WHITHER OR WITHER PROBATION IN THE TWENTY FIRST CENTURY

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Abstract
This article considers recent changes to the probation service, including ‘what works’, desistance, NOMS and contestability. It argues that there is need to publicise the positive work undertaken by probation staff. In this respect the recent independent report by Lord Coulsfield is mentioned and its recommendations to highlight the use of community sentences. Those people interested in the continuance of a professional service cannot afford to be passive but need instead to engage in debate on what probation should consist of, other than punishing offenders.

Introduction
The world of probation does not often get publicised in the media, although the number of offenders in the community vastly outnumber those in custody. The irony is that under the guise of protecting the public and in the public interest increasingly punitive responses to supervising offenders are being implemented. It is as if offenders are alien or are not members of society. This is particularly true in the privately run Secure Training Centres for young offenders.

National Standards 2005 will be considered alongside other changes, with the conclusion that probation professionals need to engage in public debate on the future of community supervision if they are to influence proposed changes in the wake of the move to the National Offender Management Service (NOMS). Experienced writers on probation, many former practitioners, have been commenting about the nature of the changes and the implications for the future of the service as it develops closer links with the prison service at the most senior level. This is somewhat ironic when probation officers have been prevented from undertaking prison visits, not just because the probation service is cash strapped, but also as it does not fit with priorities and the way that probation practice is transacted. The number of prison based probation officers shrank dramatically as prison governors took on responsibility to manage their own budgets.
Recent articles in the Probation Journal have discussed issues of enforcement, the history of the service and reviewed the evidence on ‘what works’. These will be considered in this paper. Such introspection is the consequence of a healthy concern that the work undertaken is effective but have the multiplicity of changes, still continuing, led to the creation of a different organisation in ethos and practice? The purpose of this article is to promote discussion on whether probation practitioners can still work professionally or whether ensuring adherence to National Standards and other centrally driven priorities has become the core business for staff to the detriment of the rehabilitation of the offender?

Have changes in the way that probation staff now operate, stopped them from empowering offenders to change their lives and stop offending? Has the essence of probation survived recent changes and is there a place for discretion, or should procedures predominate to ensure that the service retains the confidence of the sentencers? A s Bhui commented ‘a centrally managed bureaucracy is not conducive to an organisation sensitive to local communities and able to respond to their diverse needs and experiences.’ (2003, 195) He qualified this by stating the need for strong local diversity strategies, but do these exist? Furthermore black and ethnic minority people are over-represented in the offender population but under-represented in the formal agencies that interact with them and there is a tendency for mistrust and neglect of these communities. (Thompson, 2001) Ongoing interviews with probation staff by the author have indicated a concern that accredited programmes are not always appropriate for minority offenders and offenders in general are pushed on to programmes to meet centrally driven targets, rather than to meet particular offender needs.

This article was stimulated by a short series that appeared in the Guardian (from 14 April 2004) by Nick Davies investigating offenders in a London court. In the letters page on 19 April there appeared two anonymous letters from probation officers and a signed letter, all made grim reading. The first writer mentioned that they had worked for the service for over 20 years:

I return home each night feeling exhausted and frustrated. I lie awake at night and worry about when I can find space to do the work. The occasional enjoyment occurs when I see offenders - but this portion of my working week continues to reduce. Is this the government's aim, perhaps to see the demise of the Probation Service? It is making good progress, if this is so.

The second writer mentioned severe budget cuts of £1.8m for Merseyside, consequent job losses and the forthcoming merger with the prison service, which was seen as a precursor to opening up the service to market forces and privatisation. All of this was being carried out without the oxygen of publicity. The third writer was more succinct and mourned the loss of the word ‘client’ and the substitution of ‘offender’, ‘the one thing the probation service wants them to stop being.’
In response on 25 April there was a letter from Steve Murphy, Director General, National Probation Service. He commented:

Although Nick Davies’s report on criminal justice and specifically the probation service is very readable (Staff use one word to describe the service: ‘Chaos’, April 14), it is not an accurate portrayal of a service that is performing well. Like any corner of the public sector, there are pressures created by the complexities of the system and our potential being greater than the finite resources that we share.

It leaves the intriguing question that if it is indeed not the case that the service is operating in ‘chaos’ why are some staff prepared to say this in public? Is it disaffection by a few staff or is there a gap between front line staff and senior management? Murphy concluded his letter:

In the interests of effective rehabilitation, as well as public expectation, we will bring offenders back under supervision or take them to court if they do not stick to their court order or release licence - offenders who do not turn up cannot be rehabilitated.

This conclusion raises a further interesting set of themes. How far is the public aware of what constitutes effective supervision and is it true that very strict interpretation of national standards is essential to the rehabilitation of offenders, not least the loss of professional discretion by probation staff to decide if lateness or an absence might have a valid and acceptable reason?

The excellent independent report by Lord Coulsfield took evidence from a number of informed sources and should be essential reading for politicians. It came to the balanced conclusion that: ‘it is misleading to say either that the public demands severe penalties and nothing else or that the public punitiveness is completely exaggerated.’ (2004, p34) It advocated ‘the provision of information on possible methods of dealing with offenders other than by imprisonment and about the nature and circumstances of the offence and the offenders themselves.’ Finally that there should be ‘public and community involvement, both in the operation of the system and in the carrying out of sanctions for criminal behaviour, particularly sanctions other than imprisonment.’ (2004, p34)

**Practice in bygone times and now**

Maurice Vanstone (2004) helpfully points out that the origins of probation are a complex mixture of philanthropy, a concern for the conditions of the poor but also from a Victorian perception that criminality was located within the bottom section of the community. The work of the early missionaries was evangelical and mystical. Thomas Holmes (1900) in his writing at the start of the twentieth century described grabbing an insolent female client by the throat and giving her a good shaking. It would be nice to report that “primitive” practice has moved on since this time. However the Guardian of
November 2 2005 carried a report by Alan Travis, Home Affairs Editor, that in the four privately run Secure Training Centres (STC’s) more than 20 restraint techniques were being used, that (a yet to be published) report from a Home Office enquiry team recommended scrapping: ‘ministers have allowed the continued use of a painful ‘karate chop to the nose’ technique and a ‘thumb distraction’ method’ (ibid, p14). More worrying was the revelation that two of the STC’s had refused to admit consultants from the enquiry team.

It is important to state that even before the ‘effective practice’ initiative came into vogue, offenders were being worked with effectively and holistically, and they did stop offending. Just as importantly, and from main grade initiatives, came a realisation of the need to work in an anti-discriminatory way. From this grew the practice of gate keeping social inquiry reports and the need to look at language and practice. Sadly gate keeping has largely stopped within the service and the Chief Inspector of Probation report after the Stephen Lawrence enquiry, Towards Race Equality 2000 indicates that much good practice has been lost as probation staff struggle to keep up with work pressure.

Vanstone makes a number of cogent points in the conclusion to his article, namely that effective practice of necessity involves personal engagement with offenders and their problems and these are the same ‘personal and social issues, which have been the focus of social work intervention for over 100 years.’ (ibid, 43) Social problems also need to be addressed, the being ‘tough on the causes of crime’ often seemingly forgotten from the Labour Party maxim, rather than being merely ‘tough on crime.’ The following quotation nicely sums up current policy:

One thing, at least, is certain; it would come much cheaper to the country if these budding burglars and pickpockets were caught up, and caged away from the community at large, before their natures become too thoroughly pickled in the brine of rascality. (James Greenwood, 1869)

It can be seen from the date of the above quotation that the notion that ‘prison works’ was discovered a long time before the cynical exposition by Michael Howard, when he was Home Secretary in the last Conservative government.

In 1997 a small probation satisfaction survey in Dorset revealed very positive comments about their contact with the service:

Although probation officers’ ability to assist with practical problems might be limited by scarce resources, they are clearly seen as competent with family problems, and the listening aspect of counselling. They help with boredom and loneliness, and when necessary refer people on for other kinds of help. Crucially they are considered trustworthy, helping people to help themselves, and in respecting their clients helped restore damaged self-esteem. (Ford, Pritchard and Cox, 1997, 57)
However McClelland (2000) calculated that in 1998 offenders were being seen for about 16 minutes per week, less than half the time available in 1992. The third version of National Standards, April 2000, became operational on the first of that month and the relationship between probation officer and offender was given even less scope for discretion. Hedderman and Hough warned about taking this increasing punitiveness too far. (Hedderman and Hough, 2000)

Tony Leach (2000) was uneasy about the drive to standardise programmes for all offenders, attacking this on a number of fronts, questioning what was meant by effective practice. He argued that the courts (to quote an old Audit Commission report) were the legitimate customers of the probation service and it was their right to make orders on ‘welfare’ grounds. He stated that knowledge of ‘what works’ was still in its early stages and the jettisoning of earlier practices was akin to putting all the eggs in one basket. The complexities and differences between offenders could be underestimated and ‘offenders will be made to fit willy nilly, even if it means stretching them a bit or lopping off bits here and there.’ (Ibid, 145) Most tellingly he believed that the what works approach ignored social factors. There was a danger of ‘applying the effective practice approach in a very rigid, simplistic, centralised and monolithic fashion which would shut off other legitimate goals of supervision...’ (Ibid, 148)

Harding, the former Chief Probation Officer for the Inner London Service was concerned about the implications of joining the probation and prison services and was critical of the 1998 document ‘Joining Forces to Protect the Public’, which was the blueprint for the advent of NOMS. This document was a review of the position of the prison and probation services and was seen as necessary as: ‘A system of punishment which is effective, credible and therefore commands public confidence requires both community and custodial sentences to work, and to work well together.’ (1.1) This is typical of reports that purport to speak on behalf of the public invoking the punitive response.

The report acknowledged that as prison governors became responsible for their budgets so the number of prison probation officers declined. In financial terms, the budget for these staff fell from £16.7m in 1996-7 to £15.6m in 1997-8. Numbers of prison probation officers fell from 659 at the end of 1995 to 561 at the end of 1996. The report envisaged a ‘harmonisation of NVQ’s (training) for both services and a ‘harmonisation of the competence framework’, ‘joint commissioning of competence-based training involving the identification of common priorities for both services... A target for joint training-provisionally 5% in the first place... Senior management exchanges and cross-postings.’ (4.12)

The remit of the prison service is one of containment, which does not imply fertile ground for sharing, as the prison service corporate plan 1995-8 made clear in the strategic priorities: ‘Security is our top and overriding priority’ (4.2) Thus the harmonisation of the two services is more likely to involve issues of risk management, security and control,
rather than rehabilitation (see Feeley and Simon, 1994, p180). The report looked at the name of the probation service and this is worth quoting in full:

It is important that the names, language and terminology used by the services should give accurate and accessible messages about the nature and aims of their work. Where there are mismatches, changes could be useful in marking a new start, and could have indirect benefit by influence culture and behaviour. The focus here is on probation work rather than the work of the Prison Service because there is no perceived problem in the terminology used about prisons. On the probation side some of the terms used have been criticised, for example because: they are associated with tolerance of crime (e.g. ‘probation’ which can be seen as a conditional reprieve and inconsistent with ‘just desert’ or even a rigorous programme aimed at correcting offending behaviour) or they can be misunderstood (e.g. ‘community service’ which sounds like voluntary activity), or they are too esoteric to be understood outside the two services (e.g. ‘through care which sounds more associated with the ‘caring’ services. (4.14)

Who are the people/organisations who see probation as a tolerance of crime? Who is concerned about caring? We have seen an emergence of ‘powerful media monopolies’ and politicians use focus groups to gather opinion, rather than listen to those who suffer most disadvantage (Ryan, 1999, pp11-12)

**Being tough on crime**

Dunbar and Langdon (1998) comment that Howard attacked the (Carlisle) system of sentencing whereby custody represented half to two thirds of the designated prison sentence and argued for longer mandatory minimum sentences for certain crimes. By these means he hoped to establish a ‘law and order’ gap between Conservative and Labour. In the debate on the Crime (Sentences) Bill in November 1996, the Labour Party abstained on the second reading and there was no distinction between Labour and Conservative on automatic life sentences for repeat violent offenders or mandatory sentences on repeat burglars and drug dealers. It is worth quoting Dunbar and Langdon who make the telling point that the debate was notable for the contributions of three former Conservative Home Office ministers, Douglas Hurd, Kenneth Baker and Sir Peter Lloyd (formerly Minister of State with responsibility for prisons):

Hurd expressed Olympian disdain for Straw’s politicking and went on to stress that public protection rested not just on locking up offenders for longer but on how prisoners behaved when they were released. That in turn depended on training, probation, work and education in prison, and if these things collapsed under financial pressure ‘We could add to the dangers facing the public while we claim to reduce them.’ (ibid, 1998, 127-8, includes citation from Hansard HC 4 November 1996, col. 936)
It would appear that New Labour became sandwiched in between old and harder right conservatism, but rather closer to the latter than the former. So, how has criminal justice progressed under New Labour and in particular, how has the probation service prospered in the intervening eight and a half years? Is the service winning the argument that offenders should be dealt with by way of community sanctions rather than imprisonment?

Bracken (2003) has articulated the major changes observed in probation practice over the last decade, based on interviews with probation officers in Canada and the UK. This is interesting as Canada is the country where ‘effective practice’ initiatives gained credence and influence at an earlier stage than in the UK. His typology stated:

- Greater understanding of risk assessment
- Increased use of group work to deliver programmes
- Exclusive focus on criminogenic need
- Greater reliance on organisations, not part of the criminal justice system to work on non-criminogenic factors

He commented that the Home Office has promoted these changes, but this does not do justice to the increasing centralisation of the probation service that has occurred. This started with the Statement of National Objectives and Priorities (1984) and led to the National Probation Service in 2000 (see Goodman, 2003 for a discussion on the chronology of recent changes). We have still to understand the impact of the change to NOMS.

**Probation in the public eye**

The Guardian newspaper of Friday 26 March 2004 includes two articles, both tragic and involving illegal killing that highlight the sorry state of criminal justice in the early years of the twenty-first century. Joan Bakewell in the G2 section detailed the case of an 81 year women, Audrey Hingston, who killed her ailing husband and was subsequently sent to prison for two years. She had originally tried to blame others for the killing. One assumes that a pre-sentence report, replete with actuarial risk of reoffending assessment, was prepared and despite the unlikely nature of reoffending, off to prison she was despatched. One presumes this was a deterrent sentence to stop other 81 year olds left to care for their spouses being tempted to do the same. As Bakewell commented:

> What good does it do to have this woman in prison... she looked frail and bewildered... her crime was entirely within a personal and domestic context... Mrs Justice Hallett spoke at Plymouth crown court, of both the wickedness of trying to blame others but also the extent of Hingston's solitary suffering. 'Unfortunately', she declared, 'no one realised when you sought help for your illness, the extent of it.' But, she went on, a prison sentence was necessary. 'I feel I have no alternative.'
In years gone by this type of offence was likely to have resulted in a probation order, but probation doesn’t do ‘welfare’ anymore and in this instance is not seen as a credible alternative to custody.

The second case was equally tragic. It appeared on page 6 in the National news section under the headline ‘Probation service failures led to PC’s death.’ The story, by Alan Travis, detailed the killing of a police dog handler by a convicted robber who was released early from prison under licence on a pilot scheme where there had been a condition that he had to have two drug tests per week. He had failed 10 out of 19 drug tests. This case was reported widely on BBC television also. The gist of the probation failure was that the ex-prisoner had been shown undue leniency and should have been returned to prison earlier. At the time that the police officer sadly died, the licence had been officially revoked and the offender was on the run.

The report on the case by the Chief Inspector of Probation, Professor Rod Morgan, is mentioned in the Guardian:

The 92-page report portrays a chaotic situation in the Derby Road probation office in Nottingham, where there were only eight staff to deal with 1,200 cases. The management should take the blame, since they were labouring under such an enormous workload, the report says. The problems were compounded by the probation staff being confused by differing rules of three government pilot schemes on drugs running at the time in Nottingham.

The nub of the problem seems to be the absurdity, whatever the sophistication of the assessment tool, of expecting an overwhelmed staff group to make rational decisions when they have reached or exceeded saturation point. In the final analysis, staff/offender ratios of this magnitude, renders professional judgement nonsensical. The case was reported on the BBC television news and without going into the theory behind analysing discourse, it revealed a number of strong and lasting images. The police gave their dead colleague a formal send off and lined the exit from the church in force. His widow, who was dignified and able to speak despite her grief, articulated that she blamed the probation service for failing to supervise the killer properly. There was no representative to speak from the probation service. A very poor image of probation supervision was made. Never has the service needed its friends to speak up on its behalf so much. Sadly at the present time there is little evidence that this is happening.

Probation works or does it (and when)?

Literature on ‘what works’ is contentious and complex, often depending on meta-analysis to make a case that it is successful in changing offending behaviour. Willan publishers made an important contribution to the debate by producing three edited books in 2004 that enabled proponents on both sides to promote their case. This is not to say that idealism rules and authors are careful to balance their findings. Burnett and Roberts in their book examine the emergence of evidence based practice and conclude that
programmes have made a difference. Burnett in her own chapter is critical of practice in the 70's and 80's, which she regarded as too idiosyncratic and arbitrary. However she expressed concern about the effects of toughening up the service on effectiveness.

Mair in contrast was less wedded to effective practice. The title of his chapter in his book: ‘The origins of what works in England and Wales: a house built on sand?’ is indicative of his scepticism. His concern was that the original proponents of what works, the Canadians, were working with offenders in prisons, and did not furnish readers with empirical data. He acknowledged that key proponents in England and Wales, like Raynor and Vanstone are careful not to exaggerate their claims. He commented on the difficulties of getting offenders to complete their programmes, which he attributed to rigorous enforcement of National Standards (ibid, p28). Wilkinson (2005) re-evaluated the ‘Reasoning and Rehabilitation’ (R&R) programme, which he stated was ‘predicated on the notion that many repeat offenders reoffend because of deficits in their social intelligence’ (ibid, p71). Palmer (2003) offers some evidence that moral reasoning is more limited amongst offenders, particularly younger ones. Wilkinson was critical that evaluations did not include non starters and drop outs from the programme. The explanation that dropouts had not had the ‘full dose’ would not be accepted in clinical trials. He concluded that R & R had still to demonstrate its effectiveness. It is disappointing that the effectiveness of programmes is unproven when the ‘what works’ movement has become an important weapon in the armoury of probation. However all is not lost and there are other promising methods of intervention on the horizon that depend on the professionalism of staff to work. These methods are not prescriptive but rather listen to the offender and their stated needs.

The third edited book, by Maruna and Immarigeon contains chapters by Maruna, Immarigeon and LeBel; and by Farrall. Farrall links desistance to ex-offenders entering the labour market or relationships, rather than structured programmes. He describes this as ‘Increasing individuals' social capital’ (ibid, p75) and he recommended that:

More effort should be focused on how officers can support probationers address either their existing family problems or attempting to prepare them for events like parenthood. (ibid, 74)

This looks suspiciously like the work the author undertook as a probation officer circa 1975-1990, before the advent of National Standards! This work could be undertaken in addition to accredited programmes as long as it did not overwhelm the offender. Maruna et al describe a theory of desistance that fits well with traditional notions of preventing reoffending e.g. Prochaska and DiClemente's (1994) wheel of change model. There is evidence that the desistance process is different for women and men, which has implications for what works with the different sexes. (McIvor et al, 2004)

How does the above fit with changes in probation practice? The author has been conducting a number of interviews with probation professionals and a number of
disturbing practices are emerging indicative of the pressures that the service is being put under to fulfil its targets for National Standards etc. Offenders are timed out in some offices and after 10 minutes are perceived to have missed their appointment. The probation officer is then not told that they have been in the office and the offender is given the ‘yellow card’. Offenders are also placed on programmes to fulfil targets rather than meet their needs. Rationality is secondary to meeting targets. It is hard to see this as being more than a short-term expedient.

Rumgay (2003), writing on drug treatment was very sceptical about the ‘what works’ initiatives and the issue of expediency raised in the last paragraph. She saw the loss of the holistic approach as being diversionary from multi-agency work with substance users and ultimately this would damage its reputation with other agencies. Work with offenders was in danger of becoming exclusionary rather than inclusive and her warning for the future is worth spelling out:

Having sacrificed so much of its traditional mission and ethos in pursuit of self-preservation, we may find ourselves wondering with dismay, whether we have retained the service in a form that is really worth saving. (ibid, 49)

Where to now for probation?
Probation has been at more crossroads than many professions in the public sector. The criminal justice system has been through a number of reviews, most recently by Carter, and the nature of probation training has been challenged, terminated and then changed from its social work base. Like the period of the 1930’s when newly qualified officers started to integrate with the police court missionaries, so new staff with the Diploma in Probation Studies are integrating with social work trained colleagues, and when approved programmes are being delivered by probation service officers. Traditional practice that experienced staff delivered specialist programmes has been reversed.

The latest incarnation of National Standards 2005, which replaces the 2002 version, continues this punitive trajectory. GS6 states that ‘The implementation of the punitive requirements of the sentence shall be prioritised.’ GS7 states that ‘The implementation of the restrictive requirements of the sentence shall be prioritised.’ Whilst GS8 states ‘The implementation of the rehabilitative requirements of the sentence shall commence as soon as possible following sentence, having regard to the need to integrate with the punitive and restrictive elements.’

McNeill gave an interesting example from Scotland that indirectly highlights the loss of professional autonomy that now exists in England and Wales. In an interview with a practitioner working with a drug misusing offender, who described their intervention in terms of saving the life of the young woman:

I’ve got one case that does not conform to any aspect of National Standards. If I give her an appointment she’ll turn up 24 hours after it, or she’ll not
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... It would have been easy to breach her a thousand times over but I've stuck in there, kept with it, always gone round the hostels, found out where she is, kept in there... So, effectiveness... although if someone was to come... and scrutinise the case in line with National Standards they would say that [they] were not being met... (McNeill, 2000, 392)

Buchanan (2004) makes the important point that drug misusers frequently come from very disadvantaged and excluded backgrounds and simply concentrating on 'physiological and psychological aspects' decontextualises the misuser from their social world. Without addressing this, coercion is not likely to prove effective as research on Drug Treatment and Testing Orders demonstrates, although Scotland was more effective in this area, being able to keep their offenders in treatment better than their English counterparts. Perhaps the greater degree of flexibility and time working with the offender, demonstrated by McNeill, is helpful in explaining this (see Hedderman and Hough, 2004, p162).

A major difference that McNeill observed between Scottish and English practitioners, which drew for comparison on Humphrey and Pease's study that dated back to 1992 (when the first version of National Standards was in existence and which still could talk of the probation activity as being skilful and rooted in social work) was that in Scotland 'simply getting through' or 'completing the order' was rarely mentioned. Instead there was a 'strong sense of personal accountability' which 'could imply higher aspirations' (ibid. p390). Of course since 2000, the situation in Scotland may have changed to follow the situation in England and Wales, but the message is clear, that adherence to National Standards lowers the professional aspirations of the practitioner to one of ensuring adherence to the Standards i.e. enforcement.

This conundrum that the work undertaken with offenders is secondary to adherence to National Standards is beautifully captured by Holt, writing about the state of parole in America, a country we ape in penal policy. His concern was that risk assessment had become an end in itself and he also managed a swipe at managerialism:

Some managers, for example, have mistaken parolee classification for parole work itself, as if the work is done once the proper category is determined... At the same time, while we are creating elegant categories, many agents are not sure what to do after they ring the doorbell. Counting contacts becomes a substitute for good casework and avoids the larger issue of whether the process itself contributes anything to the social good. (1998, 39-40)

The evidence is not persuasive that the severity of enforcement does not affect reconviction rates, nor does it lead to less crime. A better strategy might be to increase rewards rather than punishments. (Hearnden and Millie, 2004)
The future of Probation under NOMS

NOMS was announced by the Home Secretary in January 2004 and one year later Martin Nairy, the Chief Executive, wrote as if it was already achieving results. In the January 2005 ‘Update’ he commented that ‘A great deal has been achieved already: we have evidence that there is a slowing down in the growth of the prison population.’ How the recent appointment of regional managers achieved this is not articulated! He continued:

In our second year of operation we have much more to do. We need to re-introduce contestability, first to prisons and then to probation. We need to do much more work on offender management and test it out on frontline practitioners (2005, p1)

Harry Fletcher headlined the February 2005 NAPO News bulletin with the pessimistic view that the ‘Management of Offenders and Sentencing Bill’ published on 13 January increased central control over Probation Boards and included the commissioning of services by ‘other’ providers. His view was:

The Government remains determined to dismantle the Probation Service despite the fact that it is performing at record levels and increasingly its work is with the police and in the community. (2005, p1)

Steve Murphy, the Director General of the National Probation Service did not shirk from mentioning contestability as a key feature of NOMS but added ‘that probation staff working in interventions have a clear competitive edge in its work with offenders.’ (2005, Foreword) He conceded that this was a time of ‘considerable change and uncertainty.’ (ibid, p5)

NAPO is launching a campaign to ‘save the probation service’ and it is essential that this leads to debate in journals on what is the essence of probation that needs to be saved. Is it only about job protection or is it about the elements of good practice that are not reducible to a coded set of commands and orders? Reflective practitioner skills cannot be learnt by rote and not all offenders are the same to be dealt with as if they are malleable pieces of plasticine to be moulded into shape.

The bidding war that led up to the general election of 2005: back to the future.

Whilst probation staff wondered what would happen to the service under NOMS, the general election loomed and a bidding war between the political parties started. BBC news on the internet (7 February 2005) showed the parties limbering up on law and order. Thus the Conservatives talked of ending early release under the home detention curfew scheme and Michael Howard, their party leader, advocated increasing prison places from New Labour’s 80,000 to 100,000: ‘Build more prisons and fewer criminals will be free to commit crime.’ Labour Minister Hazel Blears sounded equally tough: ‘Labour has already provided
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17,000 extra prison places, with 3,000 more opening shortly, Liberal Democrats spokesman Mark Oaten stated that ‘Mr Howard was ‘conning’ the public with his ‘prison works’ message, which pandered to the right-wing agenda. ‘With over half of prisoners reoffending, creating even more prisoners will just create more criminals.’ The critical issue was that with a combined budget for prison and probation, would extra costs for the prison side be offset by cuts in the probation budget?

The day before, the current affairs programme Panorama was an investigation into the case of a businessman who was convicted of a number of horrific offences on young boys who went on to suffer from horrendous psychiatric problems and many became dangerous offenders. The programme was extremely sympathetic to how their lives were wrecked by these appalling events and it is likely that the public would not take a punitive stance towards them if they were aware of these life ruining tragic circumstances. Yet, in the name of the public, the bidding up of punitive sanctions between the parties continues without constraint. How probation would cope with the addition of contestability under NOMS remains to be seen.

Yet probation practitioners have the knowledge and ability to challenge the ever more punitive response to dealing with offenders. There is evidence that punishing offenders does not work (Trotter 1999, p40, McGuire 2002, p20) and the public needs to learn more about the lives of offenders and the emotional burden many have faced, rather than the fear of them as depicted in the media. This is not to minimise the cost of offending, in emotional, financial terms etc towards victims of crime but to see offenders holistically and not as aliens. Statistics on the Home Office website state that in 2003 there were 195,939 offenders under probation supervision and the custodial population was 73,657 (RDS 2004). Probation therefore contains far more offenders than prison.

When the probation service faced its last major challenge in 1995, when Michael Howard abolished probation training, he was confronted with a concerted challenge by the National Association of Probation Officers (NAPO), the Association of Chief Officers of Probation (ACOP), the Association of Black Probation Officers, the Central Probation Council (CPC) and the Standing Conference of Probation Tutors (SCPT). It was agreed that qualified staff appointed to the service would still need the social work qualification. The move under New Labour to the DipPS fragmented probation academics as they competed for the new training contracts in the nine areas in England and Wales. This was further diminished second time around when more of the established probation interested universities lost their contracts. In the long-term this is not healthy as it is likely that few universities will be left with the expertise or interest to research in community justice. ACOP, SCPT and CPC are no more and there is the intention to abolish Probation Boards even as they start to ‘bed in’. The discussion board run by jiscmail for probation practitioners has not had any correspondence in many months. After the publication of ‘Restructuring Probation to Reduce Reoffending in November 2005’ (discussed at the end of this article) I wrote to the bulletin board but this did not elicit a single response.
Perhaps staff are keeping their heads down and in the hope that the challenge or threat of contestability will go away? I would respectfully suggest that this approach will not work.

**Privatising Probation**

It was the Carter Report of 2004 that provided the model that was chosen for the future of the probation and prison services. It commented that the use of both services had risen by 25% between 1996 and 2001. This left England and Wales with the highest prison population in the European Union, although still considerably smaller than the United States where the prison population had risen five fold since the 1970’s and by over a million in the 1990’s. Carter analysed this and commented that it could not be explained by a rise in the numbers caught and sentenced, or by an increase in the seriousness of the crimes committed or by more severe sentencing only for specific offences. Rather it reflected a general increase in the severity of sentencing in general. This has implications for offender management for an increasingly stretched probation service.

Carter recommended the formation of what he called the National Offender Management Service (NOMS) which would have ‘a clear objective to punish offenders and help reduce reoffending.’ (Carter, 2003, 33) The new organisation was to report to a Chief Executive, with nine (now to be ten) regional managers who would contract with the providers for prison, community and other relevant interventions (e.g. health or skills). Providers would be in the public, private or voluntary sectors, thus breaking the monopoly of probation as the lead organisation. The rationale was that the new organisation would be more effective and cost effective. However Dobson (2004) commented that the report failed to consider issues of race and gender, or the high level of prisoners on remand. Consideration of the offender (who is treated as a passive entity) is missing in the jargon of ‘end to end management.’ Dobson was a former Chief Probation Officer and Chair of the Association of Chief Officers of Probation so his critique is well informed and measured.

The report was accepted by the Home Office without further consultation. The role of the regional managers has not been further elaborated and Home Office reports on the progress of NOMS have been very optimistic, even if not backed up by any evidence. This was slightly dented when the first Chief Executive resigned without warning (a permanent replacement has still to be found). The existing system is being steadily changed to allow for contestability. It is not taking the main body of probation officers with it according to their union. Morale amongst probation staff is low as they are reshuffled around. In the last couple of years probation staff have moved from a generic approach to a functional system where there was specialism in court report writing and supervision etc and now back to genericism. These changes have occurred only three years after the major change resulting from the creation of a national probation service and have been destabilising. Turnover in some officers makes continuity impossible.

The tough talk and failure to tackle the problem of increasingly severe sentencing has led to an immediate crisis in the criminal justice system as the prison population has reached saturation point. The Guardian newspaper dated October 14 2005 reported that the jail
population had reached 77,622 and was increasing by 250 per week, just 527 places short of full capacity. The preferred short-term solution was to release hundreds of prisoners early under curfew and electronic tagging. The solution as the editorial in the Guardian commented is for better community treatment for substance misusers, mental health care and a softening in the level of custodial remands and inflexibility of the breach and recall system.

The need of politicians not to be seen as being soft on crime ironically creates a system that makes the community less safe as overcrowding nullifies the potential for reformation. The toughening up of sentences through the new Criminal Justice Act 2003 has not prevented the judiciary from sending more and more offenders to prison. The prospects for reform do not appear good at the present time. Indeed the Guardian on 17 October 2005 claimed that the government was proposing to market test the work of the probation service, threatening the entire service with extinction. The implications of all this for culturally sensitive practice with offenders is worrying as the government takes a giant leap into the unknown.

In November 2005 ‘Restructuring Probation to Reduce Re-offending’ was published by the Home Office. We learn from Charles Clarke's introduction that this is not about cost cutting. Indeed he claims it is not about privatisation, rather “driving up standards” and ‘improving value for money.’ It is not even about ‘changing staff.’ However there will be a new market where the Regional Offender Managers (ROMS) become the purchasers and the new Probation Trusts, replacing the Probation Boards, become the providers. Chief Probation Officers will have a precarious existence as they become the line managed employees of the ROM's. Their relationship with the new Trusts is unclear. It does not take a genius to see the potential for ‘cherry picking’ the most lucrative aspects of the job, leaving those Trusts that survive with the least pleasant and well resourced work. Staff will vote with their feet and move to better paid parts of the sector and it is possible to envisage the least well skilled and poorest experienced staff working with the most dangerous and/or vulnerable offenders. The implications for probation training are ominous. With Trusts competing for work why should they continue to offer a structured full training for staff? Instead staff will be trained partially to deliver small pockets of practice, no doubt generated from a computerised risk assessment. The atomised offender to be reprogrammed by a potpourri of organisations at best co-ordinated by the probation service is incapable of adopting a holistic approach as it will have lost its skills to see the entire person in front of them.

This is the brave new world of offender management and the public are supposed to be safer. The realisation that offenders need a single offender manager for consistency is lost as the plethora of agencies take on and over many of the tasks. This is a very ill thought out set of ideas. Incredibly, with the scale of the changes, the document comments that ‘individual areas will retain their separate identities and that services will be provided under an overarching title, such as ‘West Yorkshire Probation Services’ (ibid, p7) With
the potential destruction of probation as we know it, this item, for which comments are invited, pales into insignificance!

In the United States much of the crime budget has gone into building prisons. Petersilia commented that in 1994 Congress allocated $22 billion to expand prisons and police forces under the Violent Crime Control and Law Enforcement Act, however the following year as part of the 'Contract with America' the law was revised removing $5 billion from prevention programmes, which was added to prison building and law enforcement (Petersilia, 1998, 20). When prisons and probation operate under a common budget and have to respond to the demands of sentencing, which in turn responds to public/media pressures, there is a danger that this swing of the budget to the prison side will occur in the United Kingdom as well.

There are alternatives to punitive attitudes and approaches towards offenders and the service needs to be prevented from losing its particular contribution to rehabilitating offenders. At the moment it would appear that the dismantling of the probation service with the aim of reducing reoffending by 5% is a leap of faith that the government is hell bent on implementing. There is an important debate to be had and it is hoped that this article stimulates this now.

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