

Crime And Civil Society

Can We Become A
More Law-Abiding People?

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Guiding Principles for Public Policy

What should we do to create a more law-abiding society? First, we should not merely ask what public policies are advisable. Much of the solution lies outside the reach of policy makers. The Western tradition of liberty separates the state and civil society and, in doing so, puts a heavy burden on institutions responsible for socialisation—above all, families, as well as schools, voluntary organisations and churches. There are four main groups of remedies.

- Social investment, both public and private, in institutions that encourage a law abiding lifestyle, especially the family.
- Reducing the net advantages of crime through ‘situational’ change, including reducing the opportunities for crime, or increasing the trouble and expense involved.
- Reducing the net benefits of crime by increasing the risk of detection and punishment and, in doing so, increasing the relative benefits of law-abiding behaviour.
- Personalised programmes to reduce reoffending by convicted criminals.

1. Social investment in moral education

To speak of social investment does not necessarily imply government action. It implies collective effort not necessarily undertaken by the government, or even with its involvement.

Most criminologists accept that some people in every generation are predisposed to crime. Whether they become criminals or not depends on their early socialisation as well as on the criminal justice system.

The first priority is to raise children to share in the common measure of right and wrong. If we are to uphold a just society we each need to play our part in bringing it about. This is a challenge for parents, schools, and all of us insofar as we influence other people. For some, this influence is confined to those we encounter in face-to-face dealings, and for others, with access to the means of mass communication, it reaches more widely. We each have a responsibility to do what we can.

The part played by the criminal justice system is always of lesser

importance than grassroots efforts to build and maintain a society of conscientious citizens. But, the criminal justice system can do much harm if it fails to play its part in this great endeavour of maintaining a free and just society. During the last 20-30 years, the police and courts have not always backed up members of the rank and file who were doing their bit to preserve the ordinary decencies of life in their localities.

Upholding standards of behaviour depends on consensus. In a consensual society, policing, for example, can be light, but in a torn society, where significant groups refuse to give full legitimacy to the prevailing standards, consensual policing becomes difficult. Wide public acceptance is especially important for traditional English policing, under which the police officer is considered to be a citizen in uniform. However, from the 1960s there was reduced agreement about some kinds of behaviour, including drug use, industrial violence, political protest and urban rioting. Marxists wanted to encourage trade union militancy and saw the police as the 'lackeys of capitalism', preventing the unions from intimidating opponents. For some intellectuals in the Labour movement, common criminals were the revolutionary vanguard. However this attitude was very unpopular with the bulk of Labour voters and abandoned by the Labour party in the mid-1990s.

More recently the importance of consensus has been acknowledged. Schemes such as neighbourhood watch have been formed to encourage mutual support and, on a grander scale, schemes like *Communities That Care* have been set up in the hope of rebuilding a sense of community.¹

The family

The most important influence on socialisation is the family, followed at some distance by schools. Based on longitudinal and cross-sectional studies, four main influences can be identified.

The first and most important is parental neglect. Children raised by parents who fail to supervise them or spend much time with them are more likely to become criminals.

Second, family conflict can be important, especially when parents contradict each other—thereby providing no clear moral lead—or compete for affection by being lax with their children. Such conflict is more likely in broken families, whether one-parent or step-families.

Third, criminal parents or those who condone crime are much more likely to raise criminal offspring.

Fourth, disruption of the family is associated with crime. It may take

the form of the absence of one parent, the casual arrival of new partners, or the appearance of a step-parent.²

John Graham and Trevor Bennett have usefully summarised the main forms of family intervention so far attempted by government agencies.

- Discouragement of teenage pregnancy. Children born to teenage mothers are at a high risk of becoming criminals due to parental neglect. However, effective programmes have been hard to come by in the UK.
- Pre- and post-natal care. Home visits by health visitors to give advice and discourage abuse have been found to help. The Government's Sure Start initiative is one example.
- Parent training. Erratic and inconsistent discipline is associated with offending and some schemes have found that parents can acquire improved skills by attending classes. Such training may also discourage parents from putting children into care, an even bigger risk factor for crime.
- Family support. This can include a wide range of services, including financial assistance, personal counselling, child care and after-school clubs. Social workers may also encourage family preservation in the hope that children will not need to be taken into care, where they are even less likely to receive the moral guidance necessary to keep them out of trouble.
- Pre-school education combined with home visits. The most famous of these schemes is the Perry Pre-School project which began in 1962 with 123 black children from families of low socio-economic status. About half were single-parent families. Fifty-eight were in the programme group and 65 in the control group. The scheme lasted two years until the children were aged three. The pre-school programme offered a high teacher/ pupil ratio and lasted for 2.5 hours per day for 30 weeks of the year. In addition the teachers visited mothers at home while the child was present for 1.5 hours once per week. Information was gathered as the children grew up: at age 11, 15, 19 and 27. Those in the programme group did better in school and teenage pregnancy was lower. At age 19, arrest rates were about half those for the control group. At age 27, one in three of the control group had been arrested, compared with one in 14 of the programme group.

These programmes for parent support or parental substitution are largely uncontroversial but, compared with the impact of family

breakdown, they are able only to scratch the surface. It is unlikely that primary socialisation can be improved while over one-fifth of children are being raised by only one parent. The causes of family breakdown and how it might be reduced are the subject of separate Civitas studies.³

Public opinion and the raw material of public debate

If a new consensus is to have any hope of emerging we will need to improve the quality of public debate. One of the main obstacles is government control of information about crime. It is widely accepted that in a democracy there should be a free flow of information to create the possibility of public discussion and to allow citizens to hold the government to account. However, governments hoping to win the next election face a constant temptation to conceal information that would damage their reputation and to publicise only information that would put them in a good light. The preparation and publication of crime figures has increasingly fallen into the hands of people who see information as a weapon in a propaganda war.

This realisation led us to reflect on a new concern: how to create a more independent public statistical service, beyond the reach of party politics? But the manipulation of information is not the only concern. The ideal of democratic government is based on the belief that human understanding is fragile. Consequently, we should place our confidence, not in the truths contained in sacred texts, nor in the authority of experts, but in a co-operative process of mutual learning through discussion. The best safeguard against individual fallibility is, not to put our trust in a few individuals assumed not to be fallible, but to rely on a collective process of argument and counter-argument.

At the same time, acknowledgement of human fallibility is not a justification for relativism. There is an objective truth towards which we struggle through a collaborative process. It is at its most systematic in science, where contributors are expected to frame their hypotheses so that they can easily be tested. Over time we arrive at a body of knowledge in which reasonable confidence can be placed because it has survived criticism so far.

Free and open discussion requires that we let everyone speak out in the belief that we might learn from them. But any such process requires a degree of public spirit. Each must be open to contradiction, willing to be self-critical, and to learn from opponents. Facts should not be manipulated. Each should accept the ideal of disinterested study and debate. It is only rarely that public discussion gets anywhere

near this ideal. Frequently only the facts that fit a particular case are published. Opponents are accused of having ulterior motives, when such claims cannot be proved one way or the other.

There is no prospect of democratic decision-making based on mutual learning through open discussion when the vital raw material—information—is under the control of one protagonist, especially one that has the power of government at its disposal. We urgently need to find a way of putting the public information service, and especially the statistical service, beyond the reach of party politics.

2. Reducing Net Benefits: through Situational Prevention

Many scholars advocate better management of the environment in which crimes might occur. Three approaches are often distinguished: increasing the effort required by criminals (e.g. better locks, and car immobilisers); increasing the risk of detection (e.g. improved street lighting, and CCTV); and reducing the rewards of offending (e.g. property marking to reduce the saleability of stolen goods). The underlying assumption is that crime is a chosen activity which can be reduced if it is made less attractive compared to the alternatives.

Measures to increase the effort involved include 'target hardening' measures such as fitting improved locks or adding security devices to cars, homes and offices. Improved fencing may discourage theft and the use of reinforced materials in street furniture such as bus shelters may reduce vandalism.

The risk of detection does not only depend on police activity. It has long been recognised that devices such as CCTV, good street lighting, and security guards can reduce crime in specific localities. It is common to distinguish between formal and informal surveillance. As the name implies, formal surveillance refers to organised systems such as patrols by security guards and nightwatchmen. Informal or natural surveillance refers to oversight by people going about their normal business. It is much assisted by the amount of 'defensible space', a concept associated with Oscar Newman, who drew attention to the importance of architectural design in avoiding no-go areas. The more an area is monitored by residents, the better.

Third, the net rewards of offending can be reduced by making stolen goods harder to sell. Property marking reduces the number of potential buyers, for instance, and redesigning car radios so that they cannot be easily removed in full working order lowers their resale value.

However, when there is a high propensity to commit crimes it has

been found that such measures often displace crime to less well protected areas. Consequently, in the absence of other reforms, situational prevention may not reduce the overall crime rate. Nevertheless, as Professor Ken Pease has argued, it is unlikely that the displacement effect is total. Many offenders, for instance, ply their trade within a convenient travelling time of their homes, and if local opportunities are reduced, lawful alternatives may appear relatively more attractive.⁴

3. Reducing Net Benefits by Increasing the Risk of Punishment

Chapter 3 showed that there is convincing evidence that increasing the risk of punishment reduces crime. When changes in the net benefits of crime lead to adjustments in human behaviour, three main influences can be distinguished: the swiftness and certainty of punishment; the severity of punishment; and the attractiveness of alternatives to crime.

The likelihood of capture is mostly in the hands of the police and the likelihood of conviction depends on the performance of the prosecution service and the courts. Whether an unwanted punishment will follow is mainly in the hands of the courts, though lawmakers may limit judicial discretion.

Police action

Policing is the subject of a separate study by Norman Dennis,⁵ but a proposed crime reduction strategy could hardly fail to mention it at all. Police action can reduce crime in two main ways. The first might be called primary prevention, and takes the form of patrolling on foot to maintain a presence and 'keep an eye on' known or potential offenders. A neglected element of the preventive role is the potential for police officers to set a personal example.

Secondary prevention takes the form of reacting to calls and detecting crimes after they have occurred. In recent years, the police have increasingly abandoned primary prevention in favour of secondary.

The study of policing by Norman Dennis draws on the experience of five major cities: London, New York, Chicago, Paris and Berlin. The evidence points to the value of two major changes. First, there should be a substantial increase in police numbers. And second, the style of policing should seek to prevent crime rather than to respond to it once it has happened: the 'prevention' model rather than the 'call-out' model. In the terminology of police reform, this suggests a move towards community policing and problem-oriented policing.

The courts, prison and probation

The five purposes of sentencing listed in the 2003 Criminal Justice Act can be accepted, though it would have been better to add 'moral reaffirmation' as an independent objective. The white paper *Justice for All* said that public protection was 'first and foremost' and should be 'paramount' but did not go on to give it priority in practice.

We propose that the aims of sentencing should be put in the following order of priority:

- Just retribution. A wrong has been done and balance should be restored by applying a punishment or a reparation order to fit the crime. Simultaneously, any such sanction is likely to have a deterrent effect.
- Moral reaffirmation. A moral principle has been infringed and should be reaffirmed through punishment or reparation to send a message to the wrongdoer and to re-assure the law-abiding majority that their restraint is respected and not to their disadvantage.
- Public protection. Serious offenders should be incapacitated through prison or effective alternatives to protect other people.
- Rehabilitation. If there is a prospect of personal change without weakening the previous objectives, the opportunity should be taken to encourage offenders to embrace the community's standards.

Above all, we should increase prison capacity. Incapacitation has been discussed in Chapter 3. There are two principal concerns. The first is that the utilitarian aim of reducing offending should not outweigh the requirement that a just punishment should be proportionate to the harm done or the harm threatened. A policy of 'three strikes and you're out', for instance, will often go too far in punishing individuals too severely for the offence committed.

Second, is the policy cost-effective? From a purely utilitarian vantage point, there would be little to be gained by imprisoning offenders who are unlikely to offend again or who commit petty offences only rarely. Incapacitation in the form of imprisonment is most cost-effective for persistent and serious offenders. Many offenders have short criminal careers and incapacitation should be aimed at those likely to have long careers. Past behaviour is the best predictor of who they are. The relative costs and benefits of such an approach are discussed below.

Costs and benefits of prison

There has been a long debate among US academics about how to

calculate the costs and benefits of prison. In 1987 Edwin Zedlewski, an economist at the National Institute of Justice, published a cost-benefit analysis of prison. He estimated the annual cost per prisoner to be \$25,000 and calculated that the average offender carried out 187 crimes per year. He found that the typical crime cost \$2,300, taking into account property losses and human injuries and suffering. On these estimates the typical prisoner was responsible for \$430,000 in social costs per year. This meant that the cost-benefit ratio was 17 (25,000:430,000).

His study was strongly criticised by some academics, who argued that offending should be based on the median offender, not the average. Zedlewski had used a RAND study of prisoners that reported that inmates averaged between 187 and 287 non-drug crimes per year. However, half the inmates committed fewer than 15 crimes per year. If the median of 15 crimes per year is used, the cost-benefit ratio is 1.38 not 17.

The debate was continued by John DiIulio and Anne Piehl, who also estimated the gain in reduced crime from imprisoning the median offender. They based their calculations on a self-report survey of prisoners in Wisconsin, and found that the median prisoner carried out 12 non-drug crimes per year. If the cost of prison continued to be \$25,000 per year, then the social cost, according to the estimates of DiIulio and Piehl, of allowing the median offender to roam free would be \$46,072. Using these figures, imprisoning 100 such people would cost \$2.5 million, but leaving them on the streets would cost \$4.6 million.⁶

In a later study (1997) DiIulio and Piehl used a self-report survey of prisoners in New Jersey to conclude that, at some point between the 10th and 25th percentile of prisoners, incarceration was uneconomic. If the cost of prison were \$25,000 and the social cost of the median offender were \$70,098, then the result is a cost-benefit ratio of 25,000:70,098 or 2.80. Put another way, for every dollar spent, \$2.80 are saved. At the 25th percentile the social cost is only \$19,509, which produces a ratio of 0.78. Hence, DiIulio and Piehl conclude that the public purse could benefit if between 10 and 25 per cent of prisoners were under a less costly form of sanction or supervision.⁷

Based on a similar estimate of the social and economic costs of crime, how many more prison places should be provided in England and Wales? In the 2001 document, *Criminal Justice: The Way Ahead* the Home Office estimated that there were about 100,000 persistent offenders who carried out about half of all crime.⁸ It also estimated that about 20,000 might be in jail at any one time. We conclude that the

Government's first priority should be to incarcerate the remaining 80,000.

The Home Office already recognises that the prison population is likely to increase and is projecting an increase in prison places of between 91,000 and 109,000 by 2009. Let us assume that an additional 80,000 places are needed. How much would it cost to provide them? According to a Parliamentary answer given on 15 December 2000 by Paul Boateng, 12,265 additional places were provided between 1995/96 and 2000-01 at a total cost of £1.287 billion.⁹ This produces an average cost per place of £105,000. However, the cost for five private prisons is based on the 'net present value' of the PFI contracts which last for 25 years and include running costs. A more accurate estimate of the capital cost can be based on a parliamentary answer given by Mr Boateng on 27 January 2000 and the Home Office annual report and accounts for 1999/2000. Excluding running costs, the capital value of the five prisons built under the PFI was put at £212 million. These five prisons (Parc, Altcourse, Lowdham Grange, Ashfield and Forest Bank) provided an additional 3,504 places at an average cost per place of £60,502.¹⁰

The total cost of 80,000 places at £105,000 each would be £8.4 billion. The total annual cost of crime has been estimated by the Home Office to be £60 billion.¹¹ The building programme would need to proceed in stages, perhaps at a rate of 5,000 places per year, or £525 million, an easily manageable figure.

If the lower estimate of the cost is used, the total cost of 80,000 places at £60,502 each would be £4.8 billion. At a rate of 5,000 places per year, the cost would be £302.5 million.

What would the running costs be? The average cost of a prison place in 2002 was £38,753 per year. An additional 5,000 prisoners would therefore cost only £194m per year. On these figures, imprisoning the most serious and persistent offenders would be highly cost-effective. If 100,000 offenders commit half of all crime, then they impose costs on society of £30 billion, or £300,000 each for every year they are free. Even if the building costs are charged to a single financial year and added to the running costs we arrive at a total of £143,753, a saving of £156,247.

But all such estimates are based on assumptions and everyone knows that if you tweak the assumptions you can get the answer you want. How can we produce a more reliable estimate? Rather than opting for a single set of assumptions, let's explore a range. The first relies on a Home Office self-report survey of prisoners in 2000. The second is ultra-conservative, the third emulates Home Office

calculations used to work out the crime-reducing effects of offending behaviour programmes, the fourth is based on a study by Cambridge University's Professor Farrington to discover the cost-effectiveness of youth custody, and the fifth is based on calculations made by the Government's Strategy Unit. The estimates of the total social and economic cost were made in 2000 at 1999 prices and should be compared with prison costs for a similar period. According to the Parliamentary answer given in June 2001, the average cost per prisoner place in a male closed Young Offender Institution (where the most persistent offenders might find themselves) was £23,063.

Prisoners' Self-Reports: The Home Office document, *Making Punishments Work*, reported the results of a survey of prisoners in 2000, which found that the average offender carried out 140 offences per year. The variation was large, and offenders who admitted to a drug problem were committing an average of 257 crimes per year.¹²

If we were to jail 5,000 criminals who would otherwise have committed 140 offences, then 700,000 offences against the public would be prevented by 12 months in jail. If they were high-rate offenders (257 crimes), the effect would be 1.3 million offences. According to a Home Office estimate in 2000, the average cost of crimes against individuals and households (excluding commercial crime) was £2,000. An offender committing 140 crimes per year would, therefore, impose costs on society of £280,000. If true, for every £1 spent on prison, we would save £12.14.

Ultra-conservative assumptions: Another method of calculating the crime-reducing effects of programmes has been used by Professor Farrington, also in a Home Office study. He estimated the relative cost-effectiveness of two military-style programmes for young offenders at Thorn Cross and Colchester. In 2002 he monitored for two years the reconvictions of a 'control group' of young offenders released from custody in 1997 and 1998. He then calculated the average cost to society of their crimes. Professor Farrington found that offenders were convicted on average 2.57 times per year and that the average cost of each crime was £1,923 each, a total cost of £4,942. He thought that to estimate the real rate of offending, this figure should be multiplied by at least five, producing 12.85 crimes at a total cost of £24,710. In this case, for every £1 spent we save £1.07 (£23,063:£24,710).

Home Office assumptions: In *Findings 161* the Home Office claimed that, based on the number of prisoners expected to complete cognitive skills courses in 2002-03, almost 21,000 crimes would be prevented. This

estimate was based on the following assumptions, supplied by the Home Office.

In 2001 6,405 prisoners completed offending behaviour programmes.¹³ At the time, the Home Office believed that offending behaviour programmes would produce a fall in reconvictions after two years of eight percentage points.¹⁴ There were four steps to the calculation:

- Multiply the number of completions by eight per cent: $6,405 \times 8/100 = 512.4$.
- Multiply by five to reflect the Home Office estimate that for every conviction five other offences are recorded by the police: $512.4 \times 5 = 2,562$.
- Multiply by two because the effect is being measured over two years: $2,562 \times 2 = 5,124$.
- Multiply by 4.2 because police records do not reflect the larger number of crimes discovered by the British Crime Survey: $5,124 \times 4.2 = 21,520$.

This method produces a total number of 54 offences per year, which in turn produces a total cost of £103,842. For every £1 spent we save £4.50.

Professor Farrington's preferred assumptions: Professor Farrington has expressed doubts about the 'five' multiplier used by the Home Office and cited his own earlier study of 18-year-olds in South London, which had found that for six types of crime (burglary, taking vehicles, stealing from vehicles, shoplifting, theft from automatic machines and vandalism) only about one in 30 led to conviction. If there are 2.57 convictions per year, they should be multiplied by 30 to arrive at the number of offences, 77. This produces a total social cost of £148,071. For every £1 spent we save £6.42.

Government Strategy Unit assumptions: The Strategy Unit calculated the likely impact of prison on crime for the Carter report of 2003 by comparing three approaches and basing their estimate on a composite.¹⁵ One method used was based on the assumption that there are 100,000 persistent offenders who committed half of all crime between 1997 and 2000.¹⁶ In 1997 there were 16.798m BCS crimes and in 2000, 13.338m BCS crimes, a fall of 21 per cent.

The prison population increased by about 15,000 from 1997 to 2000 and, if all 15,000 were persistent offenders (as the Strategy Unit assumed), then half the fall would have been due to incarceration. The

fall was 3.460m BCS crimes and half the fall was 1.730m BCS crimes. If imprisoning 15,000 criminals reduced crime by 1.730m, they would have carried out 115 crimes per year each, a figure consistent with average number of crimes per prisoner reported to the Prisoner Criminality Survey for 2000 (140 offences). The annual cost would be £230,000 (115 x £2,000), in which case we save £6.13 for every £1 spent on prison.

When the incapacitation effect only is taken into account, prison is good value. (Most people would accept that it is also worth paying something for deterrence and moral affirmation.)

So far we have compared prison with sentences served in the community, where we assume there is little or no incapacitation effect. This assumption applies to most community sentences, but electronic tagging does have an incapacitation effect, at least during the hours of monitoring (up to 12 hours per day). However, as Chapter 7 showed, the only Home Office evaluation so far found that there was no lasting impact on offending behaviour. Perhaps GPS tracking for 24 hours per day may prove to be a more cost-effective way of restraining offenders, but as yet it is an unproven technology.

4. Rehabilitation of Offenders

Belief in the possibility of rehabilitation became fashionable among criminologists who denied that offenders were responsible for their conduct. For psychologists, they were to be treated as if they had a medical condition which could be treated.

However, to speak of personal reform in prison does not necessarily imply a medical condition with a corresponding treatment. It also suggests an effort to overcome the failed moral education of the offender's early life. Just as some children may have to repeat a year at school because of a failure to meet an academic standard, so other youngsters are effectively repeating their moral education. When such schemes have worked, their aim has been to encourage offenders to refrain from crime through acts of self-control.

What is the record of success of schemes for personal change? As we have seen, much depends on the particular features of each programme. Therapies intended to alter the subjective state of an individual's mind tend not to work very well, especially 'encounter' groups or those relying on learning through group discussion, but behaviour modification programmes (Chapter 4), based on rewarding compliance with supervisors and sanctioning non-compliance, have sometimes produced modest but measurable effects. However, those

behaviour modification programmes that worked while offenders were in custody appear not to have had a lasting effect once offenders were released. As we have seen, one of the major unmet challenges is to discover how best to follow offenders after the completion of their sentence to ensure that they do not simply return to old habits.

During the last thirty years of intensive research effort, our knowledge of how to bring about personal change has improved only slightly. The main lessons suggest that we should focus on getting the simple things right: get persistent offenders off the streets; and while they are in jail get them off drugs, and provide them with basic education and vocational skills. At present, both the prison service and the probation service fall a long way short of achieving even these modest aims.

Begin preparing prisoners for release immediately on entering prison

With the exception of a few criminals serving life sentences, and once the requirements of just desserts, moral reaffirmation and public protection have been met, a prison term should be seen as an opportunity for encouraging offenders to rejoin the community of law-abiding citizens on release. The key to success is careful assessment of each individual on admission, to appraise the prospects for personal reform. In particular, do they have a drug or alcohol problem? And do they possess workplace skills that would enable them to get a job, if they wanted one?

Perhaps 70 per cent of the prisoners in England and Wales have a drug problem which should be tackled, and many lack basic educational skills, quite apart from vocational qualifications. The Home Office has tried to improve the assessment of offenders. The Youth Justice Board has developed ASSET for juveniles and there is OASys for older offenders. These systems could no doubt be refined, but the real challenge is implementation.

Get prisoners off drugs

The first priority should be to get criminals off drugs. As Chapter 5 showed, the most effective schemes are in-prison therapeutic communities, with follow up in the form of halfway houses and continued supervision after that.

Prisons are supposed to test regularly for drug taking but, as the former chief inspector of prisons David Ramsbotham relates, testing is not always very rigorous. Each month, a proportion of prisoners are meant to be subject to random drugs tests and prisons are judged on

a target that requires a reduction in the number testing positive. During a visit he found one prisoner with nine certificates on his wall for testing negative. The prisoner told Mr Ramsbotham that he was always picked for the 'random' drug test because he was known as a non-user.¹⁷

Provide basic and vocational skills

Efforts to provide education of all types should be stepped up. The evidence from the meta-analyses quoted in Chapter 4 was that schemes with a vocational element can have an effect. More significantly, as Chapter 6 revealed, US long-term studies confirm this conclusion. Efforts are already being made to improve education and the Prison Service is well aware of its deficiencies, but the present rate of progress is too slow.

As Chapter 4 showed, cognitive skills programmes have proved to be largely a waste of money. They should be abandoned and the resources transferred into basic and vocational education. However, for a small number of carefully selected offenders they may have a part to play, and it would be useful to carry out pilot schemes to identify who is capable of benefiting.

Make release dates conditional on good behaviour and extend supervision after release

Many prison governors already subscribe to the view that time in prison should be preparation for release, and Chapter 11 described some of the efforts already being made. However, there is a long way to go, especially in integrating the prison sentence with supervision after release.

The new National Offender Management Service (NOMS) is able to award contracts for the provision of parts of its service, and already makes use of private prison contractors. One possibility would be to award a contract combining prison management with aftercare so that the same organisation took responsibility at all stages. If such a scheme were piloted it might prove possible to integrate prison and probation, a hope often expressed but rarely achieved.

Vulnerable people, who live in unstable accommodation or none at all, who have spent time in care, who are mentally unstable, who have drug and alcohol dependencies, a low level of employable skills, low educational achievement, little competence in handling their finances and who are lacking in certain social skills, are hugely over-represented in prisons. Such disadvantages can make embarking on a law-abiding life after prison very difficult. One answer to this problem

is to stave off release until professionals are fully confident that the prisoner is ready to adopt independent, law-abiding living arrangements.

Some offenders tend to be quite positive about their futures, but once on the outside, good intentions are often overridden by other factors beyond the remit of correctional agencies, such as re-admission to a criminal peer-group, the availability of drugs, money concerns, boredom, delays in finding employment and impetuosity fuelled by arguments or drinking.¹⁸ Correctional services are keen to try to prevent any such relapse into criminal behaviour by providing help to offenders in areas such as drug rehabilitation, job-hunting and interview skills, and thinking skills courses (to help them to make appropriate decisions when feeling impetuous, for example) during their prison sentences, but these services classically stop at the prison gates, beyond which ex-prisoners are left to go it alone.

In theory, the responsibility for co-ordinating throughcare provision for an individual lies with his or her personal officer during internment, and his or her probation officer after release. In practice, however, personal officers are often ineffective, and probation officers tend to have minimal contact with their clients. Much of current throughcare provision is in fact managed by voluntary and community agencies.

Some small studies into the effectiveness of throughcare provision are currently available (e.g. NACRO's On-Side project run at HMYOI Portland and the Short-Term Prisoner Project at HMP Canterbury). These are, for the most part, not rigorous enough and based on samples too small to be conclusive. They do, however, point to areas in which throughcare can be improved.

The most fundamental problem encountered by people running pilot throughcare programmes was keeping in touch with the offenders once they left prison. Usually, responsibility for keeping in contact with throughcare agencies lay with the offenders themselves, who were expected to call their project workers whenever they felt like meeting up.¹⁹

A policy should include the following elements: establish firm contact between the offender and a trained, committed individual in good time prior to release, who will take on the role of the project worker once the offender is out; and ensure that any efforts begun on the inside to address the offender's needs are continued as seamlessly as possible on the outside.

How can effective contact be sustained? We can look to America for possible answers. Halfway houses are used quite extensively in the US,

as a stepping stone from jail to independent living.²⁰ The system is similar to supported housing schemes led in the UK by voluntary organisations such as the St Giles Trust and NACRO, whereby vulnerable people (ex-offenders and people leaving prison among them) can move into sheltered accommodation, where they also have access to a doctor, benefits advice, job-hunting help, advice on procuring more independent accommodation, and many other services. However, demand always exceeds supply.

At the moment there is no state-led supported housing system in the UK, but our open prisons and (currently underused) resettlement prisons could provide a sensible starting point. Resettlement prisons are similar to open prisons, but they are aimed specifically at helping vulnerable offenders prepare themselves for successful release.

Ideally, however, offenders would not be released from prison until they are deemed to have sorted out any problems identified on admission to prison and they are seen to be fully capable of managing their own lives in the community. If this means lengthening sentences, then that must be an option. Many offenders need the time that prison allows them to think about their lives and futures, and often time away from peer groups can provide a much needed opportunity for an offender to dissociate him/herself from them.

After serving half of their full sentence in a regular prison, rather than being released as they would be under Automatic Conditional Release, they should be transferred to a resettlement prison or live in supported accommodation for a specified period.

The current system of early release at the halfway stage for all prisoners serving under four years should be scrapped. It should be replaced by a system that allows prisoners to earn time off their sentences for good behaviour and for demonstrating their capacity to lead a law-abiding life on release. In addition they would need to agree to be supervised in the community for the remainder of the original sentence, plus at least six months afterwards.

Juvenile offending

The American OJJDP recognises that a graduated approach is needed. Early efforts should be primarily educational in intent and aimed at re-integration into the law-abiding community.

The OJJDP approach rests on risk assessments that measure criminal history and social and personal stability. Most research indicates that both are strongly related to recidivism. The number of prior arrests or adjudications is an important indicator, as is age at first arrest. Measures of stability include substance abuse problems, history of

running away, mental health problems and placements in care. The risk assessment instruments in Louisiana and Colorado reflect both the severity of the current offense and the probability of continued delinquency and both systems give the greatest weight to measures of the severity of current and prior offenses.²¹

The weights were designed to ensure that offenders committing the most serious crimes were automatically recommended for secure placement. Juveniles were put into one of three categories: high-risk and in need of secure placement; medium-risk and in need of short-term secure placement followed by community supervision; and low-risk and appropriate for intensive community-based placements.²²

This approach is consistent with existing policy for first-time offenders in England and Wales. Reprimands and Final Warnings are a useful preliminary step and discourage some young people from further offending. Similarly, referral to a Youth Offender Panel may be beneficial and sound in principle.

Youth Offender Panels were intended to deal with young offenders at an early stage in the hope of diverting them from crime. They comprise members of the public and representatives of the local Youth Offending Team, generally a social worker or a probation officer. Our initial study found that in many localities a division of opinion emerged between volunteers on YOPs and YOT professional representatives. The volunteers felt that the YOP failed to confront youths with their wrongdoing and consequently had little effect. YOT professionals felt it was inappropriate to criticise offenders because it would involve 'stigmatisation'. Moreover, they often appeared to have no concept of re-integrative shaming. If this inconsistency continues YOPs are unlikely to be of much help in reducing crime, but it is too early to make a final judgement.

Another consideration, not really given full weight in risk-assessment formulae, is the extent to which the offender's family is a good or a bad influence. At present the Youth Justice Board has set a target to house young offenders in institutions within 50 miles of their home, presumably on the assumption that their family is a beneficial influence. However, it is often quite the opposite. As already mentioned, the Social Exclusion Unit report of 2002 found that 47 per cent of offenders had run away from home, 27 per cent had been in care, 35 per cent had a family member who had been in jail and 43 per cent a family member with a criminal conviction. All this suggests unstable family backgrounds.²³ In cases when the family is a criminogenic influence, children would be better off well away from

it.

Despite repeated efforts to co-ordinate the child protection and juvenile justice systems—the latest through YOTs—the lack of co-operation remains a problem still to be overcome in England and Wales. In America, the OJJDP Guide concluded that most violent offending was not brought to the attention of the juvenile justice authorities and that ‘in most cases’ the system was intervening ‘towards the end of self-reported offending careers’. It recommends that the authorities should intervene early.²⁴ In England this ideal is often expressed, but only rarely achieved.

If serious offences continue to be committed after a final warning or a YOP referral, the reaction of the authorities should escalate. The more recalcitrant the offender the more determined the response should be. Our system fails to react with sufficient resilience when dealing with persistent offenders.

The most common offence by 11-15 year-olds is fare dodging and it could easily be dealt with effectively by fines and community penalties. But burglary, robbery or violent assaults should result in custody, initially short-term, but for intractable offenders long-term. We suggest that once offenders have been convicted three times there is such overwhelming evidence that they are likely to spend the next several years committing offences, that they should be sent to secure institutions for a significant time with no possibility of early release without a prolonged period of demonstrated good behaviour.

The length of the sentence must be justified by the nature of the offences already committed, which rules out any policy resembling ‘three-strikes and you’re out’. However, courts should be able to take into account the likely danger to the public as demonstrated by past behaviour. Past conduct is the best predictor of future conduct. There was considerable logic to the old Borstal sentence, abolished in 1983, which provided for a minimum of one year and a maximum of three years, depending on the behaviour of the offender. Release was followed by six months supervision.

At present, persistent offenders are being given a series of short sentences. 82 per cent of males aged under 17 who were released from custody in 1999 were reconvicted within two years. Predictably, those with more previous convictions were found guilty of further offences more frequently. If they had no previous convictions, 42 per cent were reconvicted within two years; if they had one or two previous convictions, it was 77 per cent; if 3-6 previous offences, 91 per cent and if seven or more, 96 per cent. Those with three or more previous convictions are almost certain to continue offending at a high rate and

are candidates for the revised DTO of between one and four years (below). The figures for offenders aged 18-20 are similar: 28 per cent of those with no previous convictions reoffended within two years, compared with 96 per cent of those with 11 or more. If older still, aged 21-24, 20 per cent of those with no previous convictions were reconvicted within two years, compared with 89 per cent of those with 11 or more. Current policies fail to protect the public. For example, only 67 per cent of males aged 18-20 released from prison in 1999 with 7-10 previous convictions were sent to prison when reconvicted.²⁵

The main custodial sentence after three convictions (fewer for serious offences) should be a minimum of 12 months and a maximum of four years. Release after 12 months should depend on a prolonged period of demonstrated good behaviour. A variable sentence would be most appropriate for juveniles who ought to be most open to change. However, inadequate policies over the last few years mean that we now have a large number of offenders in their 20s regularly carrying out serious crimes. The variable sentence, from one to four years, could profitably be extended to this older age group.

Another approach would be to establish a pilot scheme in which a single agency took responsibility for children at risk of anti-social or criminal behaviour. The intention would be to discourage children from embarking on criminal careers by working closely with families, schools and local institutions to improve acceptance of community standards and respect for just treatment of other people.

YOTs were intended to bring together all agencies involved with young offenders. Their effectiveness is very patchy and it would be desirable to experiment with different structures. One such experiment could, for instance, give the police sole responsibility for crime reduction in an area. This would mean that probation officers and child welfare workers would work for the police to ensure a co-ordinated and graduated approach to child criminals. Perhaps it would be desirable for the police to take the lead in one area, the probation service in another, social services in a third, a voluntary agency in a fourth and a commercial agency in another. The results could then be compared.

Notes

Preface

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- 17 Ramsbotham, D., *Prisongate*, London: Free Press, 2003, p. 84.
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- 19 Although 43 per cent of those who were included as Pathfinders participants had some kind of contact with the project after release, only 35 per cent continued to receive useful services (Lewis, S., Vennard, J., Maguire, M., Raynor, P., Vanstone, M., Raybould, S. and Rix, A., *The Resettlement of Short-term Prisoners: an evaluation of seven pathfinders*, London: Home Office, 2003, p. 58). The interviewer for the On-Side project managed to contact 50 per cent of participants six months after release, a reasonable proportion, but after 18 months the researcher could no longer get in contact with any (Solanki, *On-Side Project*, 2003, p. 32).
- 20 A halfway house for drug-involved offenders is studied by Martin *et al.* as one of a series of community-based treatments for drug offenders. See Martin, S.S., Butzin, C.A., and Inciardi, J., 'Assessment of a multistage therapeutic community for drug involved offenders', *Journal of Psychoactive Drugs*, vol. 27, no. 1, 1995, pp. 109-16; Inciardi, J., Martin, S.S., Butzin, C.A., Hooper, R.M. and Harrison, L.D., 'An effective model of prison-based treatment for drug-involved offenders', *Journal of Drug Issues*, vol. 27, 1997, pp. 261-78.
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- 23 *Reducing Reoffending by Ex-prisoners: Social Exclusion Unit report*, London: Social Exclusion Unit, 2002, p. 18.
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