studies (ICPS) has looked closely at organisational structures for implementing court sentences in countries abroad. In some, there are separate organisations with responsibility for implementing prison sentences and non-custodial sentences. In others this is done through a single organisation, with a variety of titles such as the Prison and Probation Service, the Department of Corrections or the Department for the Execution of Punishment.

In the course of its research ICPS has found no evidence that one or other arrangement for the delivery of criminal justice has any direct effect on reoffending rates, or indeed on crime rates. There is strong evidence that a clear policy direction involving all the agencies concerned, allied to effective local delivery of services, can lead to a reduction in the use of imprisonment, without any related increase in crime or loss of public confidence in the criminal justice system. At the same time, there is evidence in some cases that if the arrangements do not have a rational base, the creation of a single structure for implementing custodial and community penalties can be followed by a significant increase in the rate of imprisonment without any related reduction in recidivism. These conclusions can be demonstrated by three case studies.

## Finland

In the 1950s the rate of imprisonment in Finland was one of the highest in Western Europe, at 187 per 100,000 people, four times higher than its Nordic neighbours. Over succeeding decades its rate of imprisonment fell significantly: to 154 in 1960, 113 in 1970, 106 in 1980, 69 in 1990 and 55 in 2000. These decreases were the result of deliberate, long-term and systematic policy choices.<sup>1</sup> Over this period, there was clear political will and consensus to bring down the rate of imprisonment, linked to a belief that this could be done without threatening public safety.<sup>2</sup>

This consensus included key politicians, government officials and academics. The reforms were drafted and driven by a relatively small group of experts whose view of criminal policy was broadly similar. The judiciary was closely involved in developing these changes, and in a number of respects sentencing practice changed in advance of new legislation. It should be noted that crime control has never been a party political issue in election campaigns in Finland. Also, the role of the media has been of crucial importance, with a general absence of populist reporting on criminal justice matters.

Sentencing options in Finland are remarkably simple, with two main options: fine and imprisonment.<sup>3</sup> All prison sentences of up to two years can be imposed conditionally. Most of those up to eight months are converted into community service of between 20 and 200 hours. In other cases of conditional imprisonment, the offender in practice serves a period of probation of between one and three years. More than 50% of all prison sentences in Finland are conditional.

Until August 2001, the responsibility for community sanctions lay with the Probation Association, an autonomous voluntary organisation whose operation was overseen by the Ministry of Justice. Since then, responsibility for the enforcement of all community sanctions has been transferred to a new probation service.<sup>4</sup> Service delivery remains the same as before. The supervision of individual offenders is carried out mainly by volunteers working under the direction of probation staff. Almost all prisons are small and locally based.<sup>5</sup> At the end of 2003 a total of 3,463 prisoners were held in 17 closed prisons and 18 open prisons. The average length of sentence served in prison was 7.4 months.

In August 2001, a Criminal Sanctions Agency was set up to oversee the work of the prison service and the probation service.

There are a number of important features about the arrangements. The criminal justice system is not seen as a major source of social control, and it has a narrow, albeit important, role to play in contributing to public security. Court sentences, to be served either in custody or in the community, are regarded primarily as punishment for an offence that has been committed. This is confirmed by the name of the Criminal Sanctions Agency.

In respect of reducing recidivism, the task of the Criminal Sanctions Agency is 'to endeavour to break the cycle of social exclusion that reproduces crime'. It carries out this task by seeking to link offenders into local community services and does not attempt to replicate these services within the Criminal Sanctions Agency. This means that as far as is possible prisoners are kept close to their home areas and that the prison and probation services work closely to ensure that support provided in the prison setting is continued in the community. This was the main reason for creating the single agency, which is responsible for operational policy and for ensuring consistency of standards in delivery. Actual delivery is carried out at a local level, where the prison service and the probation service are separate entities. The Criminal Sanctions Agency is responsible for ensuring that offenders are plugged into resources provided by local authorities that should enable them to live law-abiding lives, such as accommodation, employment, skills training, and support with personal problems such as alcohol and drug abuse.

## New Zealand

In New Zealand the Department of Corrections was established in 1995 to manage custodial and non-custodial sentences passed by the courts. In contrast to Finland, where the purpose of setting up the single Criminal Sanctions Agency was to increase the possibility of linking offenders into local community services, the main purpose of setting up the single Department of Corrections in New Zealand was to introduce greater efficiency into the 'core business' of managing offenders.<sup>6</sup> The head of the Public Prisons Service (there is also one privately managed prison in New Zealand) and the head of Probation and Offender Services report to the chief executive of the Department. This is broadly similar to the arrangements proposed for England and Wales under NOMS.

The work of the department follows four strategic themes. These are:

- ensuring effective offender management
- improving responsiveness to Maori needs
- reducing reoffending by providing programmes for rehabilitation and successful reintegration of offenders
- enhancing capability and capacity

The department explains that in order to deliver on

the first three themes it needs to have 'both greater capability (people and skills) and increased capacity (technology and infrastructure)'. In other words, it needs to expand 'the business'. And expand it has. At the time the Department was established, the rate of imprisonment in New Zealand was 129 per 100,000. By 1998 this had risen to 146 and at the end of March 2004 it stood at 161 (6,403 prisoners). During the last five years the number of prisoners has increased by 5.2% per year, while the number of offenders on community probation has declined by 2.9% per year.<sup>7</sup> The Department predicts that over the next 10 years the number of prisoners will increase by 3.2% per year, while the number of offenders on probation will grow by 1% a year. The increase in the number of prisoners is predicted to be greatest among Maoris and Pacific island people, groups already greatly over-represented in the prison system.

The official website of the New Zealand government attributes the increase in the prison population to a number of factors.<sup>8</sup> It indicates that:

- courts are now passing longer sentences as a result of the *Sentencing Act 2002*
- prisoners are being given shorter periods of early release as a result of the *Parole Act 2002*
- fewer people charged with offences are being granted bail, and defendants are remanded in custody for longer, as a result of the *Bail Act 2000*
- crime resolution rates are improving

The same website also lists factors that are not contributing to the increase in prison numbers:

- there has been no increase in the crime rate
- there has been little change in the average seriousness of offences resulting in conviction

On 9 March 2004, the Minister of Justice, Phil Goff, spoke about the fact that the prison population was rising as a result of tougher legislation and government initiatives.<sup>9</sup> He explained that these changes had been introduced as a result of public consultation and not in response to any increase in crime:

*'The public referendum in 1999 showed New Zealanders wanted tougher measures taken against criminals, and the government has acted on that. These figures are the proof. Tougher sentencing comes at a high cost. Four new prisons under construction or planned will cost over \$600 million in capital expenditure, with operating costs of over \$120 million a year.'*

*It's money ideally we'd much rather spend on areas like health and education. However, in the short term tougher sentencing is necessary to deal with serious recidivist offenders and to keep the community safe. Over the longer term, it will be measures to address the causes of crime, rather than simply prisons, which will bring down crime.'*

In simple terms, he seems to be saying, 'We know this doesn't work but we're going to do it anyway, despite the cost.'

## Canada

The organisational structure for dealing with offenders in Canada is interesting and quite different from what is proposed in NOMS. The most widely known part of the system is the Canadian Correctional Service, which is responsible for convicted adult prisoners serving two years or more, both while they are in prison and during any period of conditional release. Remand prisoners, all adult prisoners serving less than two years, all young offenders and all offenders on probation are the responsibility of the various provincial and territorial governments.

Canada provides an example of what can be changed when there is strong political will. After substantial rises in the rate of imprisonment between 1991 and 1995, the federal government launched a strategy to combat prison population growth. It launched a programme of public education about the need to restrict the use of prison to those who have committed serious crimes and to use community alternatives for other offenders, based on the very obvious dangers of the policies followed by its large neighbour to the south. The federal government and the 10 provincial and three territorial governments collaborated to implement 11 recommendations to reduce the use of imprisonment.<sup>10</sup> In 1996, a reform of the law brought in measures requiring any judge before imposing a custodial sentence to specify from a prescribed list what objectives such a sentence would achieve. A new conditional sentence was introduced as an alternative to prison for less serious

offenders.<sup>11</sup> As a result of these initiatives, the imprisonment rate in Canada has been steadily falling in recent years, from 131 per 100,000 in 1997 to 116 per 100,000 in 2001. This is in stark contrast to the United States, its nearest neighbour, which, at over 700 per 100,000, has the highest rate of imprisonment in the world.

## Lessons for England and Wales

There are three lessons to be learned from these examples. The first is that the way the system is organised is a means to an end and not an end in itself. The second is that it is important to keep people in custody near to their home communities so that they can connect with agencies that can help them to integrate into society after release. The third and most important is to acknowledge that the main task of the prison and probation services is to be the servant of the court. Their primary role is to implement the sentence of the court and they should not seek to develop secondary or supplementary roles relating to wider political or social objectives.

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# A question of trust

**Alison Liebling**, Director of the Prisons Research Centre at the University of Cambridge, and co-author of *Prisons and their Moral Performance*,<sup>1</sup> warns against the abandonment of values in the quest for managerial perfection

In a much-cited article in the *British Journal of Criminology* in 1989, Roy King and Kathleen McDermott suggested that British prisons suffered from a crisis of staff management rather than a crisis of overcrowding, sanitation and resources.<sup>2</sup> Regimes were worse in 1985-87 than they had been in 1970-72 in terms of numbers of prisoners attending work, education and training, and the time they spent out of their cells. This was despite declared aims and a determined effort to introduce the values of economy, efficiency and effectiveness, and management accountability, into Prison Service activities. It was despite pre-‘Fresh Start’ increases in staffing levels, and improvements to staff to prisoner ratios.

The article’s findings and implications were discussed at length at seminars and high-profile meetings. Some ascribed the deterioration in regimes to troubles in the dispersal estate and an increasing emphasis on security and control. Others pointed to the increasing intransigence of the Prison Officers’ Association, and

transparent, accountable, efficient and effective way of managing prisons. Since 1992, competition from the private sector has been used, in tandem more recently with performance improvement planning and performance testing, to transform the way that prison business is conducted. This new paradigm (competition and close performance management) has been associated with calls for increased levels of accountability for public spending, and a drive for continuous improvement in public services.

Many critics argue that this development has threatened some of the values they feel matter in organisational life. A new key value is the efficient use of public money – a defensible value in itself. Yet in pursuit of it, the Government has made more prison more affordable by lowering the cost of prison places, and has encouraged greater use of it. We have witnessed a revolution that has transformed the behaviour of criminal justice organisations in ways that make many of us feel uncomfortable.

*‘We need a sea change for survival. There’s no alternative’*

*Prison governor*

its influence over what happened in prisons.

It was this failure to deliver acceptable standards of daily provision in most prisons that led Roy King and Rod Morgan to favour the potentially achievable ‘humane containment’ goal for the Prison Service over the hopelessly unrealistic ‘good and useful life’ statutory formulation of the Prison Service’s aims.<sup>3</sup> Surely humane warehouses would be preferable to *inhumane* warehouses? What use were good intentions if they were devoid of meaning and achievable objectives? Industrial relations disputes, poor systems of managerial control, an increasing prison population and deteriorating prison conditions made for impoverished regimes and a lack of justice.

Much of the recent history of prison management has been shaped by the attempt to move away from this state of affairs and towards a new, apparently more

This public sector management transformation has challenged traditional civil service values, and replaced *theta*-type values (such as fairness and due process) by *sigma*-type values (such as efficiency).<sup>4</sup> The management problem was that *theta*-type values were not actually delivered in inefficiently run prisons, which often had well meaning governors but no structures to support the delivery of a specified regime. As one governor has said, there is a considerable difference between ‘caring for prisoners’ and ‘delivering care to prisoners’.

As a result, these desirable values, on their own, became associated with sluggishness, delay, carelessness, weak financial accountability and complacency. There was, there is no doubt, a pressing need for a management revolution, but the systems that have replaced it bring different problems in their wake. Critics accuse the new performance

## FEATURE A question of trust

management framework of encouraging a preoccupation with window dressing or impression management, and the production of feel-good documents, at the expense of important but less quantifiable aspects of an organisation's quality such as fairness and respect.

Effective management requires the clarification of key objectives and the use of measures to evaluate progress towards their achievement. But there is a powerful feeling, expressed among practitioners, critics and often managers themselves, that something important is missing from this framework. This missing element, we have found, is usually bound up with values, especially the values of trust and respect. These features of a prison's working environment may in turn (counter-intuitively, in an age of robust management) be linked to staff motivation and compliance with the increasing demands made upon them.<sup>5</sup>

In our study of the quality of life of staff and prisoners in five prisons, we suggest that trust may be undermined by some of these modern management strategies even though it may be an important component (alongside principles and structures) of organisational life.<sup>6</sup> As John Braithwaite and colleagues have demonstrated, for example,

quality (rather than the 'performance') of either public or private sector prisons is as yet unclear.

A major criticism of the concept of 'performance' is that it is a *relative* concept – that is, organisations are compared with each other in league tables, or with themselves over time, rather than against any reasoned or objective standard. Nevertheless, the idea is pervasive. The notion of contestability in the Carter report, *Managing Offenders, Reducing Crime*, is the logical outcome of this increasing emphasis on concepts of performance improvement and competition. The Government's response to the report, *Reducing Crime – Changing Lives*, indicated that it is interested in purchasing 'the most cost effective custodial and community sentences no matter who delivers them'.<sup>8</sup> It claimed that the Prison Service's use of the private sector has been 'extremely positive', and that the cut and thrust of competition has led to dramatic improvements:

*'So effective has contestability been that the public sector have won two prisons contracts back from private sector operators... responding to the threat of the private sector, Dartmoor and Liverpool prisons have transformed their performance. We intend therefore to encourage the private and not-for-profit sectors to compete*

*There is a considerable difference between 'caring for prisoners' and 'delivering care to prisoners'* Prison governor

stigmatising forms of regulation increase non-compliance and non-engagement, whereas recognising and sanctioning non-compliance within a 'reintegrative' and supportive framework ('responsive regulation') improves compliance.<sup>7</sup>

Robust management may, then, have damaging long-term consequences. Trust may be undermined by blunt measurement processes, and by the labelling of an institution as 'failing' despite its pockets of best practice and its committed individual staff. Trust will certainly be undermined by the market testing of *high* performing establishments, as proposed. The late modern penal-organisational climate may emphasise systems, aggregates and sanctions over individual moral agents and rewards, with unintended consequences for the emotional climate of individual establishments.

The performance management agenda in criminal justice has been privileged in the sense that its impact on the effectiveness of organisations is assumed to be positive. Yet some critics argue that this is more a question of faith than evidence; while others suggest that evidence of improvement is, overall, favourable but patchy. The measurement tools are far from infallible, and the evidence on which we can judge the

*to manage more prisons and private and voluntary sector organisations to compete to manage offenders in the community.'*

These developments are understandable given that the Government is in favour of private sector competition, and seemingly intractable management problems have at last shown signs that they can be resolved. But where is the evidence, say, for HMP Liverpool's transformation? And what kind of independent evaluations of private sector performance have been made, and what do they tell us? (A National Audit Office report revealed, for example, that there was considerable variation between sectors: the best private prisons were outperforming most of the public sector prisons included in the study, but the worst private prison was considerably worse than most of the poorly performing public sector prisons in the study.<sup>9</sup>)

Another important question is this: what are the consequences of these changes in management for those who work in criminal justice? When civil servants were asked why they worked in the public sector, one reason they gave was that they liked the way they were treated. Prison staff, like most working people, value high expectations, clear structures and

systems, reliable procedures and decent interpersonal treatment. Yet this working environment is difficult to achieve, especially in poorly performing prisons that face the threat of market testing, where a climate of distrust, anxieties about employment, and nervousness about change is inevitable.

Not only that, but most prisons experience tensions between the desire to empower staff and the need to increase accountability, and between different targets – for example, between the need for tight security and the need to prepare inmates for release. Other work-related issues, such as the decreasing promotion opportunities caused by flattened management structures, cause frustration. External pressures on prison life, such as increases in the size of the prison population, sometimes make the concept of performance management and effectiveness seem rather remote. And the apparent rationalism of modern management tends to be undermined by ‘maverick managerialism’: rapid, unprioritised and sometimes conflicting policy directives that are difficult to implement.<sup>10</sup>

All these problems manifest themselves particularly acutely in the public sector organisation because it is continually in the public eye: the Prison Service is of major concern to ministers, and serves multiple

managerialism, the concept of ‘contestability’ (essentially, market testing) and the moral identity of the person. Information technology, competition, and the substitution of the magical word ‘management’ for the unfashionable ‘administration’ do not resolve the dilemmas of competing priorities in organisational management.<sup>14</sup> The shortening of institutional memories brought about by future-oriented ‘can-do’ management is one of many trade-offs settled in one direction, without sufficient regard for what has been lost. The corporate memory, once safeguarded by longstanding advisers who offered wise words to whatever Government was in power in their day, has been wiped clean in the current forward-looking, future-oriented Prison Service.

This account is by no means intended to sound nostalgic, nor is it an argument against management reform. We simply contend that this is another revolution in prison affairs, and sound a warning note, especially to policy makers and practitioners, that the evidence base is still patchy, and that any focus on outcomes alone may be misguided.

When conducting our study in prisons, we watched and conversed with staff and governors, and found ourselves supporting their need for both high standards and an emotionally (and morally) intelligent

## *‘We’re not a service any more; we’re a business*

*Prison officer*

symbolic, expressive and political functions.<sup>11</sup> How these tensions are approached, resolved or avoided has a considerable impact on levels of trust between staff and senior management, and between governors and either Prison Service headquarters or the new National Offender Management Service.

There are other values and tensions to consider. As Christopher Pollitt and Geert Bouckaert argue in their analysis of civil service public sector reform, ‘administrative “principles” often come in matching pairs, with advantages and disadvantages trading off as one moves from one polar principle to its opposite’.<sup>12</sup> The traditional ethos of professionalism has its weaknesses, and managerialism may have a role to play in modern, accountable organisations, and in making certain values real.<sup>13</sup> If properly limited and used as a means rather than an end in itself, managerialism can assist in the delivery of less damaging penal regimes. For example, the behaviour of many prison officers – those who influence the quality of life experienced by prisoners the most – has to change if prisons are to modernise, and managers need the tools to make that happen. The private sector has found some techniques for achieving this, but have they found the right techniques?

Nonetheless, there may be some conflicts between

organisation. We also observed that the prisoners’ quality of life seems to be significantly related to the way staff, prisoners and managers think and feel about each other. The thinking behind the language of ‘providers of punishment services’ takes us in a very peculiar direction. Thorough, independent evaluation, open reflection, and careful consideration of some of the dangers ahead, are a must.

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# Contestability will bring market discipline

**John Williams**, Director of Public Services at the Confederation of British Industry, suggests that competition – and the threat of it – raises standards and brings value for money

**B**usiness is sometimes perceived as being uninterested in public service reform. Yet business should and does care about public services, and is a triple stakeholder in their reform.

First, as a taxpayer, business has contributed an additional £54 billion towards the increase in public spending since 1997 alone. But as a taxpayer it is not getting value for money from the criminal justice system: it costs more than £11 billion annually, yet 58% of inmates are reconvicted – hardly a runaway success.

Second, business is dependent on the supply of trained employees. The success of the UK economy of late, with employment at its highest and unemployment at its lowest since 1975, has created a tight labour market, placing a premium on getting access to all potential recruits, including ex-offenders. With around one in two offenders having poor basic skills, meaning that they cannot read, write or work with numbers to the standards expected of an 11-year-old, business are struggling to find the right employees. This is why a number of the CBI's members are working in this area, including National Grid Transco, which provides training in prisons linked to a job post-release, thereby increasing the motivation amongst inmates to complete the training.

Third, the private sector is increasingly involved in the provision of public services. The government spends approximately £120 billion a year on products and services from the private and voluntary sectors. The CBI believes that the discipline and value of competition and contracting should be a core part of the public service reform programme in the future. The development of competitive supply markets and increased 'contestability', along with sustained investment and effective regulation and target setting, should drive public service performance improvement.

The major question facing the public sector generally, and the prison and probation services in particular, is not how it mimics the functions, structures and behaviours of a market, but rather how it harnesses the potential for competitive pressures to drive up standards and efficiency.

A traditional view of effective competition within a free market is that the more firms you have competing within a market, the more competitive a market will be. Yet in the delivery of a contracted public service, it is inevitable that you will only have one supplier at the point of delivery, whether that supplier is from the

private, public or voluntary sector. Therefore, monopoly provision of some services at the point of delivery is to be encouraged and needless fragmentation avoided.

Linked to that is the frequency with which competitive behaviours occurs within a contracted public sector market. A traditional view is that you must have relentless competitive pressures to create effective competitive markets. Yet while competition in a contracted public sector market is generated during the bidding process, it is often followed by a long period of co-operation between the successful bidder, the client and other providers within the market, its duration depending upon the contract length.

The point is that wholesale importation of private sector free market ideals into the public sector is not always appropriate. Part of the challenge for the public sector is to acquire and deploy new skills that use quasi-market mechanisms for the achievement of public service outcomes.

## Private, public involvement

The story of private sector involvement in public services to date has, overall, resulted in higher quality, lower cost provision: in other words, better value for money. If we understand the circumstances in which this occurs, we can apply them to the National Offender Management Service (NOMS) and throughout the public sector.

The private sector has been operating prisons since 1992, beginning with the management of Wolds Prison near Hull. In 1997, the first Private Finance Initiative (PFI) prisons opened – designed, built and now operated by private contractors. The successful performance of these prisons encouraged the government to continue with and extend the policy. There are now 10 prisons across the UK run by the private sector, with a further two in the pipeline. The publication of the Home Office report, *Reducing Crime – Changing Lives*, indicates that the Government has now committed itself to increased 'contestability' throughout the wider market of prison and probation services encompassed in NOMS.

Contestability is not simply opening up a service to market forces. Rather, it is a process through which the benefits of competition are enjoyed, even though every service does not need to be open to competition. Briefly, this is because you do not need competition to create a competitive market, but you do need the threat of it. To draw a parallel, many people exercise not

because they are overweight or unfit, but because they do not wish to be in the future. And a retailer might reduce their prices because they know someone else could easily open up a rival shop next door.

The CBI recently published a review of the benefits of competition and contestability in the custodial services market. This examined all the available third-party data available from sources such as the National Audit Office (NAO) and the Prison Service Inspectorate to try and assess performance over the last decade or so. What the introduction of contestability clearly demonstrates is that the benefits of competition in the Prison Service have extended far beyond those prisons managed by the private sector. The CBI estimates that competition in the prison market is currently saving the taxpayer £40-60 million annually, or approximately £220 million over the past decade.

This has occurred for several reasons. In some cases, the public sector had been asked to compete directly against the private sector for the management of a contract. Sometimes the private sector won the contract, sometimes the public sector won it. In other cases, public sector prisons feared the consequences of poor performance and subsequently improved in order to avoid being market tested or taken over by the private sector. Therefore, in many cases, competition – or the threat of it – has brought benefits to custodial services such as value for money, enhanced quality of service provision and greater accountability for performance.

There are broader benefits beyond just costs. Not only have services been provided, they have also been provided to a higher standard. Better human rights are seen in private sector prisons. The Government's 'decency' agenda has taken huge strides forward in recent years, and although these are only small changes, they can make a huge difference to how inmates perceive themselves. These include being able to address officers by name and being offered food options suitable to ethnic identity. There have also been innovations in physical structures, such as safer cell design to prevent self-harm and wider corridors to enable more efficient movement of prisoners. In addition, more time is spent in purposeful activity, and more out-of-cell time is common.

But these improvements have not occurred because of altruism on the part of the private companies. It is simply a question of reaping the benefits of the process of competition. The demand for higher quality services has meant tighter performance management regimes, which motivate private sector contractors to work towards the creation of the most manageable prison environment. On the whole, this means treating people with respect and giving them responsibility. Thus a virtuous circle of public service goals and the use of the profit motive is created.

What does this mean for NOMS? In order to secure the best possible outcome for the public, a contestable market should be guided by the following five principles.

## Five principles of contestability

First, there must be a competitive neutral bidding market. There is already concern that future public sector bids will have inherent competitive advantages reflecting their incumbent position within the market. This could give them access to economies of scale unavailable to competitors, enable them to mask fixed overhead costs for bids or, critically, have no requirement to provide a return on capital. There must be a level playing field if the market is to expand and be competitive. It is of paramount importance that decisions are made on the basis of who provides best value, and are not influenced by misconceived and politically driven notions of whether it is acceptable for the private sector to provide a service.

Second, contracting should drive innovation and improved service quality, and not be based on price alone. In a market where competitive advantage is driven exclusively by price, innovation in product design and service quality will always be distant runners-up to the drive to slash costs. This is the type of market that respectable and successful companies avoid at all costs because it can never be sustainable.

Third, appropriate scale must be secured. Although the absence of aggregated procurements, either based on geography or on function, is not necessarily a deterrent to potential private sector bidders in this market, there is great interest in how this could be developed to secure maximum levels of efficiency and effectiveness. Whilst this is particularly the case where the deployment of capital is involved, it can also be important in taking advantage of administrative and management economies of scale.

Fourth, there should be a clear demarcation between provider and purchaser, and transparency in bid evaluation. The private sector will only have confidence in the purchaser's ability to be neutral in their evaluation of bids or their intentions about the structure of the market if such a demarcation exists.

Finally, management must have the freedom to deliver changes to working practices. One reason the private sector was able to reform the working culture within the Prison Service was that they had the freedom with new recruits to effect changes they believed were necessary for improvement.

What will persuade a chief executive that an integrated offender management service is worth investing in? If the public sector, as both client and market maker, wishes to attract quality entrants into the market, it must deliver on its pledge to create and maintain a contestable market – after all, the threat of contestability is not the same as the delivery of contestability. It must also ensure that companies are able to generate a reasonable and sustainable return for the value they deliver. If it can get the principles and framework right, it can create a world class public service – one that business, as a triple stakeholder, will be proud of. ■

# Nomsense

**Judy McKnight**, General Secretary of Napo, the Trade Union and Professional Association for Family Court and Probation Staff, explains why her organisation opposes NOMS

In January, David Blunkett stood up in the House of Commons and announced plans to establish the National Offender Management Service, NOMS, to replace the current prison and probation services, with effect from 1 June. The plans were set out in Patrick Carter's report, *Managing Offenders, Reducing Crime*. There had been no consultation with Parliament or with any key stakeholders in the criminal justice system prior to this announcement.

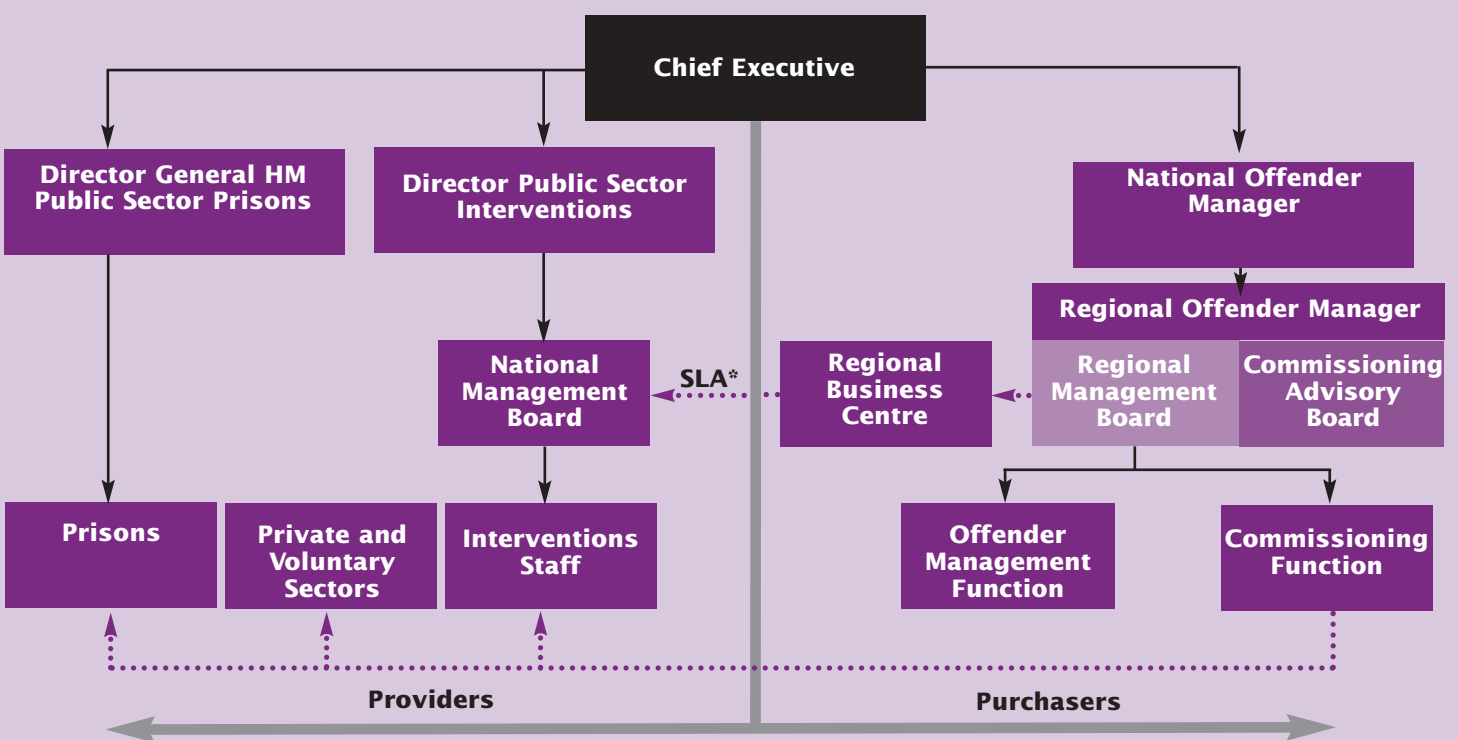
As I write, some three weeks before NOMS is due to come into being, I wish I had more information about how NOMS will work. Unfortunately, little additional information is available. Over 150 parliamentary questions have been tabled trying to elicit information about the proposal, but few have so far received anything approaching a substantive answer.

This much we do know: we have received confirmation of the proposed outline structure of NOMS (see below).

As can be seen from the diagram, NOMS is not

about merging the prison and probation services; nor is it about creating a new streamlined single employing body, with clear governance, to oversee the management of offenders. NOMS is actually about increasing the number of employers involved in offender management. It is about pitting these employers – public, private and voluntary sector – against each other, in a competitive framework dubbed contestability, in order to drive down costs.

Under current proposals, the National Probation Service would get split into two parts. The larger of the two (approximately 70%) would be placed in the National Offender Management structure, with staff to be employed by 10 NOMS regional boards. In the purchaser-provider split, this part would be the commissioning arm, and would also undertake risk assessments, work with the courts, and maintain overall oversight of the offender management process throughout the whole sentence. We were told that this part would be the closest approximation to the probation service as we currently know it.



\* Service level agreement

The smaller part, approximately 30% of the current service, would move to 'Public Sector Interventions' under a separate employer, initially a national employer under the Director of Public Sector Interventions. It would cover work on programmes, including accredited and community programmes. However, it would cease to be part of the wider service, with all the negative implications for training and career development. Furthermore, those transferred to that part would in 2005 or early 2006 face the threat to their jobs, pay and conditions that comes with contestability, or market testing. Thereafter, they would not work in co-operation with colleagues in the private and voluntary sector, but in competition with them, as well as competing with colleagues in the Prison Service.

Why is the Government rushing through such bizarre arrangements at breakneck speed and with no consultation? First, it purports to be making the changes in order to increase joined-up service between prisons and probation; second, to reduce the prison population. Yet the Government has yet to present a persuasive argument for either contention. How, for example, does the introduction of the internal and the external market into the work of prisons and probation promote joined-up service? It seems that prisons and probation will become less joined-up because they will be compelled to compete for the same work.

Likewise, the Government has failed to convincingly explain how the establishment of NOMS will reduce the size of the prison population, much as we would all welcome positive action on this issue. In reality, the size of the prison population will only be reduced when the Government takes clear action on sentencing policy, and shows that it is ready to take on the tabloid press and challenge public and judicial attitudes.

Before the Government rushes to embrace NOMS in the name of contestability, and establishes a system designed to deliver justice on the cheap, perhaps it should consider the following:

- The probation service is already in crisis as a result of under-funding and the upheavals created by major structural changes in 2001. These changes should have been allowed to take root before further radical change was introduced.
- Breaking that link between the probation service and the community threatens to undermine the effectiveness of the service, increase the layers of unnecessary bureaucracy and to set back work designed to reflect the diversity of the local community.
- Contestability introduces unhelpful competition and unnecessary bureaucracy into the work of all



those involved in criminal justice in the community. In order to take part in the bidding process, public, private and voluntary sector organisations will have to draw staff and resources away from frontline work just to put a bid together.

- Contestability threatens jobs, pay and conditions, and also the professionalism and integrity of our work. It threatens to undermine further the principles of equality and diversity in the criminal justice system.
- Last but not least, there is a danger that NOMS as currently proposed will simply fail. As the Government should have learnt from disasters such as Cafcass (the Children and Family Court Advisory and Support Service) and the Child Support Agency, that there is a heavy price to pay for bungled administrative change, rushed through without sufficient thought, time or money.

We are lobbying to get our voice heard in Parliament, to try and get the Government to recognise that they should slow down, and set up proper consultation process before moving ahead. It will be trying to push through legislation in the autumn to introduce these changes, and we will be looking for the broad support to amend the proposed legislation to stop NOMS as currently proposed.

I hope that Napo and others working with offenders will continue to aspire to a criminal justice system that enshrines the principles of respect, support, guidance and trust – principles incompatible with a system based on the profit motive. ■

# The perils of private prisons

**Stephen Nathan**, Editor of *Prison Privatisation Report International*, and **Enver Solomon**, Senior Policy Officer of the Prison Reform Trust, highlight the dangers of running prisons on the cheap

In the last 12 years the UK has developed the most privatised criminal justice system in Europe.<sup>1</sup> England and Wales have a higher proportion of privately incarcerated prisoners than the United States, the birthplace of the policy.<sup>2</sup>

This dubious distinction will to be bolstered in June 2004, with the opening of the first Private Finance Initiative (PFI) prison for women, the 450-bed HMP Bronzefield at Ashford, Middlesex. Then in March 2005, an 840-bed mixed facility opens at Peterborough, bringing the number of PFI prisons for adults and young offenders in England and Wales up to nine. Between 1997/98 and 2002/03 the Prison Service paid contractors more than £554 million for PFI prisons.<sup>3</sup> In addition, HMPs Wolds and Doncaster are still privately managed.

## Commitment to private jails

All three main political parties are now committed to private jails. For years the private prison industry and the Government have declared that the argument about whether the private sector can deliver has been won. Yet leaving aside the spurious comparative cost argument that PFI prisons are cheaper – there is nothing to compare them with since no public prisons have been procured since the late 1980s – there is still no proof that recidivism rates are lower. Little political or public debate about policy, or rigorous independent academic scrutiny of operations, has taken place. Furthermore, the fundamental question about whether the private sector should run prisons has escaped attention.

Now the private sector's role is to be extended with the formation of the National Offender Management Service (NOMS) under the leadership of Martin Narey, former Director General of the Prison Service and latterly Commissioner of Correctional Services. Eithne Wallis, former Director General of the National Probation Service, has been appointed as Director of the NOMS Change Programme.

NOMS is the latest in a series of attempts by successive governments to 'marketise' criminal justice services – 'contestability' being the current buzzword. This was a key recommendation of the recent Correctional Services Review headed by Patrick Carter, a friend of Jack Straw who has also been dubbed the

'Government's all-purpose privatiser' by Labour MP Austin Mitchell.<sup>4</sup> As well as recommending the increased use of alternatives to custody, Carter's report called for more competition and greater use of 'providers from the voluntary and private sectors'.<sup>5</sup>

The day that Carter's report was published, Home Secretary David Blunkett, ever keen to secure headlines demonstrating that New Labour was not going soft on crime, declared that he was planning a new generation of larger prisons, funded by selling off 'old and unsuitable jails'. (The media was briefed that three of the oldest Victorian prisons – HMPs Brixton, Holloway and Wandsworth – would be closed and sold off for development.) The vision for these new prisons had been laid out in an earlier Carter report, published in 2002.<sup>6</sup> His recommendations read like a private sector wishlist, and made the case for what the Home Office now refers to as 'Carter prisons' – regional facilities holding up to 1,500 prisoners. Martin Narey was also very impressed by a 3,000-bed private prison he visited in South Africa last year, so perhaps this option is also being considered.

But the private sector's potential prison market is not limited to new-for-old jails. From 2005, the scope of competition will be extended. Every public sector prison in England and Wales will be market tested. This development is significant. In 1995, the Conservative Government initiated the first strategic plan for market testing, but the Prison Officers' Association challenged its legality. Michael Howard was forced to abandon the plan after he received legal advice that the Home Secretary had no power to grant a lease on property he did not own.

Now, the Government claims that the public sector has nothing to fear from contestability. They argue that Prison Service bids against the companies running HMPs Blakenhurst and Buckley Hall led to these prisons being managed by the public sector. The Prison Service also won competitions to run HMP Manchester. But market testing has had negative effects on staff morale, and resulted in a ratcheting down of services, a fact overlooked by the Government. The Prisons Minister, Paul Goggins, and Martin Narey have been careful not to mention that, when allowed to bid for new contracts to manage HMPs Doncaster and Wolds, the Prison Service failed to beat the incumbents.

All prisons will have to divert already scarce resources from day-to-day operations in order to prove their contestability. The Prison Service could lose control of existing prisons if it does not return what Martin Narey has described as 'the best tender in terms of quality and cost'. Meanwhile, the Government, mindful of the private sector's reluctance to take over individual under-performing jails (an attempt to contract out HMP Brixton attracted no bidders), and eager to provide economies of scale, will offer clusters of prisons for tender.<sup>7</sup> The industry needs long term guaranteed profits otherwise the banks will not provide the capital.

## USA bids

Following the industry's recent restructuring, and the departure of Corrections Corporation of America (CCA) and Wackenhut Corrections Corporation (WCC) from the UK corrections 'market', Narey now wants more American firms to bid for contracts.<sup>8</sup> Last summer he discussed this possibility with two undisclosed companies. But the achievement of CCA and WCC in running prisons in the UK was underwhelming. So too, apparently, the private prison industry's track record in the United States. There, the only research that unequivocally argues for the benefits of private prisons has been commissioned by the industry itself or produced by pro-privatisation think tanks. Independent research tells a very different story.<sup>9</sup> Based on this evidence, it is hard to see what more US firms can offer.

Here in Britain, governments have bent over backwards to spin the story that private prisons have been successful. For example, in his recent review of correctional services Carter relied on a National Audit Office (NAO) report on PFI prisons to substantiate his arguments for further private sector involvement.<sup>10</sup> Yet the NAO concluded that performance by PFI prisons was 'mixed'. Apart from owning up to the debacle at HMP Ashfield, both Carter and the Government have since played down most of the NAO's negative findings.<sup>11</sup> These include companies bidding too low in order to win contracts, poorly written contracts, a range of problems with the method of contract monitoring, inflexible prison design, and very little innovation.

Last year, Chancellor Gordon Brown stated that private prison management was an area in which 'we can show that the use of private contractors is not at the expense of the public interest or needs to be at the expense of terms and conditions of employees'. Yet driving down wages and conditions is key to the private sector's ability to generate profits for their shareholders. In April 2003 the average basic salary for prison officers in publicly run prisons in England and Wales was £23,071; in private prisons it was £16,077.<sup>12</sup> Overtime pay is lower and officers are contracted to work longer hours in private jails. The overall package, including better pension and leave entitlements, is more attractive in the public sector.

Not surprisingly, private prisons suffer from high staff turnover. In 2001/02 five private jails lost more than 25% of their staff, while public prisons lost just 6%. Further, in private prisons, many basic grade officers have no prior experience of prison work, and often have been in post for less time than their public sector counterparts.

This has significant implications. As the Chief Inspector of Prisons' recent reports on HMPs Rye Hill, Dovegate and Parc reveal, a pattern has emerged: staff who have no previous prison experience lack confidence; there is limited purposeful activity for prisoners; and there are low staffing levels and high staff turnover.<sup>13</sup> The Chief Inspector has raised concerns about prisoners being able to manipulate staff who, due to their lack of experience, are less able to challenge prisoners' behaviour. At Dovegate the inspectorate exposed concerns about long-term safety because essential procedures and processes were not properly implemented. At Parc – described by the NAO as 'one of the best' – the Chief Inspector made 160 recommendations for improvements and noted just 16 examples of good practice. (Incidentally, the NAO also paid scant attention to racism documented by the Commission for Racial Equality.<sup>14</sup>)

The use of the PFI for hospitals, schools, roads and the London Underground is grist for the media mill, yet little equivalent press and public attention has been paid to private prisons, even though the Government is keen to extend this model to other services such as education and health. The prison industry's mixed record, the political parties' failure to offer a choice of policy on private prisons, and industry deals such as Group 4's with Englefield Capital and Electra Partners Europe, all warrant public debate. Opponents of private prisons have warned of the dangers of criminal justice policy being shaped by the needs of the private sector, and argued that the drive to maximize profits conflicts with the broader public interest. But in the absence of an alternative strategy to hiving off prisons to the private sector, prison companies will continue to come and go, taking their profits with them.

## References

- 1 As well as private prisons, there are now PFI secure training centres, courts and police complexes. Immigration detention centres, electronic monitoring, prisoner transportation and court escorts are also contracted out.
- 2 England and Wales have some 9% of prisoners in private prisons; the USA has some 6.5%.
- 3 HC written answers, col. 1551W, 6 May 2004
- 4 *Hansard*, col. 77WH, 17 March 2004
- 5 Carter P (2003) *Managing Offenders, Reducing Crime: A New Approach* London: Strategy Unit
- 6 Carter P (2001) *Review of PFI and Market Testing in the Prison Service* London: HM Prison Service Planning Group
- 7 In an interview with the *Guardian* ('Arrested development', 10 March 2004), Martin Narey said he was considering market testing small groups of prisons
- 8 Corrections Corporation of America sold its management operations to French firm Sodexo SA. Ownership of Wackenhut Corrections Corporation (WCC) – a 50/50 partner with Serco in the ownership of Premier Custodial Group – passed to Group 4 when the Danish firm bought WCC's owner, the Wackenhut Corporation. Following a legal challenge Serco acquired Group 4's stake in Premier; now Serco owns Premier outright. Group 4 is planning to acquire Securicor but is negotiating to sell its international prisons business to Englefield Capital and Electra Partners Europe. However, the proposed Group 4 Securicor company is retaining Securicor's corrections business
- 9 See, for example, Abt Associates Inc, *Governments' Management of Private Prisons*, 15 September 2003.
- 10 National Audit Office (2003) *The Operational Performance of PFI Prisons, Report by the Comptroller and Auditor General*, HC Session 2002/03, London: Stationary Office
- 11 At HMP Ashfield, Premier's performance was so poor that the Prison Service used emergency powers to step in and take control of the prison. Control was subsequently handed back to Premier, but the company was heavily fined. The Chief Inspector of Prisons has suggested restricting the number of young offenders held there
- 12 HC written answers, col. 800W, 23 March 2004
- 13 See [www.homeoffice.gov.uk/justice/prisons/insprisons/inspection.html](http://www.homeoffice.gov.uk/justice/prisons/insprisons/inspection.html)
- 14 Commission for Racial Equality (2003) *Racial Equality in Prisons: A Formal Investigation by the CRE into HM Prison Service of England and Wales* London: CRE

# Inside women's prisons

**Ruth Wyner**, Co-ordinator of The Dialogue Trust and author of the book, *From the Inside*, argues for a less damaging approach to female prisoners

Prison is paradoxical. It houses some of the most vulnerable people in society yet metes out the most damaging punishments. It takes away inmates' responsibility for their lives yet expects them to act more responsibly than before on release.

'Prison isn't logical,' an officer told me during my period of incarceration. 'Don't expect any logic in prison.' He was an old hand. Is it logical to separate women from their homes, families, children, and place them in a bleak environment where toughening up and slacking off is the best way to get through?

We know women prisoners are vulnerable. Some 40% have tried to commit suicide in the past. Six women inmates succeeded in killing themselves in the first four months of 2004. Women in prison are troubled people: many suffer from drink and drugs problems, mental health problems, and neglect, deprivation and abuse in their lives.

Even so, record numbers of women are being imprisoned, a high proportion for minor offences, usually drug-related. In 2002 nearly 3,000 women went to prison for shoplifting. Yet 80% of shoplifters reoffend within two years. No logic there.

It is becoming accepted that women suffer more obviously from their imprisonment than men. A macho attitude works less well as a defence for women, separation from their children is excruciating, and they do not fit as well into the strict hierarchy of prison as men. Collaboration suits their natures better.

One of the most striking aspects of my seven months inside was the apparent immaturity of many of my fellow inmates. I wondered whether the environment of prison had encouraged their regression. To some extent, it had. Prison takes away the freedom to act as well as the freedom to move around, the freedom to look after yourself as well as the freedom to look after your family. In prison, you are looked after.

But I realised it was deeper than that. A high proportion had not had the opportunity to mature into adults. Traumas and deprivations in childhood and in later life meant that they had got stuck somewhere on the road to adulthood. When people feel unsafe, unlovable, unsure of themselves and incapable of belonging anywhere, they may exhibit a don't-care attitude but actually they are terrified. Hence the drugs and drink to numb those awful feelings.

The Government is keen to ensure prisoners have the

chance to develop their literacy and numeracy and other practical skills, to get drug treatment, and to have homes and jobs to go to on release. The motives appear good but with the crisis in prisons, the chaos in probation, without proper funding, is this anything more than a gesture?

Look at drug treatment in prisons – particularly relevant because most women are imprisoned for drug and drug-related offences. Detoxification is only partially effective. Some prisons, like HMP Styal, have sensibly introduced methadone programmes with doses reduced over two weeks. Even so, addicts are still left hustling for a toot. Drug rehabilitation programmes are usually short-term and limited to the minority. People know that rehabilitation needs at the very least nine months to a year to be effective. This is what is required, both inside and outside prison.

We must find solutions to crime that are effective and affordable. Smaller local units for women would be an improvement, but that's not going to happen for some years. Meanwhile, we need a radical overhaul of the prison regime. We must give inmates a therapeutic environment as opposed to the existing anti-therapeutic one – one that encourages personal growth rather than causing personal damage.

This involves the use of therapeutic community approaches whereby everyone, staff and inmates, has responsibility for the running of the wings and landings. Such interventions can improve prisoners' confidence and self-esteem, undercut alienation and develop more authentic relations between people.

The approach is well-suited to women's urgent need to relate. It is a collaborative approach. And, as HMP Grendon has shown, it need be no more expensive than running our current regimes. If we coupled this with persuading judges and magistrates to stop sending so many women to prison, and to allowing those imprisoned more extended contact with their children, we would make a considerable impact.

**Ruth Wyner (2003) *From the Inside: Dispatches From a Women's Prison* London: Aurum**

**On 30 June, Nacro is running a conference on reducing women's offending.**

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# Get real on drugs

**Walter Boyle**, Manager of the Criminal Justice Team at the specialist care organisation, Equinox Care, examines the work of Ealing's Criminal Justice Intervention Team

The Criminal Justice Intervention Programme (CJIP) is the latest drug initiative from the Home Office. It aims to reduce drug-related crime by enabling criminal justice and specialist agencies to work together more effectively. To this end, the Government in 2003 made funds available to 30 high crime areas in the United Kingdom. These areas were asked to pilot initiatives designed to identify persistent drug offenders, improve their access to treatment, and develop better ways to provide aftercare and resettlement.

The borough of Ealing in West London was one of the high crime areas included in this initial wave of allocations. In 2002/3, Ealing was ranked seventh out of 34 London boroughs for reported crime. Over the same period, 29% of the offences committed there were carried out by adults trying to finance their drug use. Many of Ealing's male offenders are incarcerated at Wormwood Scrubs; female offenders are sent to Holloway.

In developing its response to the CJIP initiative, Ealing had to decide on the structure of the project – would it be a real or a virtual team? A real team would bring together a partnership of agencies, each with a particular expertise but all working to a single end, and operating from a single site. A virtual team would be a partnership of many local agencies working to shared objectives, but with each agency having very defined areas of responsibility and more than likely operating from different sites.

The CJIP Strategic Partnership, consisting of Ealing Primary Care Trust, the London Borough of Ealing, the police, the Prison Service, and the probation service decided to have a real team. This, they agreed, would comprise a management team together with a case administrator and data manager, and five smaller teams with a lead responsibility for an area such as custody, courts, prison, treatment and aftercare. The management team formed itself into a working body in October 2003 when CJIP was formally launched.

Integral to the identity of the real team was the agreement by the management team and team managers to work from a common office, Spescom House, thus sharing a single administrative base. The open plan of the office and shared facilities such as rest area, kitchen and photocopying improves communication between staff from different teams on

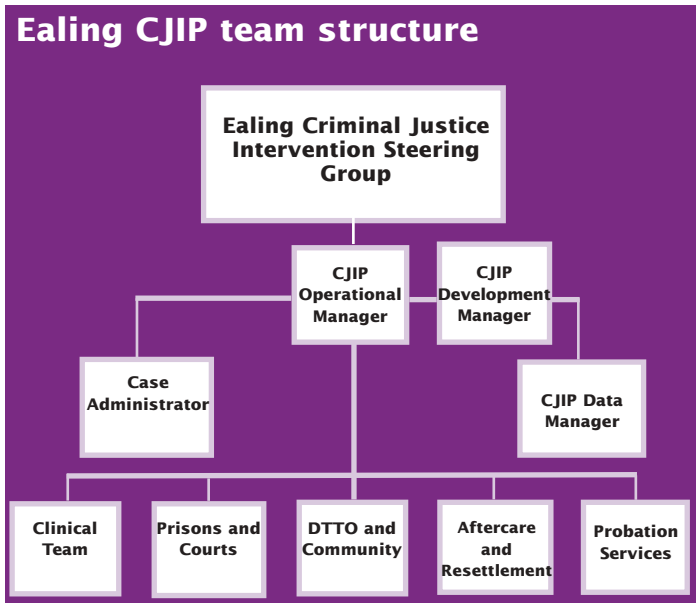
both a formal and informal level. It is unlikely that a virtual team could provide the same level of interaction and cohesion.

Alongside the central administrative base was the decision to provide the majority of its client services such as clinical, assessment, and Drug Treatment and Testing Order (DTTO) groups, from an agreed location within the borough, at Lancaster House. This probation building is currently being used for the delivery of the DTTO programme. The great advantage of this is that clients now have a one-stop shop where all their immediate needs can be met and assessed without having to be put on a waiting list or travel to different sites. For example, a CJIP client needing clinical intervention such as scripting can have immediate access to a doctor or nurse while at the same time getting an appointment to attend a DTTO programme or meet with a housing resettlement worker.

The management team at the core of this real team structure, consisting of an operational manager and a development manager, is responsible for the daily management and implementation of the programme, and for cohering the team leaders into a single service team. The operational manager has overall responsibility for the activity of the team. The team leaders for the different service areas report to him and meet with him for individual supervision and weekly management team briefings. It is through this structure that a collective responsibility for all aspects of the programme is promoted. This might be more difficult to achieve with a virtual team.

The operational manager is supported by the development manager, who oversees the commissioning of different elements of the CJIP and the development of shared practices and information management. He is also responsible for the continuous evaluation of the service. These two managers are supported by a data manager and case administrator who are responsible for establishing and managing a shared information system that enables the team to review and respond to the needs of the client. When this system is up and running, development and operational managers should be able to monitor the progress of their CJIP clients. This information will help to inform decisions at management and review meetings about any remedial action that may need to be taken. The creation of such a monitoring system should overcome the previous problem of losing

## Ealing CJIP team structure



contact with offenders shortly after they left prison or treatment.

The five smaller teams being managed as part of the Ealing CJIP project consist of a clinical team, a prison and courts team, a DTTO and community team, a probation services team, and an aftercare and resettlement team. Turning Point Ealing, Ealing NHS Community Care Trust, Crime Reduction Agency, Revolving Doors, Equinox, JAY Training and the probation service have all provided staff to work within these teams.

The clinical team comprises a full time doctor, nurse and a stimulant worker, and is complemented by psychology and pharmacy support. This team is responsible for assessing clients identified through custody or the courts, or clients released from prison, and getting them onto treatment programmes. The primary role of this team is to get clients into treatment within days rather than the weeks it usually takes when they are placed on a waiting list for mainstream services.

In the prison and court team, the arrest referral and dual diagnosis staff work closely with the courts, police cells and prison. The team also has close links with the Wormwood Scrubs CARAT (Counselling, Advice, Referral, Assessment and Throughcare) worker, thus allowing for improved identification of drug using offenders within the prison system. A more recent innovation was the decision to expand the current services, which are predominantly oriented towards male offenders, to include women in Holloway prison.

Like other national DTTO programmes, the Ealing DTTO programme, which is shared with Hillingdon and Hounslow, continues to improve its services. The current building, Lancaster House, is being refurbished to accommodate more CJIP clients and

provide for a wider range of group activities. Ealing has led on the restructuring of the DTTO day programme so that it focuses more on client need, and strikes a better balance between coercion and incentive for compliance. Ealing CJIP believes that by improving this balance, the level of sustained engagement and completion will increase.

The probation team supervises all community penalties and licences of people serving 12 months and over who are resident in the borough of Ealing. This team has a key role, through the presentation of court reports and other assessments, in identifying those whose offending is related to substance misuse.

The aftercare and resettlement team provides a long overdue service to those offenders who leave prison and treatment lacking the knowledge or self-confidence to resettle back into the community. This team also has a key role in maintaining the progress that people make through drug treatment. The team provides housing advice, including managing and sustaining tenancies under the 13-week rule for those on remand or sentences. They will also have the task of finding suitable alternative accommodation for those who may have lost their accommodation while in prison. An important part of the CJIP service provided by the aftercare team will be a 24-hour helpline that will offer advice, support and help with getting a next-day appointment.

The team includes a mentoring co-ordinator who manages a group of mentors. It is expected that when trained, the mentors will provide the support and advice to help those newly released offenders settle back into accommodation, whether it is their own, hostels or with families or significant others. Mentors will also help them to keep appointments for probation community programmes, employment training, job interviews, and be there during times of anxiety and loneliness when there is a greater chance of reoffending. Importantly in the near future, the team will also have a family or significant other co-ordinator. Their role will be to help make and keep the links offenders have with their families and significant others while in prison and when they are released.

Building the infrastructure for any great venture takes time. The management team have worked hard to put the correct structures into place and employ suitable organisations and staff to work within them. Will it work? An early measure of the program's effectiveness will be the number of people in contact with the team, the numbers assessed, and the numbers who take up referrals into the different services. In the longer term, the Ealing CJIP real team will be judged on its ability to effect change in clients' lives. This will only be known by carrying out rigorous ongoing evaluations, and measuring factors such as the reduction in drug use and associated offending behaviour. It's early days yet, but the signs are that a better way has been found to address drug offending behaviour in the community. ■

# Criminal justice digest

## Barriers to equality in the criminal justice system



Nacro's latest report, *Barriers to equality*, highlights the urgent need for joined-up information sharing across the criminal justice system in order to tackle discrimination. In a bid to explain over-representation of black and minority ethnic (BME) groups in the criminal justice system, *Barriers to equality* looks at the challenges involved in tracking BME suspects and defendants, and monitoring how they are treated at various stages of the criminal justice process. The report authors found it almost impossible to track individuals' entire journey through the system because of the way that

information is stored and shared by criminal justice agencies.

The project, funded by the Criminal Justice Reserve Fund, carried out a pilot tracking exercise of suspects and defendants going through the criminal justice system in four areas: Bedfordshire, Hertfordshire, Suffolk and Surrey. Cases were tracked from the point of charge to the point of disposal and agencies were asked to include all cases that entered the system under the categories of theft, burglary and robbery.

Home Office figures show that people from BME groups make up 34% of the prison population in England and Wales, yet only 4% of the overall population belong to a BME group (*Prison Population Brief*, November 2003).

*Barriers to equality*, which looks at 2,823 cases where nearly 20% of suspects and defendants came from a BME group, found that:

- 75% of black and 68% of Asian defendants in burglary cases received custody compared to only 33% of white defendants.
- White defendants were also more likely to receive community sentences (59%) than black (25%) and Asian defendants (28%).
- Nearly half of all black (44%) and Asian (50%) defendants in burglary cases were granted conditional bail, compared to 21% of white defendants who were more likely to be granted bail without conditions.
- There was a significantly higher committal rate to the crown court for black (71%) and Asian (78%) defendants charged with burglary, compared to white defendants (59%).
- The extent to which the Crown Prosecution Service discontinued robbery cases brought forward by the police was greater in the cases of BME defendants, especially Asian defendants, 35% of whom had their cases disposed of at this stage compared to white (9%) and black (13%) defendants.
- Black defendants charged with theft were more likely to receive custodial sentences than all other groups, and less likely to receive community sentences.

The findings reveal different experiences for BME groups as they pass through the system. Some of these differences can be attributed to previous convictions or the defendant having no fixed abode, but the relationship between offences committed and sentences imposed appears inconsistent, and areas of potential discrimination need to be examined further.

*Barriers to equality: challenges in tracking black and minority ethnic people through the criminal justice system* by May El Komy and Neena Samota is available from Nacro publications, 020 7840 6427, £5.00 + p&p

## Basic skills programmes in the probation service

*Basic Skills Programmes in the Probation Service: An Evaluation of the Basic Skills Pathfinder* evaluates programmes in seven probation service areas. They were set up to explore how best to help offenders in the community to improve their skills in literacy and numeracy, and were aimed at those offenders with basic skills needs below Level 1 of the National Qualifications Framework, ie, below the level of a competent 11-year-old. The project consisted of three stages: screening for those who have basic skills needs; an in-depth assessment; provision of basic skills tuition. The results of the evaluation looked at all these stages and recommended lessons to be learnt for future programmes.

The following emerged as key points:

- The offenders who were 'positively' screened (as probably having a basic skills need) were more likely to be unemployed than those who were 'negatively' screened. The overall unemployment rate of 51% among offenders in the screening sample was very high, compared with the total UK unemployment rate of 5% in 2001.
- Even when controlling for the effects of other variables, such as drug misuse, which may affect unemployment, the analysis supplied strong evidence of an association between poor basic skills and an increased risk of being unemployed.
- The projects had a high level of attrition for each stage of the process. Only a small proportion of the offenders who should have had access to basic skills provision did so and, of those who did, attendance was often sporadic and drop-out rates were high.

Lessons to be learnt included the following:

- There should be an explicit process for basic skills screening, assessment, referral and provision built into community sentences and

promoted by staff at every level, with appropriate training and administrative support.

- For those screened as likely to have basic skills needs, it was found that rapid referral for in-depth assessment was most likely to lead to 'take-up' of provision by the individual.
- Tuition for basic skills should be integrated with other elements of a community sentence and included as an objective in the supervision plan and sentence.

*Basic Skills Programmes in the Probation Service: An Evaluation of the Basic Skills Pathfinder* is online at [www.homeoffice.gov.uk/rds/pdfs04r203.pdf](http://www.homeoffice.gov.uk/rds/pdfs04r203.pdf)

## Crime in England and Wales: Quarterly Update

- Overall levels of crime have remained stable. The risk of being a victim of crime, at 27%, is approximately the same as it was in 1981.
- The *British Crime Survey (BCS)* showed no significant change in any of the main crime types in the 12 months to December 2003 compared with the previous 12 months.
- Police statistics showed a 13% increase in violence against the person in October to December 2003 compared with the same period in the previous year. This will partly be due to the continuing effects of the introduction of the National Crime Recording Standard.
- Approximately half of all violent crimes recorded by BCS and violence against the person recorded by the police did not involve injury to the victim.
- The number of burglaries and vehicle thefts recorded by the police fell by 11% and 10% respectively.
- According to BCS interviews, levels of worry about the main crime types have fallen compared with the previous year, as has the overall level of perceived anti-social behaviour.
- Levels of confidence in the criminal

justice system generally remained stable, with small improvements in several areas.

*Crime in England and Wales: Quarterly Update to December 2003* Home Office Statistical Bulletin 06/04, 29 April 2004 is online at [www.homeoffice.gov.uk/rds/pdfs04/hosb0604.pdf](http://www.homeoffice.gov.uk/rds/pdfs04/hosb0604.pdf)

## Foreign national prisoners neglected

There are a record 9,000 foreign national prisoners in jails in England and Wales, one in eight of the overall prison population, following an almost threefold increase in numbers over the past decade, according to a report just published by the Prison Reform Trust.

The briefing paper, *Forgotten Prisoners – The Plight of Foreign National Prisoners in England and Wales*, says their needs are being overlooked and they are not being given the attention and support they require. It also highlights the fact that in some cases foreign nationals are treated with disrespect and experience racism, and that they are being kept in prison well beyond their sentence with no idea when they might be released.

The report notes that there are now two prisons, The Verne in Dorset and the women's prison Morton Hall in Lincolnshire, where foreign national prisoners make up half or more of the population. In 16 prisons they make up a quarter or more. These include:

- Belmarsh, London
- Blundeston, Suffolk
- Brixton, London
- Coldingley, Surrey
- Cookham Wood, Kent
- Downview, Surrey
- Drake Hall, Staffordshire
- Feltham, London
- Highpoint, Suffolk
- The Mount, Hertfordshire
- Pentonville, London
- Send, Surrey
- Swaleside, Kent
- Wormwood Scrubs, London

The report concludes that despite

good practice in a few jails, across the prison estate staff are generally unaware of the very distinct needs of foreign national prisoners and services are sub-standard. It calls on the Government to ensure that the Prison Service draws up a strategy on foreign national prisoners that sets out an action plan to meet their needs in every prison.

The report states that there a number of areas where foreign nationals' needs are being neglected:

- **Language barriers:** there has been a failure to provide adequate translation and interpretation facilities, which means that prisoners miss out on basic provisions such as showers and association because they have not understood staff instructions or basic questions. A recent Prison Service survey found that nearly 90% of prisons holding foreign national prisoners are not making regular use of the available translation service.
- **Isolation and mental health concerns:** foreign national prisoners experience unnecessary difficulties trying to maintain family contact, especially fulfilling their roles as parents. Separation from family in an alien environment can mean that their mental health needs are often greater than for other prisoners.
- **Legal and immigration issues:** many foreign nationals remain in jail having completed their sentence because there is a failure by the authorities to monitor and then make arrangements for those who have been recommended for deportation. Foreign national prisoners struggle to access legal and immigration advice during their sentence.
- **Racism:** foreign national prisoners say that racism and a lack of respect and understanding from prison staff is not uncommon.
- **Preparation for release:** there is a lack of proper procedures in place to prepare foreign nationals for their release and there are insufficient resettlement programmes specifically for foreign national prisoners.

*Forgotten Prisoners – The Plight of Foreign National Prisoners in England and Wales* is online at [www.prisonreformtrust.org.uk/pdf%20files/Foreign%20National%20Prisoners%20LO%20RES.pdf](http://www.prisonreformtrust.org.uk/pdf%20files/Foreign%20National%20Prisoners%20LO%20RES.pdf)

# Prison reports digest

## Excessive handcuffing, severe punishments

### **HMP Featherstone**

*Announced inspection, 20-25 October 2003. Published 19 March 2004*

An overarching need to prevent the flow of drugs into this prison had led to an emphasis on security, which pervaded the life of the establishment. There was excessive handcuffing of prisoners arriving in reception, and those prisoners then spent too much time locked up in cells on induction. The number of adjudications was not high, but punishments were relatively severe and sometimes inappropriate.

There was also surprisingly frequent use of the body belt and degrading routine squatting during strip searches in the segregation unit. There was too an inappropriate use of strip searching of visitors, which was justified as part of a zero tolerance approach to drugs, but had proved singularly ineffective as a way of actually finding drugs.

The focus on security and control appeared to have adversely affected staff-prisoner relationships. These were more distant and formal than inspectors normally find in category C prisons.

More positively, there had been a recent expansion in resettlement activities. There was a good range of education and training opportunities, with excellent physical education and a good library. All prisoners had to eat in their cells. Only toilets in shared cells were screened by a simple partition that offered little privacy. Eating in cells without screens or with minimal screening of toilets was, said the inspectors, unhygienic and degrading.

**Response** *Phil Wheatley, Director General of the Prison Service, said:*

*'The Chief Inspector has rightly praised the fact that Featherstone is largely calm, well-ordered and efficient and I know that the safety of prisoners at Featherstone is placed high on the agenda. Featherstone should be praised for the turnaround that it has managed to achieve in relation to the immense problems it has previously faced in terms of drug abuse and serious order and control difficulties. I am confident that the management team will continue to work hard and build on their achievements.'*

**HMP Featherstone** is a Category C training prison on the outskirts of Wolverhampton

## Staff vigilance saved lives

### **HMP/YOI New Hall**

*Unannounced inspection, 10-14 November 2003. Published 28 April 2004*

The safety of the inmates was a primary concern to staff in this local and training prison for women and girls, where there are on average 75 suicide watch forms opened each month; where there had been 124 incidents of self-harm in the month before inspection; and where all in-patients in the healthcare centre were severely mentally ill.

There had been four self-inflicted deaths in 2002/03, but there had been many more occasions, as witnessed during the inspection, where staff vigilance had saved lives. Staff-prisoner relationships were excellent and there were many examples of high levels of care, for example in the segregation unit, where women who were unable to cope on normal location, some on hourly suicide watches, were looked after.

There was a good detoxification regime. 71% of women and young adults, and 36% of juveniles said they had drug problems upon arrival in prison. However, a major problem, as in many prisons, was the inadequacy of drug treatment in the community, to support and continue work done in prison. Indeed, even those women who had been clients of community drug services were discharged by them while in prison, even though they might be there for only very short periods, on remand or serving short sentences.

There is a need, said the Chief Inspector, Anne Owers, for the active involvement by agencies in the communities – social services, drug treatment providers, employers and housing agencies – to support the work done in the prison. In many crucial areas, these agencies were not fully engaged in the care, during and after custody, of a very needy and vulnerable population.

There was a well-managed mother and baby unit. The fathers of a number of the babies born while the mother was in prison were themselves also in prison. This meant

that to see their newborn child and begin to establish important parental links they were reliant on an inter-prison visit being arranged. Some of the mothers told the inspectors that in some such cases fathers had not been able to see their babies until several months after the birth.

**Response** *Phil Wheatley, Director General of the Prison Service, said:*

*'I am pleased that the Chief Inspector commends the excellent staff-prisoner relationships and high standards of care at HMP and YOI New Hall. As the Chief Inspector reports, New Hall is a complex prison, which must cope with some very disturbed and demanding prisoners. The report clearly demonstrates why New Hall is one of the best female prisons in the Prison Service.'*

**HMP/YOI New Hall** is a local and training prison for women and girls

## Not enough purposeful activity

### **HMP Wormwood Scrubs**

*Announced inspection, 3-7 November 2003. Published 23 March 2004*

In her foreword to the report of this recently troubled establishment, the Chief Inspector said that she had found a greatly improved prison.

She said that like all other large inner-city local prisons, Wormwood Scrubs is overcrowded, with a large number of prisoner movements; and in common with prisons in London and the South East it has experienced significant staffing shortages. Unlike some others we have inspected, however, prisoners were at least provided with the basics of decency. 75% of prisoners surveyed said that they could shower daily.

The most significant area of weakness, she said, was in the quantity and quality of purposeful activity available to prisoners. There was not enough activity, exercise or time out of cell – indeed less than in 2001. In spite of management commitment to education and skills, inspectors found that only 36% of eligible prisoners were engaged in education or work off the wings: activity spaces were often unfilled, for example when wings were locked down, as they regularly were.

Vocational training was poorly managed, and the standard of provision in English as a second language – in a prison with 40% foreign national prisoners – was deficient.

A dedicated Assessment and Resettlement Centre (ARC) had opened earlier in the year, combining traditional functions, such as sentence management and categorisation, alongside services provided by voluntary organisations. The ARC was established in order to create an integrated approach to assessment and referral. A healthy culture of joint working had quickly become established. One of the principal problems it faced was trying to find tenancies for prisoners on release, due to the chronic shortage of accommodation across the capital. Over the previous six-month period, 60% of the 435 prisoners released from Wormwood Scrubs were categorised as being without accommodation.

However, over a range of measures, Wormwood Scrubs was coping better than similar large London locals. It was providing a consistent, if inadequate, regime; dedicated first night support, which needed to be supported by stronger suicide and self-harm procedures; and an innovative and outward-looking resettlement unit and structure. Above all, it showed measurable and significant improvements in relationships between staff and prisoners.

**Response** *Phil Wheatley, Director General of the Prison Service, said:*

*'I am very pleased that the Chief inspector has recognised the improvements in the regime at Wormwood Scrubs. The Governor and staff deserve great credit for the improvements that have been achieved in the face of tremendous external pressures. However I acknowledge that there is more to do, and the prison is already making substantial steps forward in several areas identified by the inspection report, including provision of purposeful activity, offending behaviour programmes and drug strategy.'*

**HMP Wormwood Scrubs** is a local prison for adult male prisoners in London

## In brief

**HMP Bedford** *Announced inspection of HMP Bedford, 5-9 January 2004. Published on 5 May 2004*

There was much commendable work being carried out in this establishment, which enjoyed good prisoner-staff relations. However it shared with almost all ageing, local prisons the problem of having to double up prisoners in small cells built for one and the need to refurbish deteriorating accommodation. Resettlement was an area of strength. Several agencies worked extremely well together within the prison to offer help with resettlement. The real stumbling block to further progress at Bedford was the lack of purposeful activity. Prisoners simply spent too long in their cells.

**HMP/YOI Bullwood Hall** *Announced inspection of HMP/YOI Bullwood Hall, 8-12 December 2003. Published 5 May 2004*

This well-run training establishment for women suffered from two underlying and debilitating pressures: staff shortages and unacceptable sanitary arrangements. Nearly all the cells lacked integral sanitation, which meant that inmates had to use an electronic unlock system at night. Only one woman was let out at a time, which caused such delays that many inmates were forced to use potties and slop out the next day. Those who could not live alongside the contents of their potties overnight threw them out of the windows.

Over half of the prisoners said that they felt depressed or suicidal on arrival at Bullwood Hall. On average, the prison records 56 incidents of self-harm and 20 suicide attempts a month, often from a small number of prisoners.

**HMP/YOI Eastwood Park** *Unannounced inspection, 22-26 September 2003. Published on 17 March 2004*

This local prison and remand centre for women and girls receives a large number of prisoners with histories of drug abuse, mental illness or serious self-harm – or all three. There are around 70 to 80 incidents of self-harm each month. The sheer number of those on suicide or self-

harm watch places a great strain on the establishment. In some areas the challenges are almost overwhelming. The healthcare centre, for example, had in effect become an acute psychiatric ward, in response to the severe mental health needs of some prisoners.

The establishment experienced a high demand for its detoxification services. During 2002/03, around 25% (1,076) of new receptions required detoxification; 90% of the women were addicted to heroin.

**HMP Shepton Mallet** *Unannounced follow-up inspection, 18-19 November 2003. Published 17 March 2004*

This small category C establishment, which claims to be England's oldest (1610), has been turned into a prison for life sentence prisoners at the second stage of sentence. This transition had not been managed too well, according to the Chief Inspector. Too many prisoners were spending too long on the wings with too few opportunities for constructive activity. Opportunities to gain qualifications were very limited. Some of the toilet screening in the cells was poor, with prisoners using sheets or blankets to supplement the screens provided. Relationships between staff and prisoners were respectful, friendly and polite, however.

**HMP Wymott** *Announced inspection of HMP Wymott, 1-5 December 2003. Published on 14 April 2004*

New management had succeeded in re-energising this formerly under-performing category C training prison, one half of which was given over to vulnerable prisoners, many of whom are sex offenders. Many new initiatives were in place, in partnership with outside organisations, including the involvement of Transco in providing skills and immediate employment for a small number of prisoners. The prison had an impressive array of existing and new partnerships with statutory and voluntary agencies. Yet many prisoners described contacts with resettlement staff as something that was done to them rather than an activity in which they were actively involved.



## Professional friendship: mentoring for vulnerable young people

Mentoring has become an important element of Government strategy for supporting vulnerable young people. A recently published study from Aberdeen University – *Sharing a Laugh? A Qualitative Study of Mentoring Interventions with Young People* – looks at the impact of mentoring on young people in three settings: a housing project and an education project where paid keyworkers acted as mentors, and a befriending scheme where volunteers acted as mentors. The study finds:

- The friendly nature of the relationship and the 'ability to have a laugh' with a mentor distinguished these from other kinds of relationship.
- Mentoring within all the projects offered a form of 'professional' friendship. This demanded delicate negotiation between young people and mentors of the boundaries of what they would discuss, levels of confidentiality, and the time devoted by both parties.
- Most young people found the experience a positive one, contributing to their confidence, skills and development in a number of ways. Mentors also expressed satisfaction, seeing it as a chance to work with rather than on young people.
- Young people particularly valued mentors who had, and were willing to discuss, similar backgrounds and experiences. They felt these relationships differed from those they had with other professionals and adults. A number had been inspired to become mentors or to work with young people themselves.
- A key benefit of a good mentoring relationship was in helping young people to come to terms with difficult family relationships.
- How the relationship ended could undermine the immediate benefits perceived by young people and reinforce feelings of rejection. Young people valued the opportunity to sustain an informal relationship on an occasional basis beyond the intervention.

Where mentoring was successful, the relationship had developed over time and was flexible enough to allow both partners to take different approaches. These young people commonly stated that the mentor did not act as if they were a 'case' or a problem to be solved. Yet for some young people a relationship with a befriender or a keyworker was simply one of a number of relationships with professionals. Many described a lack of control over such relationships, complaining of frequent changes over which they had little say. They felt they were seen as a problem to be solved and were unhappy about this.

The researchers conclude that mentoring cannot remedy all the ills facing vulnerable young people but it can be a useful part of the range of interventions. However, to be effective, mentoring needs to suit young people's circumstances. The researchers suggest that developing 'mentor rich' environments, with a climate favourable to the development of mentoring relationships may be critical to success.

Philip K, King C, Shucksmith J (2004) *Sharing a Laugh? A Qualitative Study of Mentoring Interventions with Young People* Joseph Rowntree Foundation: London

## Engaging deprived communities

*Understanding and Engaging Deprived Communities*, a Home Office study, was designed to enhance understanding of deprived, high crime communities by exploring perceptions of the local area. Children, parents, residents, politicians, and professionals living and working in the community were asked their views. Its unsurprising conclusion is that the easiest way to engage people is to listen to them and take on board what they say.

On Track is a pilot project for the provision of multiple interventions for children and families in areas of high deprivation and crime. There are 24 pilot projects in England and Wales delivering services with the aim of reducing the risks of children becoming involved in anti-social and criminal behaviour. Four of the 24 areas, representing a range of urban and rural contexts, were selected as case studies.

The study's main findings are:

- Each of the four areas was perceived by participants to have a bad reputation. This was intensified by the local media and sometimes reinforced by professional networks.
- Residents and children were generally positive about their areas, but children became critical of the state of their environment from around eight years old. In all locations, the single most important improvement demanded was a clean-up of the local area. Children wanted more places, and safer places, to play.
- The detailed layout of the housing had a significant impact on how people felt about their area (on issues such as safety), and how they used it (avoiding perceived crime 'hot-spots'). Schools, shops and community provision were all important for community interaction.
- Young children and adults saw teenagers as the source of nuisance and anti-social behaviour. 'Teenagers' was often used as a generic term to include those who were both younger and older. There was a consistent desire to see young people having more things to do.
- Complaints about anti-social behaviour and crime featured strongly. There was a demand for more visible policing. People wanted things to improve, and they wanted

their children to have the best chances possible.

- Two of the areas had considerable population movement and a lack of stability, which made the provision of services and the interaction of neighbours particularly difficult. Residents wanted easily accessible, neutral meeting places. They also wanted opportunities for self-empowerment through better access to advice and, where relevant, English language skills.
- People are more likely to participate in their local community when they sense that they are being listened to and things are improving.

The report is online at [www.homeoffice.gov.uk/rds/pdfs04/rdsolr0704.pdf](http://www.homeoffice.gov.uk/rds/pdfs04/rdsolr0704.pdf)

## Government consultations on anti-social behaviour

The Government is currently undertaking two consultations on anti-social behaviour:

**Anti-social Behaviour: Policy and Procedure – Draft Statutory Code of Guidance** invites views on the draft statutory code of guidance for local housing authorities and housing action trusts on how they should prepare, review and publish their statements and summaries of policies and procedures in relation to anti-social behaviour. The consultation period ends on Friday 25 June 2004.

The report is online at [www.odpm.gov.uk/stellent/groups/odpm\\_housing/documents/page/odpm\\_house\\_028411.hcsp](http://www.odpm.gov.uk/stellent/groups/odpm_housing/documents/page/odpm_house_028411.hcsp)

**Fireworks Regulations 2004**, a joint consultation exercise from the DTI and the Scottish Parliament, covers proposals to introduce a number of limited prohibitions on the importation, sale, possession and use of fireworks 'specifically with the aim of tackling their anti-social use by those who take the fun out of firework use and turn it into misery for the many'. The consultation period ends on Friday 2 July 2004.

The report is online at [www.dti.gov.uk/ccp/consultpdf/fireworkanti-social.pdf](http://www.dti.gov.uk/ccp/consultpdf/fireworkanti-social.pdf)

## Improving neighbourhood life

Neighbourhood warden schemes are having a positive impact on quality of life in local areas, according to recent research published by the Office of the

Deputy Prime Minister. *Neighbourhood Wardens Scheme Evaluation: Key Findings and Lessons* summarises the findings of the national evaluation of the Neighbourhood Wardens Programme, carried out between June 2001 and May 2003.

The overriding message from the evaluation is that in successful schemes across the nation, wardens can and are having an impact. Key effects include:

- increased resident satisfaction
- reduced fear of crime, particularly among older people
- considerable decline in the overall rate of crimes against residents
- perceived improvement in problems such as graffiti, fly-tipping, litter and dog fouling
- a small decline in residents perceiving youthful anti-social behaviour as a problem

Schemes that are working well have a number of common features:

- tailored and flexible approaches
- involvement of a wide variety of stakeholders
- resident participation
- active and representative steering groups
- consistent scheme management
- ability to develop and nurture partnerships
- ability to maximise wardens' visibility
- targeted approach to the vulnerable
- high-quality wardens
- ongoing practical training

The report is online at [www.neighbourhood.gov.uk/publicationsdetail.asp?id=671](http://www.neighbourhood.gov.uk/publicationsdetail.asp?id=671)

## Crimes against students

Students are particularly vulnerable to burglary, according to *Crimes Against Students: Emerging Lessons for Reducing Student Victimization*, recently published by the Home Office. Its research showed that, from a sample of 315 students over the previous 12-month period:

- 31% had been the victim of crime
- 10% had been the victim of burglary
- Students living in privately-rented accommodation (12%) were over twice as likely to experience a burglary compared with those living in halls of residence (5%)

This research can be compared with the *British Crime Survey* (BCS) which examines levels of victimisation

amongst a random sample of households in England and Wales. The 2002/03 BCS shows that:

- 27% of households were the victim of crime once or more during this year
- 3% of all households had experienced a burglary in 2002/03
- The risk of being victimised appears to increase if the head of the household is aged between 16 and 24, with 8% of this group experiencing a burglary

Students can be particularly vulnerable to burglary. Factors influencing their risk profile include their age, income, tenure, employment status, occupancy status and accommodation type. A number of universities already carry out crime prevention initiatives to reduce levels of crime affecting students both on and off campus. These are often built on partnerships with key players to tackle the problem of student victimisation and include:

- operating secure storage rooms for students' belongings during the university holidays
- giving students crime prevention advice talks at the beginning of the term
- giving students written crime prevention advice in the form of leaflets, and displaying crime prevention posters around campuses
- using emails to inform students of certain crime-related issues, such as where to be careful on and around the university campus
- the promotion of 'Campus Watch' schemes
- the introduction of landlord accreditation schemes

This report examines some active schemes in further detail and provides suggestions for reducing incidences of student victimisation, particularly burglary. It also offers some practical tips for setting up and running such schemes.

The authors conclude that it is important to remember that student communities differ across the country and are constantly changing. Therefore, practices that work in one area may not work in another and will need adapting to local circumstances. Similarly, local crime patterns must be continually monitored to ensure that interventions are effectively targeted.

The report is online at [www.homeoffice.gov.uk/rds/pdfs04/dpr21.pdf](http://www.homeoffice.gov.uk/rds/pdfs04/dpr21.pdf)

## Debates

### Highlights from parliamentary debate on NOMS

**Neil Gerrard, Labour MP for Walthamstow, Hansard, cols 72WH, 73WH, 74WH, 17 March 2004**

We are told that one of the key aspects is that the reorganisation is about ensuring that individual offenders are managed right through the system. I cannot see how 10 regional managers will be able to deal with all the individuals concerned. I am unclear about what will happen on the ground. What will be the relationship between people in the Prison Service and people in the Probation Service? Where will decisions be made about what happens to an individual offender?

A part of the proposals involves what is now called contestability. That has serious implications for the employment status of current staff. Naturally, there are concerns about that in prisons – there are suggestions that groups of prisons will be put out to tender – and in other parts of the service.

Another point... on sentencing. Martin Narey, as head of the service, will be an observer on the Sentencing Guidelines Council, which I think has had its first meeting in the past two or three weeks. However, he will not be a member of the council. If the council does not work and does not lead to changes in sentencing, we will face serious problems in the new structure – indeed, in any structure.

**Elfyn Llwyd, Plaid Cymru MP for Meirionnydd Nant Conwy, Hansard, col. 77WH, 17 March 2004**

When the Children and Family Court Advisory and Support Service came into being, many of us warned that its introduction was rushed and not thought out properly. We have seen the result: it has been an absolute disaster.

The conclusion that one draws is that there has been a failure to resource prison and probation services adequately. Both services are ill equipped to deal with yet another reorganisation and further layers of bureaucracy. The projected NOMS could be an organisational disaster, compared to which the problems faced by the Criminal Records Bureau will pale into insignificance.

**Peter Bottomley, Conservative MP for Worthing West, Hansard, col. 74WH, 17 March 2004**

The best kind of contestability may be to ask magistrates and judges whether they have seen any studies on whether the person they are considering sending to jail would be better disposed of in the community. The one thing that I suspect we all favour—it is one of the purposes for which NOMS was created—is seamless care and control of the person who has been convicted. We all have examples in which someone has come out of prison and the probation service has not managed to look after them. That is as big a concern as having people in prison who should not be there in the first place.

**David Heath, Liberal Democrat MP for Somerton and Frome, Hansard, cols 85WH, 86WH, 87WH, 17 March 2004**

The key question on the issue of the service being correctional, or one that provides social assistance to offenders is whether it protects the public and reduces reoffending. That is the test that needs to be applied to the reorganisation.

Any sensible person would argue that there is a case for better integration of the Prison Service and probation service. Inherent in some of the Government's other policies such as Custody Plus, which we have welcomed, is the aim of ensuring a seamless transition between different elements of sentencing policy. The major problem faced by the Prison Service is that we send too many people to prison and we have not got the accommodation to meet their needs. That problem will not go away as a result of a structural reorganisation of this kind.

I am concerned that we will lose innovation at local level through seeking consistency, which may be of value in some cases, but too often will be a dumbing-down of the process.

**Paul Goggins, Parliamentary Under-Secretary of State for the Home Department, Hansard, col. 92WH, 17 March 2004**

The correctional services review was announced in the *Justice for All* White Paper published in July 2002, so it was not a surprise that a review was taking place. *Reducing Crime – Changing Lives* is the Government's initial response to the Carter review, and gives an indication of the direction in which we go. It will take at least five years from the implementation of the national

offender management service in 1 June for the new system to be fully operational.

We are talking about contestability, not privatisation. Contestability is about getting the best value out of the investment that the taxpayer makes. We have seen from the contestability applied to the Prison Service that there is much to be gained from it, certainly in terms of an improved service and better value for money.

## Questions

### Stephen Lawrence Inquiry

Fiona Mactaggart, the Parliamentary Under-Secretary of State for the Home Department, was asked what progress the Government have made in implementing the recommendations of the Lawrence inquiry, and what further steps are being taken to promote race equality. She replied:

'The Stephen Lawrence inquiry report was published on 24 February 1999 and made 70 recommendations. I am pleased to say that the vast majority of the recommendations have now been either completely or partially implemented. I have commissioned research by the London School of Economics to evaluate the overall impact of the recommendations on the police. That report is due in the summer. Following recommendation 11 of the Macpherson report, the *Race Relations (Amendment) Act 2000* introduced a duty on specified public authorities to promote equality of opportunity and good relations between persons of different racial groups.'

Fiona Mactaggart, Parliamentary Under-Secretary of State for the Home Department, *Hansard*, col. 556, 22 March 2004

### Addressing prison overcrowding

Paul Goggins, the Parliamentary Under-Secretary of State for the Home Department, was asked if he would set clear targets that will address slowing down and reversing the trend of an ever-increasing prison population. He replied:

'Patrick Carter predicted in his report that if we did nothing to rebalance the correctional services, the prison

population would be about 93,000 by the end of the decade. With the reforms that he recommended, it is possible to maintain a stable prison population at about 80,000, and that is what we intend to do. In the short term, we shall certainly make available the additional prison places that I mentioned in my initial reply – about 2,500 by the end of the year. It is important that the message goes out to sentencers that wherever possible community penalties should be used instead.

In his report, Patrick Carter emphasised the increasing severity of sentences. Someone is five times more likely now to be given a custodial sentence for shoplifting than was the case 10 years ago. That is hardly justifiable. Community sentences should be used wherever appropriate.'

Paul Goggins, Parliamentary Under-Secretary of State for the Home Department, *Hansard*, col. 558, 22 March 2004

## Written answers

### Sentencing

The Secretary of State for the Home Department was asked what assessment he has made of the reasons for changes in average sentence lengths since 1991. He replied:

'The average length of sentence passed in a magistrates' court increased from 2.9 months in 1991 to 3.1 months in 2002, the last year for which information is available. The average length of sentence passed in the crown court increased from 18.3 months in 1991 to 25.9 months in 2002. While it is for the courts to determine the sentence passed in individual cases the Government believes that prison should be reserved for serious, dangerous and seriously persistent offenders. It is the role of the recently appointed Sentencing Guidelines Council to publish robust and comprehensive sentencing guidelines to assist the courts in their task of ensuring consistent and just disposals in all cases.'

Paul Goggins, Parliamentary Under-Secretary of State for the Home Department, *HC*, col. 123W, 15 March 2004

### Prisoners sharing cells

The Secretary of State for the Home Department was asked how many and what percentage of prisoners were sharing cells designed for single occupancy in each of the last 10 years. He replied:

'The number of prisoners sharing cells designed for one person and the percentage, expressed as a proportion of the average prisoner population, is given in the table. Validated figures for 2003/04 are not yet available.'

#### % doubling

2002/03	20.4	14,586
2001/02	17.0	11,440
2000/01	17.2	11,292
1999/2000	18.9	12,222
1998/99	18.4	12,024
1997/98	18.2	11,548
1996/97	16.8	9,498
1995/96	16.5	8,506
1994/95	17.1	8,426

Paul Goggins, Parliamentary Under-Secretary of State for the Home Department, *HC*, col. 764W, 26 April 2004

### Prisoner education

The Secretary of State for Education and Skills was asked how many prisoners (a) commenced and (b) successfully completed basic skills training in 2002/03; and how many (i) entry level awards, (ii) level 1 awards, (iii) level 2 awards and (iv) key work skills awards there were. He replied:

'We currently collect overall information on participation and achievement at establishment level. We want to put in place an individual level database which will provide us with this sort of information in the future, not just on prisoners but also on offenders under supervision in the community. This will be increasingly important as we implement NOMS and move towards greater use of intermittent custody. In 2002/03 prisoners achieved: (i) 9,120 basic skills awards at entry level, (ii) 17,208 at level 1, and (iii) 15,190 at level 2.

They also achieved (iv) 89,092 awards in work skills.'

Ivan Lewis, Parliamentary Under-Secretary of State for the Department for Education and Skills, *HC*, col. 471W, 18 March 2004

### Drug treatment and testing orders

The Secretary of State for the Home Department was asked what plans he has to extend Drug Treatment and Testing Orders (DTTOs). He replied:

'DTTOs have been available to courts in England and Wales since October 2000. The commencement target has been increased from 6,000 orders per year between 2001-03 to 9,000 orders in 2003/04. This will increase again to 13,000 orders, including 1,000 of the new lower intensity variant, in 2004/05 and 16,000 orders, including 4,000 of a lower intensity, in 2005/06. The DTTO will be replaced by the drug rehabilitation requirement of the new Community Order, when the relevant provisions of the *Criminal Justice Act 2003* are implemented.'

Caroline Flint, Parliamentary Under-Secretary of State for the Home Department, *HC*, col. 129W, 15 March 2004

### Construction costs of PFI prisons

The Secretary of State for the Home Department was asked what the construction costs were for each prison built under the Private Finance Initiative. He replied:

'The construction costs for each prison built under the Private Finance Initiative, derived from the original financial model on which payment to the contractor is based, are:

	£ million
Altcourse	68
Ashfield	26
Dovegate	64
Forest Bank	45
Lowdham Grange	25
Parc	47
Rye Hill	37'

Paul Goggins, Parliamentary Under-Secretary of State for the Home Department, *HC*, col. 1701W, 6 May 2004

## Rethinking sentencing

**Debra Clothier**, Chief Executive of the Restorative Justice Consortium, reviews *Rethinking Sentencing: A Contribution to the Debate*, edited by Peter Sedgwick

This report from the Church of England's Mission and Public Affairs Division is the latest contribution to the debate about the future of sentencing. It discusses the criminal justice system and the principles of restorative justice, rehabilitation and atonement from a Christian perspective, and also provides food for thought for non-Christians in the criminal justice field.

From a personal perspective, it is encouraging but not especially surprising that many of the contributors support restorative justice – indeed at times, I felt as though I was reading a book about restorative justice rather than about sentencing. But then again, I rarely come across anyone who understands the concept who does not support it, even though it is still only an option for the minority of victims and offenders.

### Three approaches

David Faulkner of Oxford University's Centre for Criminological Research sets the scene by identifying the three approaches to criminal justice. There's the retributive approach ('just deserts') which was prominent during the 1980s; and the instrumental approach – protect the public, reduce crime – which was in favour in the 1960s and the 1990s. There is also the reparative approach that aims to repair the damage through reconciliation and compensation, which, he says, is gaining ground because of the 'long-standing neglect of victims', and because it responds to the system's remoteness from ordinary experience. Yet institutions are not yet geared up for restorative justice. 'No authority or agency has claimed special ownership or responsibility for the reparative function,' he points out, 'and sceptics might question whether it can be accommodated at all in an adversarial system of justice.'

Tim Newell, a prominent Quaker and former governor of HMP Grendon Underwood, offers a useful summary of the themes relating to restorative justice. He sets up, and knocks down, some of the arguments ranged against this concept – for example, that it erodes legal rights, trivialises crime, or fails to 'restore' victims or offenders. He argues that in fact the biggest obstacle to a humanitarian approach is 'our addiction to vengeance', which he believes underpins many current criminal justice policies. (I would personally lay greater stress on the media's 'addiction to vengeance'.)

Newell also cautions against what might happen when restorative justice is conducted through the criminal justice system. 'The emphasis often given by justice agencies to reparation is sadly misguided and unproductive,' he writes. Further, he cites Ruth Morris' warning that the principles of the approach are distorted into 'mere management techniques in the hands of an essentially punitive justice system'. Most restorative justice practitioners who have tried to maintain the principles in practice would agree with this point.

### Retribution and revenge

Like Tim Newell, Lord Justice Laws, a Lord Justice of Appeal, is also interested in the principles of retribution and revenge. He explains that retribution, as upheld by the courts, is 'a civilising principle, because it involves moderation and proportionality'; whereas revenge has nothing to do with justice, 'only with the victim's desire to inflict the same suffering as she or he has suffered.' Sadly, he does not comment on why sentencing has become more punitive.

Lord Justice Laws also points out the dangers of parliament legislating compulsory sentences for specific offences, such as life imprisonment



for murder. He warns that the more Parliament tries to tie the hands of the judiciary through 'rule-book justice', the more sentencing is controlled by the political arm of the state. This criticism is not particularly surprising given the current parlous state of relations between the judiciary and the Home Secretary.

Responsibility is a theme throughout the book, and it is addressed from another perspective by Stephen Pryor, a former prison governor, who has studied the ways the prison system unnecessarily removes responsibility from the offender. He argues that by so doing, society, acting through the Prison Service, 'makes irresponsible people irresponsible, unable to take responsibility'. One aspect of this is that offenders are not only not asked how they would repair the damage, but they are discouraged from doing so. In the youth justice system, there is now an opportunity to engage in those discussions with regards to reparation, but, in my opinion, decisions are still wholly made by those not involved in the crime.

Meanwhile, several contributors urge Christians to not abandon or 'banish' offenders to prisons. After all, as more than one reminds us, Jesus himself died an offender.

**Sedgwick P, ed (2004) *Rethinking Sentencing: A Contribution to the Debate* London: Church House Publishing, £9.99, ISBN 0715140264**

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